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PART - V

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

PART V.

Bills introduced into the Council of the Governor General 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 18th January, 1889:—

NO. 1 OF 1889.

A Bill to amend the Sea Customs Act, 1878, and the Indian Tariff Act, 1882.

WHEREAS it is expedient to amend the Sea Customs Act, 1878, and the Indian Tariff Act, 1882; It is hereby enacted as follows:—

Sea Customs Act, 1878.

1. For the provisos to section 37 of the Sea Customs Act, 1878, the following proviso shall be substituted, namely:—

“Provided that, if such goods are warehoused under this Act, the rate and valuation (if any) applicable thereto shall be the rate and valuation in force on the date on which application is made to clear such goods from the warehouse for home-consumption.”

2. For section 110 of the same Act the following shall be substituted, namely:—

“110. Any owner of goods warehoused may, at any time within three years from the date of the bond executed in respect

thereof under section 92, clear such goods for home-consumption by paying—

(a) the duty leviable on such goods at the rate and according to the valuation (if any) applicable thereto on the date on which application is made to clear such goods from the warehouse for home-consumption, and

(b) all rent, penalties, interest and other charges payable to the Customs-collector in respect of such goods.”

3. In section 115 of the same Act, the words “in accordance with the second proviso to section 37” are hereby repealed.

Indian Tariff Act, 1882.

4. The following section shall be added to the Indian Tariff Act, 1882, namely:—

“10. In the event of any duty of customs or excise on any article being imposed, increased, decreased or remitted after the making of any contract for the sale of such article without stipulation as to the payment of duty where duty was not chargeable at the time of the making of the contract, or for the sale of such article duty-paid where duty was chargeable at that time,—

(a) if such imposition or increase so takes effect that the duty or increased duty, as the case may be, is paid, the seller may add so much to the contract-price as will be equivalent to the duty or increase of duty, and he shall be entitled to be paid and to sue for and recover such addition, and

Clearance of bonded goods for home-consumption.

When contracts have been entered into, amount of increased or decreased duty to be added or deducted.

[30 & 40
Vict., c. 36,
s. 20.]

(b) if such decrease or remission so takes effect that the decreased duty only or no duty, as the case may be, is paid, the purchaser may deduct so much from the contract-price as will be equivalent to the decrease of duty or remitted duty, and he shall not be liable to pay or be sued for or in respect of such deduction."

Amendment of the Second Schedule to Act XI, 1882. 5. In No. 1 of the Second Schedule to the same Act, for the following, namely:—

No.	Names of Articles.	Per	Tariff valuation.	Rate of duty.
*	*	*	Re. A.	*
	Gunpowder, common.	lb.	0 5	10 per cent.
	Gunpowder, sporting.	lb.	1 0	
	All other sorts of Arms, Ammunition and Military Stores.	...	Ad valorem.	10 per cent.

there shall be substituted the following, namely:—

No.	Names of Articles.	Per	Tariff valuation.	Rate of duty.
*	*	*	Re. A.	*
	Gunpowder, common.	lb.	0 5	10 per cent.
	Gunpowder, sporting.	lb.	1 0	
	All other sorts of Arms, Ammunition and Military Stores.	...	Ad valorem.	10 per cent.

Explanation.—The expression "Arms, Ammunition and Military Stores," as used in the foregoing part of this Schedule, includes, in addition to any article specifically mentioned in that part,—
(a) all articles which are either "arms" or "ammunition" within the meaning of the Indian Arms Act, 1878, and
(b) any articles which the Governor General in Council may from time to time, by notification in the Gazette of India, declare to be "military stores" for the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS.

THE main object of this Bill (section 1) is to repeal the proviso to section 37 of the Sea Customs Act, 1878, which enacts that when the rate of duty or tariff-valuation (if any) applicable to any goods imported has been raised after the grant of port-clearance at the port of shipment, the rate and valuation applicable to such goods shall be, not the rate and valuation in force on the date on which the bill-of-entry thereof is delivered to the Customs-collector under section 86 of the Act, but the rate and valuation in force on the date on which port-clearance at the port of shipment was granted. There is no precedent for such a proviso either in the law of England or, so far as the Government of India has been able to ascertain, in the law of any other country. The proviso was adversely criticised while the Bill, which became the Sea Customs Act, 1878, was under consideration: it has had the effect, which was then anticipated, of seriously disturbing trade, and it has caused very heavy loss of revenue to the Government.

Another object of the Bill (section 2) is to make it clear that where, after goods liable to duty have been assessed and warehoused, the duty is repealed, the goods may be cleared from the warehouse for home-consumption free of duty.

A third object (section 4) is to introduce into India the rule enacted in 18 & 19 Vict., c. 97, s. 9, and continued in 39 & 40 Vict., c. 36, s. 20. It was proposed to incorporate such a rule in the Bill which became the Sea Customs Act, 1878, but the proposal was not approved by the mercantile community and was on that account abandoned. The rule, however, has been in operation in the United Kingdom since 1855, and would seem, from the fact of its re-enactment by Parliament in 1876 and from the absence of any reference to it in the Law Reports, not to have entailed the ill effects which were feared when its introduction into India was last considered. In these circumstances, it is held to be desirable to insert the rule in the Bill with a view to its being carefully considered again.

A fourth object (section 5) is to define the expression "arms, ammunition and military stores," as used in the Indian Tariff Act, 1882, and to enable the Governor General in Council to declare from time to time what articles are to be deemed to be "military stores" within the meaning of the Act. The amendment necessary for this purpose will not affect any notification for the time being in force under section 23 of the Sea Customs Act, 1878.

D. BARBOUR.

The 18th January, 1889.

S. HARVEY JAMES,

Secretary to the Government of India.



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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 Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 1st February, 1889:—

NO. 2 OF 1889.

THE INDIAN PORTS BILL.

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THE FIRST SCHEDULE.—PORTS, VESSELS CHARGEABLE, RATE OF PORT-DUES AND FREQUENCY OF PAYMENT.

THE SECOND SCHEDULE.—ENACTMENTS REPEALED.

The Indian Ports Bill.

(Chapter I.—Preliminary.—Sections 1-3. Chapter II.—Powers of the Local Government.—Section 4.)

A Bill to consolidate and amend the law relating to Ports and Port-charges.

WHEREAS it is expedient to consolidate and amend the law relating to ports and port-charges; it is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Indian Ports Act, 1889; and
Title, commencement and extent.

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

(3) It shall extend, save as otherwise appears from its subject or context,—

(a) to the ports mentioned in the first schedule, and to such parts of the navigable rivers and channels leading to such ports respectively as have been declared to be subject to Act XXII of 1855 (*for the regulation of Ports and Port-dues*) or to the Indian Ports Act, 1875;

(b) to the other ports or parts of navigable rivers or channels to which the Local Government, in exercise of the power hereinafter conferred, extends this Act:

(4) But nothing in this Act shall—

(i) apply to any vessel belonging to, or in the service of, Her Majesty or the Government of India, or to any vessel of war belonging to any Foreign Prince or State, or

(ii) deprive any person of any right of property or other private right, except as hereinafter expressly provided, or

(iii) affect any law or rule relating to the customs or any order or direction lawfully made or given pursuant thereto:

(5) And nothing in section 31 or section 32 shall apply to any port, river or channel to which the section has not been specially extended by the Local Government.

2. (1) The enactments mentioned in the second schedule are hereby repealed to the extent specified in the third column of that schedule.

(2) All declarations, appointments, requisitions, orders and rules made, authorisations, directions and permissions given, prohibitions issued and notifications published under any of those enactments or under any enactment repealed by any of them shall, if in force at the commencement of this Act, be deemed, so far as may be, to have been made, given, issued and published under this Act: and

(3) Any enactment or document referring to any such repealed enactment shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

3. In this Act, unless [Act XII, 1875, s. 4.] there is something repugnant in the subject or context,—

Definitions.

(1) "port" includes also any part of a river or channel in which this Act is for the time being in force:

(2) "vessel" includes anything made for the conveyance by water of human beings or of property:

(3) "master", when used in relation to any vessel, means, subject to the provisions of any other enactment for the time being in force, any person (except a pilot or harbour-master) having for the time being the charge or control of the vessel:

(4) "pilot" means a person for the time being authorized by the Local Government to pilot vessels:

(5) "owner" includes also any agent to whom a vessel is consigned:

(6) "ton" means a ton as determined or [New.] determinable by the rules for the time being in force for regulating the measurement of the tonnage of British ships: and

(7) "Magistrate" means a person exercising powers under the Code of Criminal Procedure, 1882, not less than those of a Magistrate of the second class, and includes, in the towns of Calcutta, Madras and Bombay, a Presidency Magistrate. X of 1882.

CHAPTER II.

POWERS OF THE LOCAL GOVERNMENT.

4. (1) With the previous sanction of the Governor General in Council, the Local Government may, by notification in the official Gazette,—

(a) extend this Act to any port in which this Act is not in force or to any part of any navigable river or channel which leads to a port and in which this Act is not in force;

(b) specially extend the provisions of section 31 or section 32 to any port to which they have not been so extended;

(c) withdraw this Act, or section 31 or section 32, from any port or any part thereof in which it is for the time being in force.

The Indian Ports Bill.

(Chapter II.—Powers of the Local Government.—Sections 5-6.) (Chapter III.—Port-officials and their Powers and Duties.—Section 7.)

(2) A notification under clause (a) or clause (b) of sub-section (1) shall define the limits of the area to which it refers.

(3) Limits defined under sub-section (2) may include any piers, jetties, landing-places, wharves, quays, docks and other works made on behalf of the public for convenience of traffic, for safety of vessels, or for the improvement, maintenance or good government of the port and its approaches, whether within or without high-water-mark, and, subject to any rights of private property therein, any portion of the shore or bank within fifty yards of high-water-mark.

(4) In sub-section (3) the expression "high-water-mark" means the highest point reached by ordinary spring tides at any season of the year.

[Act XII, 1875, s. 6.]

5. (1) The Local Government may, with the previous sanction of the Governor General in Council and subject to any rights of private property, alter the limits of any port in which this Act is in force.

(2) When the Local Government alters the limits of a port under sub-section (1), it shall declare or describe, by notification in the official Gazette, and by such other means, if any, as it thinks fit, the precise extent of such limits.

[Act XII, 1875, s. 7.]

6. The Local Government may, in addition to any rules which it may make under any other enactment for the time being in force, make such rules, consistent with this Act, as it thinks necessary for any of the following purposes, namely:—

- (a) for regulating the time at which, and the manner in which, vessels are to enter or leave any port subject to this Act;
- (b) for regulating the berths, stations and anchorages to be occupied by vessels in any such port;
- (c) for striking the yards and top-masts, and for rigging-in the booms and yards, of vessels in any such port, and for swinging or taking-in davits, boats and other things projecting from such vessels;

(d) for the removal or proper hanging or placing of anchors, spars and other things being in or attached to vessels in any such port;

[Partly new.]

(e) for regulating vessels whilst taking-in or discharging passengers, ballast or cargo, or any particular kind of cargo, in any such port, and the stations to be occupied by vessels whilst so engaged;

(f) for keeping free passages of such width as may be deemed necessary within any such port, and along or near to the piers, jetties, landing-places, wharves,

quays, docks, moorings and other works in or adjoining to the same, and for marking out the spaces so to be kept free;

(g) for regulating the anchoring, fastening, mooring and unmooring of vessels in any such port;

(h) for regulating the moving and warping of all vessels within any such port and the use of warps therein;

(i) for regulating the use of the mooring buoys, chains and other moorings in any such port;

(j) for fixing the rates to be paid for the use of such moorings when belonging to the Government, or of any boat, hawser or other thing belonging to the Government;

(k) for licensing and regulating catamarans plying for hire, and cargo, passenger and other boats plying, whether for hire or not and whether regularly or only intermittently, in, or partly within and partly without, any such port, and for determining the quantity of cargo or number of passengers to be carried by any such vessel; [Partly new.]

(l) for regulating the use of fires and lights within any such port;

(m) for enforcing and regulating the use of signals or signal-lights by vessels by day or by night in any such port; [Partly new.]

(n) for regulating the number of the crew which must be on board any vessel afloat within the limits of any such port;

(o) for regulating the employment of persons engaged in cleaning or painting vessels, or in working in the bilges, boilers or double bottoms of vessels, in any such port. [New.]

CHAPTER III.

PORT-OFFICIALS AND THEIR POWERS AND DUTIES.

7. (1) The Local Government shall appoint some officer or body of persons to be conservator of every port subject to this Act, and may suspend or remove such officer or body. [Act XII, 1875, s. 8.]

(2) Subject to any direction by the Local Government to the contrary,—

(a) in ports where there is a port-officer, the port-officer shall be the conservator;

(b) in ports where there is no port-officer, but where there is a harbour-master, the harbour-master shall be the conservator.

The Indian Ports Bill.

(Chapter III.—Port-officials and their Powers and Duties.—Sections 8-13.)

(3) Where the harbour-master is not conservator, the harbour-master and his assistants shall be subordinate to, and subject to the control of, the conservator.

(4) The conservator shall be subject to the control of the Local Government, or of any intermediate authority which that Government may appoint.

XII, 1875, s. 9.]

8. (1) The conservator of any port subject to this Act may, with respect to any vessel within the port, give directions for carrying into effect any rule for the time being in force therein under section 6.

(2) If any person wilfully and without lawful excuse refuses or neglects to obey any lawful direction of the conservator, after notice thereof has been given to him, he shall, for every such offence, be punished with fine which may extend to one hundred rupees, and with further fine which may extend to one hundred rupees for every day on which, after such notice as aforesaid, he wilfully and without lawful excuse continues to disobey the direction.

(3) In case of such refusal or neglect, the conservator may do, or cause to be done, all acts necessary for the purpose of carrying the direction into execution, and may hire and employ proper persons for that purpose, and all reasonable expenses incurred in doing such acts shall be recoverable by him from the person so refusing or neglecting to obey the direction.

Act XII, 1875, s. 10.]

9. The conservator of any such port may, in case of urgent necessity, cut, or cause to be cut, any warp, rope, cable or hawser endangering the safety of any vessel in the port or at or near to the entrance thereof.

Act XII, 1875, s. 11.]

10. (1) The conservator may remove, or cause to be removed, any timber, raft or other thing, floating or being in any part of any such port, which in his opinion obstructs or impedes the free navigation thereof or the lawful use of any pier, jetty, landing-place, wharf, quay, dock, mooring or other work on any part of the shore or bank which has been declared to be within the limits of the port and is not private property.

(2) The owner of any such timber, raft or other thing shall be liable to pay the reasonable expenses of the removal thereof, and if such owner or any other person has without lawful excuse caused any such obstruction or impediment, or causes any public nuisance affecting or likely to affect such free navigation or lawful use, he shall also be punished with fine which may extend to one hundred rupees.

(3) The conservator or any Magistrate having jurisdiction over the offence may cause any such nuisance to be abated.

11. If the owner of any such timber, raft or other thing, or the person who has caused any such obstruction, impediment or public nuisance as is mentioned in the last foregoing section neglects to pay the reasonable expenses incurred in the removal thereof, within one week after demand, or within fourteen days after such removal has been notified in the official Gazette or in such other manner as the Local Government by general or special order directs, the conservator may cause such timber, raft or other thing, or the materials of any public nuisance so removed, or so much thereof as may be necessary, to be sold by public auction;

and may retain all the expenses of such removal and sale out of the proceeds of the sale, and shall pay the surplus of such proceeds, or deliver so much of the thing or materials as may remain unsold, to the person entitled to receive the same;

and, if no such person appears, shall cause the same to be kept and deposited in such manner as the Local Government directs;

and may, if necessary, from time to time, realize the expenses of keeping the same, together with the expenses of sale, by a further sale of so much of the thing or materials as may remain unsold.

12. (1) If any obstruction or impediment to the navigation of any port subject to this Act has been lawfully made, or has become lawful by reason of the long continuance of such obstruction or impediment, or otherwise, the conservator shall report the same for the information of the Local Government, and shall, with the sanction of that Government, cause the same to be removed or altered, making reasonable compensation to the person suffering damage by such removal or alteration.

(2) Any dispute arising concerning such compensation shall be determined according to the law relating to like disputes in the case of land required for public purposes.

13. (1) If any vessel hooks or gets foul of any of the buoys or moorings laid down by or by the authority of the Local Government in any such port, the master of such vessel shall not, nor shall any other person except in case of emergency, lift the buoy or mooring for the purpose of unhooking or getting clear from the same without the assistance of the conservator;

*The Indian Ports Bill.**(Chapter III.—Port-officials and their Powers and Duties.—Sections 14-18.)*

and the conservator, immediately on receiving notice of such accident, shall assist and superintend the clearing of such vessel ;

and the master of such vessel shall, upon demand, pay such reasonable expenses as may be incurred in clearing the same.

(2) Any master offending against the provisions of this section shall, for every such offence, be punished with fine which may extend to one hundred rupees.

[Act XII,
1875, ss. 15
and 44.]

14. (1) If any vessel is wrecked, stranded or sunk in any such port, so as to impede, or be likely to impede, the navigation thereof, the conservator may cause the vessel to be raised, removed or destroyed.

(2) If any property recovered by a conservator acting under sub-section (1) is unclaimed, or the person claiming it fails to pay the reasonable expenses incurred by the conservator under that sub-section, the conservator may sell the property by public auction, if the property is of a perishable nature, forthwith, and, if it is not of a perishable nature, at any time not less than six months after the recovery thereof.

(3) The expenses incurred by the conservator under sub-section (1) shall be payable to him out of the sale-proceeds of the property, and the balance shall be paid to the person entitled to the property recovered, or, if no such person appears and claims the balance, shall be held in deposit for payment, without interest, to any person thereafter establishing his right thereto:

Provided that the person makes his claim within one year from the date of the sale.

[Act XII,
1875, s. 16.]

15. (1) The conservator or any of his assistants may, whenever he suspects that any offence against this Act has been, or is about to be, committed, or whenever it is necessary for him so to do in the performance of any duty imposed upon him by this Act,

and the person appointed under this Act to receive any port-dues, fees or other charges payable in respect of any vessel, may, whenever it is necessary for him so to do in the performance of any duty imposed upon him by this Act,

either alone or with any other person, board any vessel, or enter any building or place, within the limits of any port subject to this Act.

(2) If the master of the vessel, or any person in possession or occupation of the building or place, without lawful excuse, refuses to allow any such person as is mentioned in sub-section (1) to board or enter such vessel, building or place

in the performance of any duty imposed upon him by this Act, he shall for every such offence be punished with fine which may extend to two hundred rupees.

16. (1) For the purpose of preventing or extinguishing fire in any port subject to this Act, the conservator or port-officer may require the master of any vessel within the port to place at his disposal such number as he requires, not exceeding three-fourths, of the crew then under the orders of such master.

(2) Any master refusing or neglecting to comply with such requisition shall be punished with fine which may extend to five hundred rupees, and any seaman then under his orders who, after being directed by the master to obey the orders of the conservator or port-officer for the purpose aforesaid, refuses to obey such orders shall be punished with fine which may extend to twenty-five rupees.

17. (1) The Local Government may appoint at any port subject to this Act an officer to be called the health-officer, and may suspend or remove from office any officer so appointed.

(2) A health-officer shall, subject to the control of the Local Government, have the following powers within the limits of the port for which he is appointed, namely:—

(a) with respect to any ship, the powers conferred on a shipping-master by Act I of 1859, section 71;

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

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

(d) power to call before him and examine for any such purpose all or any of those persons and to require true answers to any questions which he thinks fit to ask;

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

18. The Government shall not be responsible for any act or default of any conservator, port-officer or harbour-master of any port subject to this Act, or of any deputy or assistant of any of the authorities afore-

Indemnity to Government against act or default of port-official or pilot.

[Act XII,
1875, s. 17.]

[Act XII,
1875, s. 20.]

[Act XII,
1875, s. 21.]

[Act XII,
1875, s. 22.]

[Act XII,
1875, s. 18.]

*The Indian Ports Bill.**(Chapter IV.—Rules for the Safety of Shipping and the Conservation of Ports.—Sections 19-26.)*

said, or of any person acting under the control or direction of any such authority, deputy or assistant, or for any act or default of any pilot, or for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers or other things belonging to the Government which may be used by the vessel:

Provided that nothing in this section shall protect the Secretary of State for India in Council from a suit in respect of any act done by or under the express order or sanction of the Government.

CHAPTER IV.

RULES FOR THE SAFETY OF SHIPPING AND THE CONSERVATION OF PORTS.

General Rules.

19. (1) No person shall, without lawful excuse, lift, injure, loosen or set adrift any buoy, beacon or mooring fixed or laid down by, or by the authority of, the Local Government in any port subject to this Act.

(2) If any person offends against the provisions of this section, he shall for every such offence be liable, in addition to the payment of the amount of damage done, to fine which may extend to two thousand rupees, or to imprisonment for a term which may extend to two years.

20. If any person wilfully and without lawful excuse loosens or removes from her moorings any vessel within any such port without leave or authority from the owner or master of the vessel, he shall, for every such offence, be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to six months.

21. (1) No ballast or rubbish, and no other thing likely to form a bank or shoal or to be detrimental to navigation, shall, without lawful excuse, be cast or thrown into any such port, or into or upon any place on shore from which the same is liable to be washed into any such port, either by ordinary or high tides, or by storms or land-floods.

(2) Any of the following persons, namely:—

(a) any person who by himself or another so casts or throws any ballast or rubbish or any such other thing,

(b) the master of any vessel from which the same is so cast or thrown,

(c) any person employed to remove any ballast or rubbish or any such other thing whose agents or servants so cast or throw the same or cause the same to be so cast or thrown,

shall be punished with fine which may extend to five hundred rupees and shall pay any reasonable expenses which may be incurred in removing the same.

(3) If, after receiving notice from the conservator of the port to desist from so casting or throwing any ballast or rubbish or such other thing, any master continues so to cast or throw it, he shall also be liable to simple imprisonment for a term which may extend to two months.

(4) Nothing in this section applies to any case in which the ballast or rubbish or such other thing is cast or thrown into any such port with the consent in writing of the conservator, or within any limits within which such act may be authorized by the Local Government.

22. If any person graves, breams or smokes any vessel in any such port, contrary to the directions of the conservator, or at any time or within any limits at or within which such act is prohibited by the Local Government, he and the master of the vessel shall for every such offence be punished with fine which may extend to five hundred rupees each.

23. If any person boils or heats any pitch, tar, resin, dammer, turpentine, oil or other such combustible matter on board any vessel within any such port, or at any place within its limits where such act is prohibited by the Local Government, or contrary to the directions of the conservator, he and the master of the vessel shall for every such offence be punished with fine which may extend to two hundred rupees each.

24. If any person, by an unprotected artificial light, draws off spirits on board any vessel within any port subject to this Act, he and the master of the vessel shall for every such offence be punished with fine which may extend to two hundred rupees each.

25. (1) Every master of a vessel in any port subject to this Act shall, when required so to do by the conservator, permit warps or hawsers to be made fast to the vessel for the purpose of warping any other vessel in the port, and shall not allow any such warp or hawser to be let go until required so to do.

(2) A master offending against sub-section (1) shall be punished for every such offence with fine which may extend to two hundred rupees.

26. (1) A master of a vessel shall not cause or suffer any warp or hawser attached to his vessel to be left out in any port subject to this Act after

Leaving out warp or hawser after sunset.

[Act XII,
1875, s. 27.]

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sunset in such a manner as to endanger the safety of any other vessel navigating in the port.

(2) A master, offending against sub-section (1) shall be punished for every such offence with fine which may extend to two hundred rupees

[Act XII, 1875, s. 35.]

27. If any person, without lawful excuse, discharges any fire-arm in any port subject to this Act, or on or from any pier, landing-place, wharf or quay thereof, except a gun loaded only with gunpowder for the purpose of making a signal of distress, or for such other purpose as may be allowed by the Local Government, he shall for every such offence be punished with fine which may extend to fifty rupees.

[Act XII, 1875, s. 36.]

28. If the master of any vessel in which fire takes place while lying in any such port wilfully omits to take order to extinguish the fire or obstructs the conservator or the port-officer, or any person acting under the authority of the conservator or port-officer, in extinguishing or attempting to extinguish the fire, he shall be punished with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

[Act XII, 1875, s. 40.]

29. (1) No person, without the permission of the conservator, shall in any port subject to this Act creep or sweep for anchors, cables or other stores lost or supposed to be lost therein.

(2) If any person offends against the provisions of sub-section (1), he shall be punished with fine which may extend to one hundred rupees.

[Act XII, 1875, s. 41.]

30. (1) No person without the permission of the conservator shall in any port subject to this Act remove or carry away any rock, stones, shingle, gravel, sand or soil or any artificial protection from any part of the bank or shore of the port;

and no person shall sink or bury in any part of such bank or shore, whether the same is public or private property, any mooring-post, anchor or any other thing, or do any other thing which is likely to injure or to be used so as to injure such bank or shore, except with the permission of the conservator, and with the aid or under the inspection of such person, if any, as the conservator may appoint to take part in, or overlook the performance of, such work.

(2) If any person offends against sub-section (1), he shall for every such offence be punished with fine which may extend to one hundred rupees and shall pay any reasonable expenses which may be incurred in repairing any injury done by him to the bank or shore.

Special Rules.

31. (1) No vessel of the burden of two hundred tons or upwards shall enter, leave or be moved in any port to which this section has been specially extended without having a pilot, harbour-master or assistant of the port-officer or harbour-master on board;

and no vessel of any burden less than two hundred tons and exceeding one hundred tons shall enter, leave or be moved in any such port without having a pilot, harbour-master or assistant of the port-officer or harbour-master on board, unless authority in writing so to do has been obtained from the conservator or some officer empowered by him to give such authority.

(2) If any vessel, except in case of urgent necessity, enters, leaves or is moved in the port contrary to the provisions of sub-section (1), the master of the vessel shall for every such offence be punished with fine which may extend to two hundred rupees, unless upon application to the proper officer the master was unable to procure a pilot, harbour-master or assistant of the port-officer or harbour-master to go on board the vessel.

(3) Nothing in sub-sections (1) and (2) shall apply to Native vessels when they are entering, leaving or being moved in the port of Bombay.

(4) If any question arises as to whether any vessel is a Native vessel within the meaning of this section, the decision thereon of such authority as the Governor of Bombay in Council may appoint in this behalf shall be conclusive.

32. (1) Every vessel exceeding the burden of two hundred tons and lying in any port to which this section has been specially extended shall be provided with a proper force-pump and hose and appurtenances, for the purpose of extinguishing any fire which may occur on board.

(2) The master of such a vessel who, having been required by the conservator to comply with the provisions of sub-section (1), neglects or refuses, without lawful excuse, so to do for the space of seven days after such requisition, shall be punished with fine which may extend to five hundred rupees.

*CHAPTER V.**PORT-DUES, FEES AND OTHER CHARGES.*

33. (1) In each of the ports mentioned in the first schedule such port-due, not exceeding the amount specified for the port in the third column of the

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schedule, as the Local Government or, in the case of the port of Bombay, the Board of Trustees of that port from time to time directs, shall be levied on vessels entering the port and described in the second column of the schedule, but not oftener than the time fixed for the port in the fourth column of the schedule.

(2) Whenever the Local Government, with the previous sanction of the Governor General in Council, declares any other port to be subject to this Act, it may, with the like sanction, by the same or any subsequent declaration, further declare,—

(a) in the terms of any of the entries in the second column of the first schedule, the vessels which are to be chargeable with port-dues on entering the port,

(b) the highest rates at which such dues may be levied in respect of vessels chargeable therewith, and

(c) the times at which such vessels are to be so chargeable.

(3) All port-dues now leviable in any port shall continue to be so leviable until it is otherwise declared in exercise of the powers conferred by this section.

(4) An order increasing or imposing port-dues under this section shall not take effect till the expiration of sixty days from the day on which the order was published in the local official Gazette.

[Act XII, 1875, s. 46.]

34. The Local Government or, in the case of the port of Bombay, the Board of Trustees of that port may from time to time exempt the vessels entering a port subject to this Act from payment of port-dues and cancel the exemption, or may from time to time vary the rates at which port-dues are to be levied in the port, in such manner as, having regard to the receipts and charges on account of the port, it thinks expedient, by reducing or raising the dues, or any of them:

Provided that the rates shall not in any case exceed the amount authorized to be taken by or under this Act.

[Cf. Act XII, 1875, s. 47, ad 48.]

35. (1) The Local Government shall appoint some officer or body of persons at every port at which any dues, fees or other charges are authorized to be taken by or under this Act to receive the same and, subject to the control of the Local Government, to expend the receipts on any of the objects authorized by this Act.

(2) Such officer or body shall keep for the port a distinct account, to be called the port fund account, showing, in such detail as the Local Government prescribes, the receipts and expenditure of the port, and shall publish annually as soon after the first day of April as may be practicable an abstract in such form as that Government prescribes of the account for the past financial year.

(3) If, for any of the purposes of this Act, an advance of money has been or shall be made

by the Government on account of any port subject to this Act, simple interest upon that advance, or upon so much of it as remains or shall remain unrepaid, at such rate as the Governor General in Council may determine, shall be charged in the port fund account of the port.

(4) All moneys, excluding receipts on account of pilotage but including fines and proceeds of waifs, received under this Act at or on account of any port subject to this Act shall be credited in the port fund account of the port.

(5) All expenses incurred for the sake of any such port, excluding expenses on account of pilotage but including—

(a) the pay and allowances of all persons upon the establishment of the port,

(b) the cost of buoys, beacons, lights and all other works maintained chiefly for the benefit of vessels being in or entering or leaving the port or passing through the rivers or channels leading thereto,

(c) pensions, allowances and gratuities of persons who have been employed in the port under this or any other enactment relating to ports and port-dues, or such portion of those pensions, allowances and gratuities as the Local Government may by rule determine,

(d) with the previous sanction of the Local Government, contributions towards the support of public hospitals or dispensaries suitable for the reception or relief of seamen or otherwise towards the provision of sanitary superintendence and medical aid for the shipping in the port and for seamen, whether ashore or afloat, belonging to ships in the port, and

(e) with the like sanction, contributions towards sailors' homes, institutes, rest-houses and coffee-houses and for other purposes connected with the health, recreation and temporal well-being of sailors,

shall be charged to the port fund account of the port.

(6) The Local Government may direct that for the purposes of this section any number of ports shall be regarded as constituting a single port, and thereupon all moneys to be credited to the port fund account under sub-section (4) shall form a common port fund account which shall be available for the payment of all expenses incurred for the sake of any of the ports:

Provided, with respect to the ports of Calcutta, Madras, Bombay, Karachi and Rangoon, that none of those ports may be grouped with any other port, and that the port fund account of each of those ports shall be kept separate from the port fund account of any other port.

(7) Subject to the provisions of any local law as to the disposal of any balance from time to time standing to the credit of a port fund account, any such balance may be temporarily in-

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vested in such manner as the Local Government may direct.

[Act XII,
1875, s. 48.]

36. The person to whom any dues, fees or other charges authorized to be taken by or under this Act are paid shall grant to the person paying the same a proper voucher in writing under his hand, describing the name of his office, the port or place at which the dues, fees or other charges are paid, and the name, tonnage and other proper description of the vessel in respect of which the payment is made.

[Act XII,
1875, s. 49.]

37. (1) Within twenty-four hours after the arrival within the limits of any port subject to this Act of any vessel liable to the payment of port-dues under this Act the master of the vessel shall report her arrival to the conservator of the port.

(2) A master failing without lawful excuse to make such report within the time aforesaid shall for every such offence be punished with fine which may extend to one hundred rupees.

(3) Nothing in this section applies to tug-steamers, ferry-steamers or river-steamers plying in any of the ports subject to this Act.

[Act XII,
1875, s. 50.]

38. If any vessel liable to the payment of port-dues is in any such port without proper marks on the stem and stern posts thereof for denoting her draught, the conservator may cause the same to be ascertained by means of the operation of hooking, and the master of the vessel shall be liable to pay the expenses of the operation.

[Act XII,
1875, s. 51.]

39. In order to ascertain the tonnage of any vessel liable to pay port-dues the following rules shall be observed:—

(1) (a) If the vessel is a British registered vessel, or a vessel registered under Act X of 1841 or Act XI of 1850 or under any other law for the time being in force for the registration of vessels in British India, the conservator may require the owner or master of the vessel or any person having possession of her register to produce the register for inspection.

(b) If the owner or master or such person neglects or refuses to produce the register or otherwise to satisfy the conservator as to what is the true tonnage of the vessel in respect of which the port-dues are payable, he shall be punished with fine which may extend to one hundred rupees, and the conservator may cause the vessel to be measured, and the tonnage thereof to be ascertained, according to the mode of measurement prescribed by the rules for the time being in force for regulating the measurement of British ships, and

in such case the owner or master of the vessel shall also be liable to pay the expenses of the measurement.

(2) If the vessel is not a British registered vessel or a vessel registered under Act X of 1841 or Act XI of 1850, or under any other law for the time being in force for the registration of vessels in British India, and the owner or master thereof fails to satisfy the conservator as to what is her true tonnage according to the mode of measurement prescribed by the rules for the time being in force for regulating the measurement of British ships, the conservator shall cause the vessel to be measured and the tonnage thereof to be ascertained, according to the mode aforesaid, and in such case the owner or master of the vessel shall be liable to pay the expenses of the measurement.

(3) If the vessel is a vessel of which the tonnage cannot be ascertained according to the mode of measurement mentioned in clauses (1) and (2), the tonnage of the vessel shall be determined by the conservator on such an estimate as may seem to him to be just of the burden of the vessel. [New.]

40. If the master of any vessel in respect of which any port-dues, fees or other charges are payable under this Act refuses or neglects to pay the same on demand, the authority appointed to receive such port-dues, fees or other charges may detain or arrest the vessel, and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount due is paid; [Act XII,
1875, s. 52.]

and in case any part of the port-dues, fees or other charges, or of the costs of the distress or arrest or of the keeping of the vessel or other thing distrained or arrested, remains unpaid for the space of five days next after any such distress or arrest, may cause the vessel or other thing distrained or arrested to be sold, and with the proceeds of such sale may satisfy the port-dues, fees or other charges and the costs, including the costs of sale, remaining unpaid, and shall render the surplus, if any, to the master of the vessel upon demand.

41. The officer of Government whose duty it is to grant a port-clearance for any vessel shall not grant such clearance— [Act XII,
1875, s. 53.]

(a) until her owner or master, or some other person, has paid or secured to the satisfaction of such officer the amount of all port-dues, fees and other charges, and of all fines, penalties and expenses to which

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the vessel or her owner or master is liable under this Act;

17 & 18 Vict.,
c. 104.

(b) until all expenses, which by the Merchant Shipping Act, 1854, section 228, are to be borne by her owner, incurred since her arrival in the port from which he seeks clearance, have been paid.

[Act XII,
1875, s. 54.]

42. (1) If the master of any vessel in respect of which any such sum as is mentioned in the last foregoing section is payable causes her to leave any port without having paid the sum, the authority appointed to receive port-dues, fees and other charges at the port under this Act may require in writing the authority appointed to receive port-dues, fees and other charges under this Act at any other port in British India to which she may proceed, or in which she may be, to levy the sum.

(2) The authority to whom the requisition is directed shall proceed to levy such sum in the manner prescribed in section 40, and a certificate purporting to be made by the authority appointed to receive port-dues, fees and other charges at the port where such sum as is mentioned in the last foregoing section became payable, stating the amount payable, shall be sufficient *prima facie* proof of such amount in any proceeding under section 40, and also (in case the amount payable is disputed) in any subsequent proceeding under section 58.

[Act XII,
1875, s. 55.]

43. (1) If the master of a vessel evades the payment of port-dues, fees or other charges, he shall be punished with fine which may extend to five times the amount of the sum.

(2) In any proceeding before a Magistrate on a prosecution under sub-section (1), any such certificate as is mentioned in section 42, sub-section (2), stating that the master has evaded such payment, shall be sufficient *prima facie* proof of the evasion, unless the master shows to the satisfaction of the Magistrate that the departure of the vessel without payment of the sum was caused by stress of weather, or that there was lawful or reasonable ground for such departure.

(3) Any Magistrate having jurisdiction under this Act in any port to which the vessel may proceed, or in which she may be found, shall be deemed to have jurisdiction in any proceeding under this section.

[Act XII,
1875, s. 56.]

44. A vessel entering any port subject to this Act (other than a port in Burma) in ballast and not carrying passengers shall

be charged with a port-due at a rate to be determined by the Local Government or, in the case of the port of Bombay, by the Board of Trustees of that port, and not exceeding three-

fourths of the rate with which she would otherwise be chargeable.

45. When a vessel enters a port subject to this Act, but does not discharge or take in any cargo or passengers therein (with the exception of such unshipment and reshipment as may be necessary for purposes of repair), she shall be charged with a port-due at a rate to be determined by the Local Government or, in the case of the port of Bombay, by the Board of Trustees of that port and not exceeding half the rate with which she would otherwise be chargeable: [Act XII,
1875, s. 57.]

Provided that a vessel entering any of the ports within the territories administered by the Governor of Fort St. George in Council and leaving the same within forty-eight hours, without discharging or taking in any passengers or cargo, shall not be charged with any port-due.

46. No port-due shall be chargeable in respect of any pleasure-yacht, nor of any such due be chargeable in respect of any vessel which, having left any port, is compelled to re-enter it by stress of weather or in consequence of having sustained any damage. [Act XII,
1875, s. 58.]

47. (1) The Local Government may, by notification in the official Gazette, order that there shall be paid in respect of every vessel entering any port subject to this Act, within a reasonable distance of which there is a public hospital or dispensary suitable for the reception or relief of seamen requiring medical aid, such further port-dues not exceeding one anna per ton as the Local Government thinks fit. [Act XII,
1875, s. 59.]

(2) Such port-dues shall be called hospital port-dues, and the Local Government shall, in making any order under sub-section (1), have regard to any contributions made under section 35, sub-section (5), clause (d).

(3) An order imposing or increasing hospital port-dues shall not take effect till the expiration of sixty days from the day on which the order was published in the local official Gazette.

(4) Whenever the Local Government is satisfied that proper provision has been made by the owners or agents of any class of vessels for giving medical aid to the seamen employed on board such class of vessels, or that such provision is unnecessary in the case of any class of vessels, it may, by notification in the official Gazette, exempt such class of vessels from any payment under this section. [New.]

(5) The Local Government may, by notification in the official Gazette, cancel any order under sub-section (1) or withdraw any exemption under sub-section (4). [Act V, 1885,
s. 4.]

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(Chapter V.—Port-dues, Fees and other Charges.—Sections 48-49. Chapter VI.—
Hoisting Signals.—Sections 50-52.) Chapter VII.—Provisions with respect to
Penalties.—Sections 53-57.)

[Act XII,
1875, s. 60.]

48. Hospital port-dues shall be applied, as the Local Government may direct, to the support of any such hospital or dispensary as aforesaid, or otherwise for providing sanitary superintendence and medical aid for the shipping in the port in which they are levied and for the seamen belonging to the ships therein, whether such seamen are ashore or afloat.

[Act XII,
1875, s. 61.]

49. (1) Within any port subject to this Act, fees may be charged for pilotage, hauling, mooring, re-mooring, hooking, measuring and other services rendered to vessels, at such rates as the Local Government may direct:

Provided that, in the case of fees for pilotage, the previous sanction of the Governor General in Council has been obtained.

(2) The fees now chargeable for such services shall continue to be chargeable unless and until they are altered in exercise of the power conferred by sub-section (1).

CHAPTER VI.

HOISTING SIGNALS.

[Act XII,
1875, ss. 62
and 63.]

50. (1) The master of every inward or outward bound vessel, on arriving within signal-distance of any signal-station established within the limits of the river Hooghly, or within the limits of any part of a river or channel leading to a port subject to this Act, shall, on the requisition of the pilot in charge of the vessel, signify the name of the vessel by hoisting the number by which she is known, or by adopting such other means to this end as may be practicable and usual, and shall keep the signal flying until it is answered from the signal-station.

(2) If the master of a vessel arriving as aforesaid offends against sub-section (1), he shall be punished for every such offence with fine which may extend to one thousand rupees.

[Act XII,
1875, s. 63.]

51. (1) Every pilot in charge of a vessel shall require the master to hoist number. the vessel to be duly signalled as provided by the last foregoing section.

(2) When, on such requisition from the pilot, the master refuses to hoist the number of a vessel, or to adopt such other means of making her name known as may be practicable and usual, the pilot may, on arrival at the first place of safe anchorage, anchor the vessel and refuse to proceed on his course until the requisition has been complied with.

52. Any pilot in charge of a vessel who disobeys, or abets disobedience to, any of the provisions of this Chapter shall be punished with fine which may extend to five hundred rupees for each instance of such disobedience or abetment, and in addition shall be liable to have his authority to act as a pilot withdrawn.

CHAPTER VII.

PROVISIONS WITH RESPECT TO PENALTIES.

53. If any person disobeys any rule or order which a Local Government has made in pursuance of this Act and for the punishment of disobedience to which express provision has not been made elsewhere in this Act, he shall be punished for every such offence with fine which may extend to one hundred rupees.

54. All offences against this Act shall be triable by a Magistrate, and any Magistrate may, by warrant under his hand, cause the amount of any fine imposed upon the owner or master of any vessel, for any offence committed on board of the vessel, or in the management thereof, or otherwise in relation thereto, whereof the owner or master is convicted, to be levied by distress and sale of the vessel, and the tackle, apparel and furniture thereof, or so much thereof as is necessary.

55. (1) In case of any conviction under this Act the convicting Magistrate may order the offender to pay the costs of the conviction in addition to any fine or expenses to which he may be liable.

(2) Such costs may be assessed by the Magistrate, and may be recovered in the same manner as any fine under this Act.

56. (1) If any dispute arises as to the sum to be paid in any case as expenses or damages under this Act, it shall be determined by a Magistrate upon application made to him for that purpose by either of the disputing parties.

(2) Whenever any person is liable to pay any sum, not exceeding one thousand rupees, as expenses or damages under this Act, any Magistrate, upon application made to him by the authority to whom the sum is payable, may, in addition to or instead of any other means for enforcing payment, recover the sum as if it were a fine.

57. Whenever any fine, expenses or damages is or are levied under this Act by distress and sale, the costs of the distress and sale may be levied

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Supplemental Provisions.—Section 61-63.)

in addition to such fine, expenses or damages, and in the same manner.

[Act XII,
1875, s. 70.]

58. If any dispute arises concerning the amount leviable by any distress or arrest under this Act or the costs payable under the last foregoing section, the person making the distress or using the arrest may detain the goods distrained or arrested, or the proceeds of the sale thereof, until the amount to be levied has been determined by a Magistrate, who, upon application made to him for that purpose, may determine the amount, and award such costs to be paid by either of the parties to the other of them as he thinks reasonable, and payment of such costs, if not paid on demand, shall be enforced as if they were a fine.

[Act XII,
1875, s. 71.]

59. (1) Any person offending against the provisions of this Act in any fences beyond local limits of jurisdiction shall be punishable by any Magistrate having jurisdiction over any district or place adjoining the port.

(2) Such Magistrate may exercise all the powers of a Magistrate under this Act, in the same manner and to the same extent as if the offence had been committed locally within the limits of his jurisdiction, notwithstanding that the offence may not have been committed locally within such limits, and, in case any such Magistrate exercises the jurisdiction hereby vested in him, the offence shall be deemed, for all purposes, to have been committed locally within the limits of his jurisdiction.

[Act XII,
1875, s. 72.]

60. (1) No conviction, order or judgment of any Magistrate under this Act shall be quashed for error of form or procedure, but only on the merits, and it shall not be necessary to state, on the face of the conviction, order or judgment, the evidence on which it proceeds.

(2) If no jurisdiction appears on the face of the conviction, order or judgment, but the depositions taken supply that defect, the conviction, order or judgment shall be aided by what so appears in the depositions.

CHAPTER VIII.

SUPPLEMENTAL PROVISIONS.

[Act XII,
1875, s. 73.]

61. (1) If any vessel belonging to any of Her Majesty's subjects, or sailing under British colours, hoists, carries or wears, within the limits of any port subject to this Act, any flag, jack, pennant or colours, the use whereof on board such vessel has been prohibited by the Merchant Shipping Act, 1854, or

any other statute now or hereafter to be in force, or by any proclamation made or to be made in pursuance of any such statute, or by any of Her Majesty's regulations in force for the time being, the master of the vessel shall, for every such offence, be punished with fine which may extend to fifty rupees.

(2) Such fine shall be in addition to any other penalty recoverable in respect of such an offence.

(3) Any officer of Her Majesty's Navy or of the Indian Marine Service within the limits of such port, or the conservator of such port, may enter on board any such vessel, and seize and take away any flag, jack, pennant or colours so unlawfully hoisted, carried or worn on board the same.

62. Any Magistrate, upon an application being made to him by the Consul of any Foreign Power to which the Foreign Deserters Act, 1852, has been applied, or by an order of Her Majesty in Council been, or shall hereafter be, declared to be applicable, or by the representative of such Consul, and upon complaint on oath of the desertion of any seaman, not being a slave, from any ship of such Foreign Power, may, until a revocation of such Order in Council has been publicly notified, issue his warrant for the apprehension of any such deserter, and, upon due proof of the desertion, may order him to be conveyed on board the vessel to which he belongs, or, at the instance of the Consul, to be detained in custody until the vessel is ready to sail, or, if the vessel has sailed, for a reasonable time not exceeding one month:

Provided that a deposit be first made of such sum as the Magistrate deems necessary for the subsistence of the deserter during the detention, and that the detention of the deserter shall not be continued beyond twelve weeks.

63. (1) The provisions of sections 10 and 21 shall be applicable to all ports heretofore or hereafter declared by the Local Government to be ports for the shipment and landing of goods but not otherwise subject to this Act, and may be enforced by any Magistrate to whose ordinary jurisdiction any such port is subject.

(2) Any penalties imposed by him, and any expenses incurred by his order, under the said provisions shall be recoverable respectively in the manner provided in sections 54 and 56.

(3) In any of the said ports for the shipment and landing of goods the consent referred to in section 21, sub-section (4), may be given by the principal officer of customs at such port or by any other officer appointed in that behalf by the Local Government.

*The Indian Ports Bill.**(Chapter VIII.—Supplemental Provisions.—Sections 64-69.)*[Act XII,
1875, s. 77,
and Act IX,
1879, s. 17.]

64. The port-due leviable under this Act in either of the ports of Maulmain and Bassein shall, to the extent of one anna and six pie per ton, be applicable in the first place to defray the expenses of maintaining the existing port-lights of Burma.

[New.]

65. Any money contributed before the passing of this Act from any port fund for any purpose connected with the health, recreation and well-being of sailors shall be deemed to have been lawfully contributed from the fund.

[17 & 18
Vict., c. 104,
s. 546.]

66. Any local authority in which any immoveable property in or near a port is vested may, with the previous sanction of the Local Government, appropriate, and either retain and apply, or transfer by way of gift or otherwise, the whole or any part of the property as a site for, or for use as, a sailors' home or other institution for the health, recreation and temporal well-being of sailors.

[Act XII,
1875, s. 18.]

67. (1) All acts, orders or directions by this Act authorized to be done or given by any conservator may, subject to his con-

trol, be done or given by any harbour-master or any assistant of such conservator or harbour-master.

(2) Any person authorized by this Act to do any act may call to his aid such assistance as may be necessary.

68. Any written notice of a direction given under this Act, left for the master of any vessel with any person employed on board thereof, or affixed on a conspicuous place on board of the vessel, shall, for the purposes of this Act, be deemed to have been given to the master thereof.

69. Every declaration, order and rule of a Local Government made in pursuance of this Act shall be published in the official Gazette, and a copy thereof shall be kept in the office of the conservator and at the custom-house, if any, of every port to which the declaration, order or rule relates and shall there be open at all reasonable times to the inspection of any person without payment of any fee.

*The Indian Ports Bill.**(The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of Payment.)*

THE FIRST SCHEDULE.

PORTS, VESSELS CHARGEABLE, RATE OF PORT-DUES AND FREQUENCY OF PAYMENT.

(See sections 1 and 33.)

PART I.—BENGAL.

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
Calcutta	Sea-going vessels of twenty tons and upwards.	Not exceeding four annas per ton: provided that, in the case of <i>dhonis</i> and country vessels employed in the coasting trade, the rate shall be one-half the rate chargeable in respect of other vessels.	Whenever the vessel enters the port, except in the case of <i>dhonis</i> and country vessels employed in the coasting trade, which shall not be chargeable with port-dues at the same port more than once in sixty days.
	Tug-steamers and river-steamers.	Not exceeding four annas per ton.	Once between the 1st January and the 30th June, and once between the 1st July and the 31st December, in each year.
Chittagong	Sea-going vessels of ten tons and upwards.	Not exceeding four and a half annas per ton.	Whenever the vessel enters the port, except in the case of mail-steamers and coasting vessels, which shall not be chargeable more than once in sixty days.
	Tug-steamers and river-steamers.	Ditto	Once between the 1st January and the 30th June, and once between the 1st July and the 31st December, in each year.
Cuttack Ports,—namely, False Point and Pooree.	Sea-going vessels of ten tons and upwards.	Not exceeding four annas per ton.	Whenever the vessel enters any one of the ports, except in the case of mail-steamers and coasting vessels, which shall not be chargeable more than once in sixty days.
Balasore Ports,—namely, Balasore, Churáman, Laichunpur, Chánua, Subarnarekha, Dhamra (Chandbally) and Sartha.	Ditto	Ditto	Ditto.

*The Indian Ports Bill.**(The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of Payment.)*

PART II.—MADRAS PRESIDENCY.

Name of port.		Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4	
Madras				
<i>Eastern Group.</i>				
District.	Port.			
Ganjam.	1. Gopálpur.	<i>Foreign Vessels.</i>	(a) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at Madras, or at any one port in the Eastern group, or at any one port in the Western group, not exceeding three annas a ton.	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that port.
	2. Sonnapuram.			
	3. Baruva.			
	4. Púndi.			
	5. Calingapatam.			
Vizagapatam.	6. Konada.	<i>Foreign Vessels.</i>	(b) In the case of any other foreign ship or steamer calling at Madras, or at any one port in the Eastern group, or at any one port in the Western group, not exceeding three annas a ton.	The due is payable on each entry into the port.
	7. Bimlipatam.			
	8. Vizagapatam.			
	9. Pudimadaka.			
Godávari.	10. Pentakota.	<i>Foreign Vessels.</i>	(c) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at more than one port in the Eastern group, or at more than one port in the Western group, not exceeding four and a half annas a ton.	The payment of the due at the first port called at in the group will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that or any other port in the group.
	11. Uppada.			
	12. Cocanada.			
	13. Coringa.			
Kistna.	14. Bendamurulanka.	<i>Foreign Vessels.</i>	(d) In the case of any other foreign ship or steamer calling at more than one port in the Eastern group, or at more than one port in the Western group, not exceeding four and a half annas a ton.	The due is payable once for the voyage.
	15. Narsápur.			
	16. Perupalem.			
	17. Masulipatam.			
	18. Penumudi.			
	19. Morutota.			
	20. Nagayalanka.			
	21. Kottapalem.			
	22. Gangadipalem.			
	23. Nizampatnam.			
Nellore.	24. Ipurupalem.	<i>Coasting Vessels.</i>	(e) In the case of a coasting ship calling at any port, not exceeding one and a half annas a ton.	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again at that port.
	25. Bodduvanipalem.			
	26. Motupalle.			
	27. Kanuparti.			
	28. Kottapatnam.			
	29. Itamukkala.			
	30. Pakala.			
	31. Karedu.			
	32. Ramayapatnam.			
	33. Chennayyapalem.			
Chingleput.	34. Tummalapenta.	<i>Coasting Vessels.</i>	(f) In the case of a coasting steamer—	The payment of the due at the first port called at in the group will exempt the steamer for a period of thirty days from liability to pay the due again at that or any other port in the group.
	35. Juvaladinne.			
	36. Iskapalle.			
	37. Ponnepudi.			
	38. Maipadu.			
	39. Kistnapatnam.			
	40. Pamanji.			
	41. Tupili.			
	42. Dugarazpatnam.			
	43. Pudi.			
South Arcot.	44. Pulicat.	<i>Coasting Vessels.</i>	(2) calling at Madras within thirty days after payment of a due in either group, not exceeding one and a half annas a ton;	The due is payable once in thirty days.
	45. Ennore.			
	46. Covelong.			
South Arcot.	47. Marakanam.	<i>Coasting Vessels.</i>	(3) calling at Madras otherwise than as provided in sub-clause (2) of this clause, not exceeding four and a half annas a ton.	The payment of the due will exempt the steamer for a period of thirty days from liability to pay the due again at Madras or at any port in the Eastern group.
	48. Cuddalore.			
	49. Porto Novo.			

*The Indian Ports Bill.**(The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of Payment.)*

PART II.—MADRAS PRESIDENCY—contd.

Name of port.		Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4	
<i>Eastern Group—contd.</i>				
District.	Port.			
Tanjore.	50. Tirumalavasa.	<i>Foreign Vessels.</i>	(a) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at Madras, or at any one port in the Eastern group, or at any one port in the Western group, not exceeding three annas a ton.	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that port.
	51. Kodiyampaluyam.			
	52. Tranquebar.			
	53. Nagore.			
	54. Negapatam.			
	55. Velankani.			
	56. Toppaturai.			
	57. Point Calimere.			
	58. Mutupet.			
	59. Adirampatnam.			
Madura.	60. Gopalapatnam.	<i>Foreign Vessels.</i>	(b) In the case of any other foreign ship or steamer calling at Madras, or at any one port in the Eastern group, or at any one port in the Western group, not exceeding three annas a ton.	The due is payable on each entry into the port.
	61. Kattumavadi.			
	62. Krishnajiapatnam.			
	63. Ammapatnam.			
	64. Kottaiapatnam.			
	65. Sundarapandiapatnam.			
	66. Pasipatnam.			
	67. Damodaraapatnam.			
	68. Tondi.			
	69. Nambitalai.			
Tinnevely.	70. Pudupatnam.	<i>Foreign Vessels.</i>	(c) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at more than one port in the Eastern group, or at more than one port in the Western group, not exceeding four and a half annas a ton.	The payment of the due at the first port called at in the group will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that or any other port in the group.
	71. Karangadu.			
	72. Tiruppalankudi.			
	73. Devipatnam.			
	74. Mudiyanpatnam.			
	75. Attankarai.			
	76. Emanangundu.			
	77. Pillaimadam.			
	78. Pambam.			
	79. Ramesvaram.			
Malabar.	80. Mandapam.	<i>Coasting Vessels.</i>	(d) In the case of any other foreign ship or steamer calling at more than one port in the Eastern group, or at more than one port in the Western group, not exceeding four and a half annas a ton.	The due is payable once for the voyage.
	81. Vedalai.			
	82. Marakkayaapatnam.			
	83. Muttupettai.			
	84. Kilakarai.			
	85. Ervadi.			
	86. Valinokkam.			
	87. Vaippar.			
	88. Tuticorin.			
	89. Kayalpatnam.			
Malabar.	90. Kulasekharapatnam.	<i>Coasting Vessels.</i>	(e) In the case of a coasting ship calling at any port, not exceeding one and a half annas a ton.	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again at that port.
	91. Cochin.			
	92. Arrupuram.			
	93. Kukkuyi.			
	94. Madayi.			
	95. Attakuri.			
	96. Chavakad.			
	97. Veliyangod.			
	98. Ponani.			
	99. Kuttayi.			
Malabar.	100. Parapanna.	<i>Coasting Vessels.</i>	(f) In the case of a coasting steamer—	The payment of the due at the first port called at in the group will exempt the steamer for a period of thirty days from liability to pay the due again at that or any other port in the group.
	101. Tanur.			
	102. Parpanangadi.			
	103. Kadalvandi.			
	104. Beypore.			
Malabar.		<i>Coasting Vessels.</i>	(1) calling at one or more ports in the Eastern group (save as provided by sub-clause (3) of this clause), or at one or more ports in the Western group, not exceeding three annas a ton;	The payment of the due at the first port called at in the group will exempt the steamer for a period of thirty days from liability to pay the due again at that or any other port in the group.
Malabar.		<i>Coasting Vessels.</i>	(2) calling at Madras within thirty days after payment of a due in either group, not exceeding one and a half annas a ton;	The due is payable once in thirty days.
Malabar.		<i>Coasting Vessels.</i>	(3) calling at Madras otherwise than as provided in sub-clause (2) of this clause, not exceeding four and a half annas a ton.	The payment of the due will exempt the steamer for a period of thirty days from liability to pay the due again at Madras or at any port in the Eastern group.

*The Indian Ports Bill.**(The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of Payment.)*

PART II.—MADRAS PRESIDENCY—concl'd.

Name of port.		Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4	5
<i>Western Group—cont'd.</i>				
District.	Port.			
Malabar—cont'd.	105. Molakkadava.	Sea-going vessels of fifteen tons and upwards.	<i>Foreign Vessels.</i>	
	106. Calicut.		(a) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at Madras, or at any one port in the Eastern group, or at any one port in the Western group, not exceeding three annas a ton.	
	107. Pudiayangadi.		(b) In the case of any other foreign ship or steamer calling at Madras, or at any one port in the Eastern group, or at any one port in the Western group, not exceeding three annas a ton.	
	108. Elatturu.		(c) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at more than one port in the Eastern group, or at more than one port in the Western group, not exceeding four and a half annas a ton.	
	109. Kappatta.		(d) In the case of any other foreign ship or steamer calling at more than one port in the Eastern group, or at more than one port in the Western group, not exceeding four and a half annas a ton.	
	110. Quilandi.			
	111. Kollam.			
	112. Kadalura.			
	113. Trikodi.			
	114. Kottakkal.			
	115. Badagara.			
	116. Muttankal.			
	117. Chompayi.			
	118. Kallayi.			
	119. Talayi.			
South Canara.	120. Tellicherry.			
	121. Dharmapatnam.			
	122. Ezhara.			
	123. Cannanore.			
	124. Pudiayangadi.			
	125. Palapatnam (Baliapatnam).			
	126. Ettikulam.			
	127. Kavvayi.			
	128. Hosdrug.			
	129. Baikal.			
	130. Kásaragód.			
	131. Kumbale.			
	132. Manjesvara.			
	133. Mangalore.			
	134. Mulki.			
	135. Padubidri.			
	136. Ermala.			
	137. Uchhila.			
	138. Kaph.			
	139. Udiyavara.			
	140. Malpé.			
	141. Barkur or Hangarakatta.			
	142. Coondapoor.			
	143. Nyakinakatte (Nayakkan-kottai).			
	144. Baindur.			
	145. Siruru.			

*Explanations to Part II of the First Schedule.**Explanation 1.*—In this Part of the Schedule—

(a) "ship" means a sailing vessel, and "steamer" a steam-vessel:

(b) "coasting ship" or "coasting steamer" means respectively a ship or steamer which at any port discharges cargo exclusively from, or takes in cargo exclusively for, any port in the island of Ceylon or in any part of India between the westernmost part of Sind and the south-easternmost part of Burma; and "coasting steamer" includes a coasting steam-vessel having a general pass under section 164 of the Sea Customs Act, 1878:

(c) "foreign ship" or "foreign steamer" means respectively a ship or steamer not being a coasting ship or coasting steamer.

Explanation 2.—As regards the levy of port-dues, each of the following pairs of ports, namely, Cocanada and Coringa, Nagore and Negapatam, Beypore and Calicut, is to be treated as if it were only one port; every vessel in respect of which such dues have been charged and taken at one of any of the said pairs being exempted from the dues on entering the other of the same pair immediately after leaving the one in which the dues were charged and taken.

VIII of 1878.

*The Indian Ports Bill.**(The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of Payment.)*

PART III.—BOMBAY PRESIDENCY.

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
Bombay	Sea-going vessels of ten tons and upwards (except fishing-boats).	Not exceeding four annas per ton, as the Trustees incorporated under the Bombay Port Trust Act, 1879, may, from time to time, direct.	Once in the same month.
	Tug-steamers, ferry-steamers and river-steamers.	Ditto	Once between the 1st January and the 30th June, and once between the 1st July and 31st December, in each year.
<i>Northern Group of Ports—</i>			
1. Gogha	Sea-going vessels of ten tons and upwards (except fishing-boats).	Not exceeding three annas per ton: provided that a coasting steamer whenever it enters any port may be charged at a rate to be determined by the Local Government and not exceeding the highest rate of port-dues leviable at any port of the group to which such port belongs and an addition of one-half of such highest rate.	Once in thirty days at the same port: provided that no coasting vessel or coasting steamer, having paid port-dues at any port, shall be chargeable with port-dues again at the same time or any other port of the same group within thirty days.
2. Dholera			
3. Tankari			
4. Dehegam			
5. Dehej			
6. Broach			
7. Bhagwa			
8. Surat			
9. Matwad			
10. Balsar			
11. Umarsadi			
12. Kolak			
13. Kalai			
14. Maroli			
15. Umbargam			
16. Gholwad			
17. Dahanu Creek			
18. Tarapur			
19. Olivara Navapur			
20. Satpati Creek			
21. Mahim (Kelva)			
22. Kelva			
23. Dantiora			
24. Arnala			

*The Indian Ports Bill.**(The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of payment.)*

PART III.—BOMBAY PRESIDENCY—contd.

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
<i>Southern Group of Ports—</i>			
1. Bándra . . .	Sea-going vessels of ten tons and upwards (except fishing-boats).	Not exceeding three annas per ton: provided that a coasting steamer whenever it enters any port may be charged at a rate to be determined by the Local Government and not exceeding the highest rate of port-dues leviable at any port of the group to which such port belongs, and an addition of one-half of such highest rate.	Once in thirty days in the same port: provided that no coasting vessel or coasting steamer, having paid port-dues at any port, shall be chargeable with port-dues again at the same or any other port of the same group within thirty days.
2. Vesáva . . .			
3. Manori . . .			
4. Utan . . .			
5. Bassein . . .			
6. Bhiwandi . . .			
7. Kalyan . . .			
8. Tháná . . .			
9. Trombay . . .			
10. Panwel . . .			
11. Karanjá . . .			
12. Rewas . . .			
13. Nagothna . . .			
14. Thal . . .			
15. Alibág . . .			
16. Revdandá . . .			
17. Mándád . . .			
18. Bánkot . . .			
19. Kelshi . . .			
20. Harnai . . .			
21. Anjanwel . . .			
22. Borya . . .			
23. Jaygad . . .			
24. Varavdá . . .			
25. Ratnágiri . . .			
26. Purangad . . .			
27. Jaytápur . . .			
28. Vijaydurg . . .			
29. Devgad . . .			
30. Achra . . .			
31. Málwan . . .			
32. Nivti . . .			
33. Vengurla . . .			
34. Redi . . .			
35. Terekhol . . .			
36. Kárwár, including Baitkhol.			
37. Chendiya . . .			
38. Ankolá . . .			
39. Gangávali . . .			
40. Tadri . . .			
41. Kumptá . . .			
42. Honáwar . . .			
43. Murdeshwar . . .			
44. Shiráli . . .			
45. Bhatkal . . .			
Karáchi . . .	Ditto	Four annas per ton	Once in three months.
	Tug-steamers and river-steamers.	Ditto	Once between the 1st January and the 30th June, and once between the 1st July and the 31st December, in each year.
Aden . . .	Sea-going vessels of ten tons and upwards.	Three annas per ton	Once a month.

*The Indian Ports Bill.**(The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of Payment.)*

PART IV.—BURMA.

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
Rangoon . . .	Sea-going vessels of ten tons and upwards.	Not exceeding six annas per ton.	Once in sixty days.
	Tug-steamers and river-steamers.	Not exceeding four annas per ton.	Once between the 1st January and the 30th June, and once between the 1st July and the 31st December, in each year.
Maulmain . . .	Sea-going vessels of ten tons and upwards, but less than twenty-five tons.	Not exceeding four annas per ton.	Once in sixty days.
	Sea-going vessels of twenty-five tons and upwards.	Not exceeding five annas six pie per ton.	Ditto.
Kyauk-Phyu . . .	Sea-going vessels of ten tons and upwards.	Not exceeding four annas per ton.	Ditto.
Akyab . . .	Ditto	Ditto	Ditto.
Bassein . . .	Sea-going vessels of ten tons and upwards, but less than twenty-five tons.	Ditto	Ditto.
	Sea-going vessels of twenty-five tons and upwards.	Not exceeding five annas six pie per ton.	Ditto.
Tavoy . . .	Sea-going vessels of ten tons and upwards.	Not exceeding four annas per ton.	Ditto.
Mergui . . .	Ditto	Ditto	Ditto.

*The Indian Ports Bill.**(The Second Schedule.—Enactments repealed.)*

THE SECOND SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

Number and year.	Subject or title.	Extent of repeal.
<i>Acts of the Governor General in Council.</i>		
XII of 1875	Indian Ports Act, 1875	So much as has not been repealed.
IX of 1879	Burma Coast-lights Act, 1879	Section 17 and the preamble to that section.
VII of 1880	Indian Merchant Shipping Act, 1880.	The first paragraph of section 72, from and inclusive of the word "Chapter" down to and inclusive of the word "repealed".
IV of 1881	Madras Port-dues Act, 1881	The whole.
XVII of 1882	Indian Ports Act, 1882	The whole.
V of 1883	Indian Merchant Shipping Act, 1883.	Section 31.
XI of 1883	Reduction of Port-dues in the Port of Bombay.	The whole.
IV of 1884	Indian Explosives Act, 1884	Section 3.
V of 1885	Amendment of the Indian Ports Act, 1875.	The whole.
<i>Act of the Governor of Fort St. George in Council.</i>		
II of 1872	Madras Port Rules	The whole.

STATEMENT OF OBJECTS AND REASONS.

FOURTEEN years have passed since the law relating to Indian ports and port-dues was last consolidated. During that time places which were ports have ceased to be so, and places which were not previously ports have had the Ports Act of 1875 extended to them. The Act has itself been amended by no fewer than nine Acts, and a Bill for further amending it was pending in the Council of the Governor General when proposals for the introduction of a further Bill for still further amending the Act were received by the Government of India. In these circumstances it appeared to the Government that the time had come for again consolidating, as well as amending, the law relating to ports and port-dues. A Bill was accordingly prepared in October last and submitted for the criticism of the Governments of Madras, Bombay, Bengal and Burma. The replies of those Governments, and the opinions of the authorities consulted by them, have now been received and considered, and the Bill has been amended accordingly. Effect has not been given to all the suggestions received, partly because some will, it is believed, be more suitably complied with in a Bill which is about to be introduced into the Council of the Lieutenant-Governor of Bengal, and partly because others are such as should, in the opinion of the Government of India, be left for consideration by the Select Committee, which will have the advantage of hearing what the mercantile members of the Council have to say about them.

2. The principal amendments which it is proposed to effect in the existing law will now be stated in the order of the sections and schedules in which they occur in the Bill:—

- (1) *Section 1, sub-section (5).*—It has been proposed by the Government of Bengal that sections 40 and 41 of the Act of 1875 (sections 29 and 30 of the Bill) should apply to all ports without being specially extended thereto.
- (2) *Section 3, clause (6).*—The definition of the word "ton" has been added for the purpose of giving effect to a proposal made by the Board of Trustees for the Port of Bombay.
- (3) *Section 6, clause (e).*—The mention of "passengers" is suggested by the Governor of Bombay in Council and the Lieutenant-Governor of Bengal.
- (4) *Section 6, clauses (k) and (m).*—These clauses have been re-modelled in the direction suggested by the Lieutenant-Governor of Bengal and the Governor of Bombay in Council, respectively.
- (5) *Section 6, clause (o).*—This clause has been proposed by the Board of Trustees for the Port of Bombay, and is believed to be as necessary for other ports in India as for that port.
- (6) *Section 21, sub-section (2), clause (c).*—This clause is suggested by the case reported at I. L. R. 9 Cal. 849.
- (7) *Section 35, sub-section (5), clause (e), and section 65.*—These clauses are designed to authorise for the future, and validate as regards the past, certain contributions which Port Commissioners and Trustees make in aid of sailors' homes, coffee-houses and other institutions for purposes connected with the well-being of seamen ashore. Apart from legal considerations, the action of Port Commissioners and Trustees in this matter appears to have been, and to be, generally defensible and proper.
- (8) *Section 39, clause (3).*—This clause has been suggested by the Commissioner of Customs at Bombay to meet the case of firewood and other articles being conveyed from one port to another on rafts which are incapable of being measured as ships.
- (9) *Section 47, sub-section (4).*—The addition to this clause has been suggested by the Lieutenant-Governor of Bengal to meet the case of native seamen in the coasting brigs plying from Chittagong. These brigs are manned almost entirely by men of the Chittagong District, who, when ill, do and will continue to go to their homes. Provision for giving medical aid to these seamen at Chittagong is not necessary, but the want of such provision there for Europeans is much felt.
- (10) *Section 66.*—This clause reproduces a section of the Merchant Shipping Act, 1854, which is in force in the United Kingdom, and may be found useful in

British India, where most local authorities are now bodies corporate, with their powers as to the disposition of their property strictly defined.

- (11) *First Schedule, Parts I and IV.*—It is proposed that tug-steamers and river-steamers at Chittagong and Rangoon pay a rate not exceeding four and a half annas and four annas, respectively, per ton every half-year.
- (12) *First Schedule, Part II.*—This Part of the Schedule is still unsettled, its details being under the consideration of the Governor of Fort St. George in Council and local experts, including the members of the Madras Chamber of Commerce.
- (13) *First Schedule, Part III.*—The rate of port-dues for coasting steamers visiting ports of the Northern and Southern Groups in the Bombay Presidency has, at the instance of the Commissioner of Customs and the Collector of Salt-revenue, been modified in favour of ship-owners.
- (14) *Second Schedule.*—It will be for the consideration of the Government of Madras whether Act II of 1872 of the Governor in Council need be maintained. It is obviously desirable that the power to make port-rules should be as uniform as possible for the whole of British India, and it appears that, up to the beginning of last year at any rate, it had not been found by the Madras Government to be necessary to make any rules under its Act of 1872.

It may here be observed that a clause in the direction of clause XVI in that Act has been supported by the Board of Trustees for the Port of Bombay, but has not been adopted at this stage of the Bill because a power to detain the master, and therefore his ship, for the purposes of a departmental inquiry as to the conduct of a port-official or pilot ought not, in the opinion of the Government of India, to be given unless the power is conclusively proved to be necessary in the public interests.

The power conferred on the Madras Government by clause XVII in its Act of 1872 for regulating the use of day-signals is proposed to be taken in clause (m) of section 6 of the Bill.

3. The chief authorities of Indian ports having already been consulted on the Bill as circulated in October last, it is requested that opinions on the revised Bill may be furnished to the Government of India in the Legislative Department by the 1st of March, 1889.

The 30th January, 1889.

D. BARBOUR.

S. HARVEY JAMES,

Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, FEBRUARY 9, 1889.

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 Fraudulent Marks on Merchandise was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 8th February, 1889:—

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

From Registrar, High Court, Calcutta, No. 3171, dated 5th December, 1888 [Paper No. 1].

From Chief Commissioner, Ajmere-Merwara, No. 78 C.—690, dated 12th December, 1888 [Paper No. 2].

From Secretary to Chief Commissioner, Coorg, No. 2202—2037, dated 18th December, 1888, and enclosure [Papers No. 3].

From Chief Secretary to Government, Madras, No. 2603, dated 21st December, 1888, and enclosures [Papers No. 4].

From Her Majesty's Secretary of State for India, No. 30 Legislative, dated 6th December, 1888, and enclosures [Papers No. 5].

From Officiating Chief Secretary to Chief Commissioner, Burma, No. 186—17 L., dated 9th January, 1889, and enclosures [Papers No. 6].

From Secretary for Berar to Resident, Hyderabad, No. 17 G., dated 11th January, 1889 [Paper No. 7].

Telegram from Secretary to Chief Commissioner, Assam, dated 17th January, 1889 [Paper No. 8].

From Secretary to Government, North-Western Provinces and Oudh, No. 73 R.—VI-95 A., dated 17th January, 1889 [Paper No. 9].

Telegram from Secretary to Chief Commissioner, Central Provinces, dated 21st January, 1889 [Paper No. 10].

From Chief Secretary to Government, Bombay, No. 189, dated 16th January, 1889, and enclosures [Papers No. 11].

From Secretary to Government, North-Western Provinces and Oudh, No. 96—VI-95 A., dated 19th January, 1889, and enclosures [Papers No. 12].

From Officiating Junior Secretary to Chief Commissioner, Central Provinces, No. 81 S., dated 24th January, 1889 [Paper No. 13].

From Secretary to Government, Punjab, No. 88, dated 23rd January, 1889, and enclosures [Papers No. 14].

Observations by the Hon'ble Sir Dinshaw Manockjee Petit, Kt. [Paper No. 15].

From Secretary to Government, Bengal, No. 37, dated 28th January, 1889, and enclosures [Papers No. 16].

From Secretary to Government, North-Western Provinces and Oudh, No. 195—VI-95 A., dated 2nd February, 1889, and enclosures [Papers No. 17].

From Secretary to Government, Bengal, No. 205, dated 4th February, 1889.

the Law relating to Fraudulent Marks on Merchandise 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 revised by us annexed thereto.

2. We have added to the Bill clauses (sections 10 (2), 12 and 19) requiring all goods sold by length or the piece to have their real length stamped thereon in standard

yards before they are brought into British India in the case of imported goods, and before they are removed from the factory in the case of goods manufactured in British India. The adoption of a compulsory provision of this kind was advocated by the Madras Cham-

ber of Commerce, and has been strongly pressed upon us by the Bengal Chamber. In a communication received by us from the latter body, it is stated:—

"A very important suggestion put forward by the Sub-Committee—though with one dissentient—is that the stamping upon all goods sold by length or the piece of the length of such goods in standard yards of 36 inches or fractions of a yard should be made compulsory."

The Committee of the Chamber of Commerce have, after special consideration of the principle here involved, come to the decision that the interests of the trade generally, of the honest trader, and of the Indian consumer, require them to give to this recommendation their strong support. The scope of the "Indian Merchandise Marks Act" is so wide that, as regards goods sold by length, a door would be left open for a resort to those fraudulent practices the measure is intended to combat if the importation of goods not bearing a stamp of length were permitted. The Committee have made enquiries which satisfy them that even in Calcutta this way of escaping the provisions of the Act has already begun to be availed of, and they have reason to believe that the importation of goods having no stamp of length is on the increase.

Some five years ago a powerful agitation against "unstamped goods" sprung up in Bombay and led to a combination on the part of native dealers which resulted in the almost total displacement of such goods in the Bombay market. The agitation spread to Calcutta, where it forced itself on the consideration of the Chamber of Commerce, and induced the Committee to sanction special arrangements for the protection of native buyers, not only against goods not stamped with an indication of length but also against goods incorrectly so stamped. To-day the Committee feel themselves justified in saying that the experience of the various Indian import markets points very clearly to the mischief which will result from allowing goods to be brought forward for sale bearing no indication of their length, and on this point they would ask to be excused if they briefly mention some of the evidence which has been put before them.

In Calcutta itself a trading firm in the import trade felt themselves compelled to stamp the length on certain goods, because they discovered that the goods they had imported unstamped were being fraudulently stamped in the bazar.

At Karachi the importation of unstamped goods has quite recently almost disorganised that market. The Committee have before them a notice, published at Karachi, and dated 1st of October, 1888, in the Sindhi, Marwari, Persian and Arabic languages, which runs as follows:—

"Notice—Caution."

"Dealers in European piece-goods are warned that for time past goods have been imported and sold in the Karachi market bearing no length stamp as has been the invariable custom up to this time.

"Buyers of goods without length stamp plainly written on each piece run the risk of being deceived."

The state of things which has given rise to the necessity for such a notice as that just quoted would probably cause at Karachi, as it did in Bombay and Calcutta, a combination amongst dealers against the purchase of unstamped goods; and, as at Bombay and Calcutta, such a combination would not do more than check, to a greater or less extent, the evil at which it was directed and would fail to stop it altogether. The question which thus forces itself upon the consideration of the Legislature is whether such an Act as the Indian Merchandise Marks Act being under consideration, the mercantile communities of India should be left to combat an admitted mercantile mischief by the proved ineffective means of combinations amongst native buyers.

The Committee of the Chamber of Commerce are in a position to supplement what they have said above by evidence not only weighty in itself but so independent in character as, in their opinion, to increase its value. During the discussions on the Bill the Committee received from Mr. James Kerr Bell, a member of the Manchester Chamber of Commerce, a letter dated from Madras, the 19th December, 1888, in which that gentleman says:—

"I find in my visits to the Indian bazars that the omission of length stamps is a source of great misrepresentation in the sale of piece-goods. I would suggest that the new Act should make the stamping of exact length compulsory. In this way the honest trader would be protected from the many underhand ways which are at present in vogue to elude the scope of the English Act."

The Madras, Bombay and Karachi Chambers of Commerce and the Bombay Mill-owners Association have been consulted by us with reference to this proposal of the Bengal Chamber and requested to favour us with their opinion as to whether or not effect should be given to it. These bodies have all replied that in their opinion the fullest effect should be given to the proposal.

3. On the suggestion of the Bengal Government we have, in section 2, sub-section (2), and in the amended section 478 of the Indian Penal Code in section 3, so revised the definitions of trade-description and trade-mark that the one may not overlap the other. We have further, with reference to some remarks of the Calcutta Trades Association on the Bill, so expressed the definition of trade-mark as to make it include a proprietary mark of a trader as well as of a manufacturer.

4. On the suggestion of the Bengal Chamber of Commerce we have substituted the word "numeral" (L. R. Ch. D. 659) for the word "figure" in section 2, sub-section (2), and section 4, sub-section (1).

5. Certain remarks of the same Chamber have led us to amplify section 4, sub-section (1), corresponding to section 3, sub-section (2), of the English Act.

6. We have provided in section 9, sub-sections (2) and (3), for appeals against forfeitures.

7. We have by sections 13, 14 and 15 introduced into the Bill section 10, sub-section (2), of the English Act respecting evidence of origin of goods imported by sea, section 14 of the same Act respecting costs of criminal proceedings, and section 15 of the same Act respecting the limitation of prosecutions.

8. By section 16 we have, at the instance of the Bengal Chamber, proposed to invest the Governor General in Council with authority to prescribe rules as to the limits of variation which are to be recognised by the Courts as permissible in the case of certain goods, and as to other such matters likely to arise in the working of the Act.

9. The other alterations which we have proposed are not material and do not call for special remark.

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

In English.

<i>Gazette.</i>	<i>Date.</i>
Gazette of India	20th October, 1888.
Fort Saint George Gazette	6th November, 1888.
Bombay Government Gazette	25th October, 1888.
Calcutta Gazette	31st October, 1888.
North-Western Provinces and Oudh Government Gazette	27th October, 1888.
Punjab Government Gazette	25th October, 1888.
Central Provinces Gazette	3rd November, 1888.
Burma Gazette	10th November, 1888.
Assam Gazette	3rd November, 1888.
Coorg District Gazette	1st December, 1888.
Sindh Official Gazette	29th November, 1888.

In the Vernaculars.

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Madras	Tamil	8th January, 1889.
	Kanarese	8th January, 1889.
	Telugu	29th January, 1889.
Bombay	Marathi	27th December, 1888.
	Gujarathi	27th December, 1888.
	Kanarese	27th December, 1888.
Bengal	Bengali	4th December, 1888.
	Hindi	18th December, 1888.
	Uriya	27th December, 1888.
North-Western Provinces and Oudh	Urdu	15th December, 1888.
	Urdu	20th December, 1888.
	Marathi	9th January, 1889.
Central Provinces	Hindi	9th January, 1889.
	Burmese	12th January, 1889.
	Bengali	22nd December, 1888.
Burma	Sindhi	6th December, 1888.

11. We do not think that the measure has been so altered as to require re-publication and we recommend that it be passed as now amended.

ANDREW R. SCOBLE.
PHIL. P. HUTCHINS.
D. BARBOUR.
ROBT. STEEL.
DINSHAW MANOCKJEE PETIT.
DOORGA CHURN LAW.

The 7th February, 1889.

No. II.

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 Title, extent and Merchandise Marks Act, commencement. 1889.

(2) It extends to the whole of British India; and, *subject to the provision of the last section of this Act,*

(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, or the time at 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 numeral, 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, Property and Other Marks."

"478. A mark used for denoting that goods are the manufacture or merchandise of a particular person is called a trade mark, and for the purposes of this Code the expression 'trade mark' includes any 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 reasonably calculated to cause it to be believed that the goods so marked, or any goods contained in any such receptacle so marked, are the manufacture or merchandise of a person whose manufacture or merchandise 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 reasonably 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 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.

"484. 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 are the manufacture or merchandise of a person whose manufacture or merchandise 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.

"485. Whoever sells, or exposes or has in possession for sale or any purpose of trade or manufacture, any goods or things 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

"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 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.

"484. 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 are the manufacture or merchandise of a person whose manufacture or merchandise 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.

"485. Whoever sells, or exposes or has in possession for sale or any purpose of trade or manufacture, any goods or things 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 reasonably 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 any manner prohibited by the last foregoing section shall, unless he proves that he acted without intent to defraud, be punished as if he had committed an offence against that section.

"489. Whoever removes, destroys, defaces or adds to any property mark, intending or knowing it to be likely 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.

4. (1) 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 such numerals, words or marks, or arrangement or combination thereof, whether including a trade mark or not, as are or is 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, and to goods having such numerals, words or marks, or arrangement or combination, applied thereto.

(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 connection 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 reasonably 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.

[50 & 51 Vict., c. 28, s. 2 (1).]

6. If a person applies a false trade description to goods, he shall, subject to the provisions of this Act, and 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 one year, or with fine, or with both.

[Act XLV, 1860, s. 482.]

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,

he shall 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 one year, or with fine, or with both.

[Act XLV, 1860, s. 480.]

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) (iii).]
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 or things 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 or things 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) When a forfeiture is directed on a conviction and an appeal lies against the conviction, an appeal shall lie against the forfeiture also.

(3) When a forfeiture is directed on an acquittal and the goods or things to which the direction relates are of value exceeding fifty rupees, an appeal against the forfeiture may be preferred, within thirty days from the date of the direction, to the Court to which in appealable cases appeals lie from sentences of the Court which directed the forfeiture.

Amendment of the Sea Customs Act, 1878.

[50 & 51 Vict., c. 28, s. 16 (2).]
VIII of 1878.

10. (1) 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, and in the same language and character as the name or trade mark:—

(2) To section 18 of the Sea Customs Act, 1878, as amended by sub-section (1), the following shall be added, namely:—

"(f) piece-goods, such as are ordinarily sold by length or by the piece, which—

- (i) have not conspicuously stamped on each piece the length thereof in standard yards, or in standard yards and a fraction of such a yard, according to the real length of the piece, and
- (ii) have been manufactured beyond the limits of India, or,
- (iii) having been manufactured within those limits, have been manufactured beyond the limits of British India in premises which, if they were in British India, would be a factory as defined in the Indian Factories Act, 1881.

XV of 1881.

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 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, and in the same language and character, 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 and in the Calcutta, Fort St. George, Bombay and Burma Gazettes."

Stamping of Length of Piece-goods manufactured in British India.

12. (1) Piece-goods, such as are ordinarily sold by length or by the piece, which have been manufactured in premises which are a factory as defined in the Indian Factories Act, 1881, shall not be removed from those premises without having conspicuously stamped on each piece the length thereof in standard yards, or in standard yards and a fraction of such a yard, according to the real length of the piece.

(2) If any person removes or attempts to remove any such piece-goods from any such premises without the length of each piece being stamped in the manner mentioned in sub-section (1), every such piece, and everything used for the packing or removal thereof, shall be forfeited to Her Majesty, and such person shall be punished with fine which may extend to one thousand rupees.

Supplemental Provisions.

13. In the case of goods brought into British India by sea, evidence of the origin of the goods imported by sea, in a prosecution for an offence against this Act or section 18 of the Sea Customs Act, 1878, as amended by this Act, be *prima facie* evidence of the place or country in which the goods were made or produced.

14. (1) On any such prosecution as is mentioned in the last foregoing section, or on any prosecution for an offence against any of the sections of the Indian Penal Code, as amended by this Act, which relate to trade, property and other marks, the Court may order costs to be paid to the defendant by the prosecutor, or to the prosecutor by the defendant, having regard to the information given by and the conduct of the defendant and prosecutor respectively.

(2) Such costs shall, on application to the Court, be recoverable as if they were a fine.

15. No such prosecution as is mentioned in the last foregoing section shall be commenced after the expiration of three years next after the commission of the offence, or one year after the first discovery thereof by the prosecutor, whichever expiration first happens.

16. (1) The Governor General in Council may, by notification in the Gazette of India and local official Gazettes, issue instructions for observance by Criminal Courts in giving effect to any of the provisions of this Act.

(2) Instructions under sub-section (1) may provide, among other matters, for the limits of variation, as regards number, quantity, measure, gauge or weight, which are to be recognised by Criminal Courts as permissible in the case of any goods.

17. On the sale or in the contract for the sale of any goods to which a trade mark or 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.

18. (1) Nothing in this Act shall exempt any person from any suit or other proceeding which might, but for anything in 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 such prosecution as is mentioned in section 14.

(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 and as to the instructions which he has received from his master.

Transitory Provision.

19. The prohibition of the bringing into British India of such piece-goods as are described in clause (f) of section 18 of the Sea Customs Act, 1878, as amended by this Act, shall not take effect till the first day of August, 1889, and the provisions of section 12 shall, as regards piece-goods made up in bales in a factory before the first day of April, 1889, remain in abeyance till the first day of July, 1889.

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



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, FEBRUARY 16, 1889.

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 15th February, 1889:—

NO. 3 OF 1889.

A Bill to authorise the imposition of a patwari-rate in the North-Western Provinces and Oudh, and make certain provisions respecting kanungos and patwaris in those Provinces.

WHEREAS it is expedient to authorise the imposition of a patwari-rate in the North-Western Provinces and Oudh, and make certain provisions respecting kanungos and patwaris in those provinces; It is hereby enacted as follows:—

1. (1) This Act may be called the North-Western Provinces and Oudh Kanungos and Patwaris Act, 1889; and

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

2. The Kanungos and Patwaris Act, 1882, and section 35 of the North-Western Provinces Land-revenue Act, 1873, are hereby repealed.

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

Part I.—North-Western Provinces.

Part II.—Oudh.

Part III.—North-Western Provinces and Oudh.

(2) Part I extends to the North-Western Provinces, Part II to Oudh, and Part III to the North-Western Provinces and Oudh.

PART I.

NORTH-WESTERN PROVINCES.

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

(1) expressions defined in the North-Western Provinces Local Rates Act, 1878, have the meanings respectively assigned to them in that Act: and

(2) "rent" means whatever is payable to a landlord by a tenant on account of the use or occupation of land held by the tenant, and includes, where rent in respect of land is payable in kind or service, or land is held without payment, the rent in money which would on a reasonable assessment be payable in respect of the land.

5. (1) Every estate shall be liable to the payment of such rate, not exceeding two per cent. on its annual value, as the Local Government imposes, for the purpose of defraying the salaries of patwaris and any charges incurred for the proper supervision, maintenance and correction of patwaris' records, including charges incurred in the preparation of village-maps.

(2) Such rate, hereinafter referred to as the patwari-rate, shall be payable by the landlord independently of, and in addition to, any land-revenue assessed on the estate and any rate or cess leviable under, or recognised by, the North-Western Provinces Local Rates Act, 1878, and any sum due on account of the patwari-rate shall be recoverable as if it were an arrear of land-revenue due in respect of the estate.

(3) The Local Government may, by notification in the official Gazette,—

[Act III, 1878, s. 20 (a).] (a) prescribe by what instalments, and at what times and places, the patwari-rate is to be paid, and by whom it is to be assessed and collected;

[Act VIII, 1879, s. 5.] (b) fix the periods for which, in the cases referred to in clause (2) of the definition of the expression "annual value" in section 4 of the North-Western Provinces Local Rates Act, 1878, assessments to the patwari-rate are to have effect;

[Act III, 1878, ss. 17 and 18; and Act VIII, 1879, s. 75 (2).] (c) determine the cases in which, the conditions subject to which, and the officers to or by whom, orders with respect to the assessment or collection of the patwari-rate are to be appealable or subject to revision; and

[Act III, 1878, s. 20 (c).] (d) exempt any portion of the North-Western Provinces from the operation of this Part, or exempt any estate from liability to pay the whole or any part of the patwari-rate, and cancel such exemption.

[New.] 6. (1) There shall be formed for the North-Western Provinces a fund, to be called the North-Western Provinces Patwari Fund, and there shall be placed to the credit thereof—

- (a) the proceeds of the patwari-rate, and
- (b) a contribution, to be made thereto each year, of such sum as the Local Government may allot from the general revenues at its disposal.

(2) The fund so formed shall be exclusively applicable to the purpose mentioned in subsection (1) of the last foregoing section.

(3) An account of the fund shall be published annually by the Local Government in the official Gazette.

[Cf. Act III, 1878, s. 9.] 7. The landlord of any land in respect of which the patwari-rate is for the time being payable shall be entitled to recover from the tenant of the land a cess on the rent of the tenant at the rate of two pies for every rupee of such rent.

[Act III, 1878, s. 16.] 8. Suits for the recovery of any sum on account of the rate or cess through Revenue Courts, or of the cess mentioned in the last foregoing section, and appeals and other proceedings arising out of such suits, shall be cognizable as if such suits had been included among the suits mentioned in section 93 of the North-Western Provinces Rent Act, 1881.

PART II.

ODDH.

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

(1) the expressions "land", "estate", "annual value" and "year" have the same meanings as are respectively assigned to them in the Oudh Local Rates Act, 1878:

(2) "landholder", used with reference to any land, means the person for the time being receiving or entitled to receive, whether as proprietor or as under-proprietor, the rent of the land: [Act IV, 1878, s. 3; and Act XIII, 1882, ss. 204, et seqg.]

(3) "tenant", used with reference to any land, means a person holding directly from the landholder of the land: and [Act III, 1878, s. 3, and Act VIII, 1879, s. 28.]

(4) "rent" means whatever is payable to a landholder by a tenant on account of the use or occupation of land held by the tenant, and includes, where rent in respect of land is payable in kind or service, or land is held without payment, the rent in money which would on a reasonable assessment be payable in respect of the land. [Ben. Act IX, 1880, s. 4.]

10. With the previous sanction of the Local Government, the Deputy Commissioner may from time to time alter the number of patwaris' circles in his district and the respective limits of such circles. [Act XIII, 1882, s. 6.]

11. The Local Government may make rules consistent with this Act— [Act XIII, 1882, s. 7.]

(a) regulating the selection, appointment, remuneration, suspension, dismissal, duties and supervision of kanungos and patwaris, and

(b) prescribing the fines which may be imposed on kanungos and patwaris for neglect of their duty.

12. (1) Every estate shall be liable to the payment of such rate, not exceeding one and a half per cent. on its annual value, as the Local Government imposes, for the purpose of defraying the salaries of patwaris and any charges incurred for the proper supervision, maintenance and correction of patwaris' records, including charges incurred in the preparation of village maps. [Cf. Act IV, 1878, ss. 4 & 5.]

(2) Such rate, hereinafter referred to as the patwari-rate, shall be payable by the landholder independently of, and in addition to, any land-revenue assessed on the estate and any rate or cess leviable under, or recognised by, the Oudh Local Rates Act, 1878, and any sum due on account of the patwari-rate shall be recoverable as if it were an arrear of land-revenue due in respect of the estate.

(3) The Local Government may, by notification in the official Gazette,—

(a) prescribe by what instalments, and at what times and places, the patwari-rate is to be paid, and by whom it is to be assessed and collected; [Act IV, 1878, s. 15.]

(b) fix the periods for which, in the cases referred to in clause (2) of the definition of the expression "annual value" in section 3 of the Oudh Local Rates Act, 1878, assessments to the patwari-rate are to have effect; [Act VIII, 1879, s. 5.]

(c) determine the cases in which, the conditions subject to which, and the officers to or by whom, orders with respect to the assessment or collection of the patwari-rate are to be appealable or subject to revision; and [Act IV, 1878, s. 9, and Act VIII, 1879, s. 75 (2).]

[Act IV, 1878, s. 15 (c).]

[New.]

(d) exempt any portion of Oudh from the operation of this Part, or exempt any estate from liability to pay the whole or any part of the patwari-rate, and cancel such exemption.

13. (1) There shall be formed for Oudh a fund to be called the Oudh Patwari Fund, and there shall be placed to the credit thereof—

- (a) the proceeds of the patwari-rate; and
- (b) a contribution, to be made thereto every year, of such sum as the Local Government may allot from the general revenues at its disposal.

(2) The fund so formed shall be exclusively applicable to the purpose mentioned in subsection (1) of the last foregoing section.

(3) An account of the fund shall be published annually by the Local Government in the official Gazette.

[Act IV, 1878, s. 7.]

14. The landholder of any land in respect of which the patwari-rate is for the time being payable shall be entitled to recover from the tenant of the land a cess on the rent of the tenant at the rate of one-and-a-half pies for every rupee of such rent.

[Act IV, 1878, s. 8.]

15. Suits for the recovery of any sum on account of the rate or cess through Revenue Courts, or of the cess mentioned in the last foregoing section, and appeals and other proceedings arising out of such suits, shall be cognizable as if such suits had been included among the suits men-

tioned in section 108 of the Oudh Rent Act, XXII of 1886.

PART III.

NORTH-WESTERN PROVINCES AND OUDH.

16. Every kanungo and patwari shall be deemed to be a public servant within the meaning of the Indian Penal Code, and any register or account which any kanungo or patwari is required by any law or rule to prepare or keep shall be deemed to be the property of the Government and, while in his keeping, to be, for the purposes of Chapter V of the Indian Evidence Act, 1872, a public document of which any person has a right to inspect. [Act XIX, 1873, s. 35, and Act XII of 1860.]

17. Every owner or occupier of land in the circle of a patwari, and the agent of every such owner or occupier, shall, for the purposes of the preparation of any such register or account as is referred to in the last foregoing section, furnish to the patwari of the circle, the kanungo or such person as the Collector or Deputy Commissioner of the district may appoint in this behalf, such information, at such times, as the Local Government may by rule prescribe. [Act XVII, 1882, s. 151.]

18. For the purposes of this Act the word "landlord" in Part I, the word "landholder" in Part II, and the word "owner" in the last foregoing section, include a lessee or mortgagee in possession of the land with reference to which the word is used. [Cf. Act VIII, 1879, s. 11.]

STATEMENT OF OBJECTS AND REASONS.

IN 1882 a remission of taxation, to the extent of over 30 lakhs of rupees, was granted to the North-Western Provinces and Oudh. The form which this remission took was the abolition of the patwari-rate in the North-Western Provinces and the exemption of Oudh landlords from the liability to pay the wages of patwaris. All charges on these accounts were undertaken by the State.

It has, however, been found that, in the present financial condition of the Government, this is a larger sum than can properly be spared for the purpose; and experience of the working of the arrangement has shown that the remission of taxation failed to reach those for whose benefit it was primarily intended, while the effective administration of the Land-revenue and Settlement Departments has been seriously prejudiced by it.

For some years the Government of India and the Local Government have laid great stress on the improvement of the patwari establishments with a view to securing correct records to form a basis for future assessments of the land-revenue, and to avoid the enormous expense and harassing of the people involved in making a new record-of-rights at each settlement. Progress was being made to a great extent in this direction, as the expanding assets of the patwari fund in the North-Western Provinces afforded money for the employment, instruction and supervision of a better class of men than was previously obtainable for the small pay offered; but the abolition of the fund at once checked this progress by compelling the department to depend for its existence on annual grants from provincial funds. The amount of these grants necessarily depended on the amount of funds available after satisfying the more urgent or more persistent claims of other departments, and in effect fell considerably short of what was necessary to maintain the rate of progress previously attained.

Under these circumstances it has been determined to re-impose a patwari-rate in the North-Western Provinces and to impose one in Oudh in order to form funds in each province which may be in a great measure independent of annual budget fluctuations.

The rates are lower than those formerly paid in the North-Western Provinces, being 4 per cent. on the revenue for those provinces and 3 per cent. for Oudh, and will be supplemented by an annual grant from Government which for the present is expected to be 10 lakhs of rupees, being about half the estimated aggregate income from the rates. The general tax-payer is largely interested in the efficiency of the patwari-establishment, as on it depends the fair and economical assessment of the land-revenue.

The 8th February, 1889.

J. W. QUINTON.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the 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 was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations, on the 15th February, 1889:—

WE, the undersigned, Members of the Select Committee to which the 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 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 revised by us annexed thereto.

From Mr. A. M. Sabhapathi Mudaliar, Masulipatam, dated 15th September, 1888 [Paper No. 1].

From Chief Commissioner, Ajmere-Merwara, No. 1173—690, dated 2nd October, 1888 [Paper No. 2].

Endorsement by Under Secretary to Government of India, Home Department, No. 1581, dated 5th October, 1888, and enclosure [Papers No. 3].

From Secretary to Chief Commissioner, Coorg, No. 1793—1858, dated 9th October, 1888 [Paper No. 4].

From Officiating Secretary to Chief Commissioner, Central Provinces, No. 66 C., dated 15th October, 1888 [Paper No. 5].

From Chief Secretary to Government, Bengal, No. 229 J. D., dated 12th October, 1888, and enclosures [Papers No. 6].

From Officiating Secretary to Chief Commissioner, Assam, No. 2991, dated 18th October, 1888, and enclosures [Papers No. 7].

From Secretary for Berar to Resident, Hyderabad, No. 449 G., dated 22nd October, 1888 [Paper No. 8].

From Officiating Secretary to Chief Commissioner, Burma, No. 516—2 L., dated 23rd October, 1888, and enclosure [Papers No. 9].

From Chief Secretary to Government, Madras, No. 2174, dated 20th October, 1888, and enclosures [Papers No. 10].

From Secretary to Government, Bombay, No. 6254, dated 17th November, 1888, and enclosures [Papers No. 11].

From Officiating Secretary to Government, Punjab, No. 963, dated 1st November, 1888, and enclosures [Papers No. 12].

From Secretary to Government, North-Western Provinces and Oudh, No. 33—VII-34B., dated 17th January, 1889, and enclosure [Papers No. 13].

From Secretary to Government, North-Western Provinces and Oudh, No. 30—VII-34B., dated 21st January, 1889, and enclosures [Papers No. 14].

From Registrar, High Court, Calcutta, No. 197, dated 25th January, 1889 [Paper No. 15].

2. In sections 2 and 11 of the revised Bill we have given effect to the suggestion of the Calcutta High Court that contumacious refusal on the part of an executor or administrator to exhibit an inventory or account under the Indian Succession Act, 1865, or the Probate and Administration Act, 1881, or the submission by him of an inventory or account which is untrue in a material respect, should be declared to be a cause for which a grant of probate or letters of administration may be revoked.

3. By section 3 of the revised Bill we have, on the suggestion of the Punjab Chief Court, assimilated the language of section 244 of the Indian Succession Act, 1865, to that of section 62 of the Probate and Administration Act, 1881. The schedule to the Act of 1865 required a fixed fee of eight rupees to be paid on a probate, and it was not till the year 1870 that the schedule was repealed and an *ad valorem* fee became payable.

4. We have so modified sections 4, 5, 7, 12, 13 and 15 of the revised Bill (sections 2, 3, 4, 5, 6 and 8 of the Bill as introduced) as to impose on executors and administrators in all cases the duty of exhibiting inventories and accounts, it being left to the Courts to compel the exhibition of inventories and accounts in cases in which it is desirable to do so.

5. By section 6 of the revised Bill it is proposed to bring the provisions of section 256 of the Indian Succession Act into harmony with the rulings and practice of the Courts.

6. By sections 8 and 16 of the revised Bill it is proposed, at the instance of the Punjab Chief Court, to correct an error in the drafting of sections 277A and 99 of the Indian Succession Act, 1865, and the Probate and Administration Act, 1881, respectively.

7. By section 9 we have proposed to reverse the existing law with respect to the application, to payment of debts, of the moveable property of a deceased person belonging

to a class to which the provisions of the Indian Succession Act, 1865, apply, but not having his domicile in British India. Section 283 of that Act was based on the rule laid down by Romilly, M. R., in *Wilson v. Lady Dunsany* (18 Beav. 293), where it was held that the priorities of creditors are regulated by the domicile of the testator though the personal assets may be situate and administered in another country. The effect of the rule is that the whole of the estate of a person dying in British India may have to be applied, to the entire exclusion of British Indian and other creditors, to the payment of some possibly recent debt due from the deceased to a creditor in England. But the rule laid down by Lord Romilly in 1854 is not the rule upon which the Courts act either in England or in America, and is directly opposed to the rule which such writers on private international

*Conf. Law, ss. 524 and 525.

†Private International Law, s. 102.

law as Story* and Westlake† describe as the established rule. Indeed, in a recent case (L. R. 28 Ch. D. 175) it was observed by Pearson, J., that it was unfortunate that the case of *Wilson v. Lady Dunsany* was ever reported. "If there are Indian assets," said Pearson, J., "they must be distributed according to the law of India: if there are English assets, they must be distributed according to the law of England. No one doubts that according to the jurisdiction of the country where the assets are the assets must be distributed. I am not speaking of the assets that remain after the payment of debts, when the law of a man's domicile comes into play."

8. By sections 10 and 17 of the revised Bill we have proposed to empower the Courts to compel the surrender of revoked probates and letters of administration.

9. We have added to section 18 of the revised Bill (section 9 of the Bill as introduced) clauses which have been suggested to us by the case reported at I. L. R. 11 All. 16, where certain bonds were held to be chargeable both under the Court-fees Act, 1870, and under the Indian Stamp Act, 1879. We consider that the instruments ought to be stamped under one only of those Acts and not under both.

10. We have re-drafted section 19 of the revised Bill (section 10 of the Bill as introduced) in accordance with the opinion of the Calcutta High Court that the section should be so expressed as to do no more than validate transactions which were proper in themselves and are not impugnable on any other ground than that they were carried out without the consent of the Court.

11. By section 20 of the revised Bill (section 11 of the Bill as introduced) we have proposed to authorise the Chief Controlling Revenue-authority to remit any part of any penalty payable under section 19E of the Court-fees Act which may seem to such authority to be excessive.

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

In English.		
Gazette.		Date.
Gazette of India		25th August, 1888.
Fort Saint George Gazette		11th September, 1888.
Bombay Government Gazette		30th August, 1888.
Calcutta Gazette		5th, 12th and 19th September, 1888.
North-Western Provinces and Oudh Government Gazette		1st September, 1888.
Punjab Government Gazette		30th August, 1888.
Central Provinces Gazette		8th September, 1888.
Burma Gazette		15th September, 1888.
Assam Gazette		15th September, 1888.
Coorg District Gazette		1st October, 1888.
In the Vernaculars.		
Province.	Language.	Date.
Madras.	Kanarese	16th October, 1888.
	Telugu	6th November, 1888.
	Tamil	30th November, 1888.
	Malayalam	11th December, 1888.
Bombay	Hindustani	18th December, 1888.
	Marathi	18th October, 1888.
	Gujarathi	18th October, 1888.
	Kanarese	18th October, 1888.
Bengal.	Bengali	25th September, and 2nd and 9th October, 1888.
	Uriya	4th, 11th and 18th October, 1888.
	Hindi	23rd and 30th October, and 6th November, 1888.
North-Western Provinces and Oudh	Urdu	13th October, 1888.
	Urdu	11th October, 1888.
	Bengali	13th October, 1888.
	Kanarese	1st November, 1888.

13. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

ANDREW R. SCOBLE.

PHIL P. HUTCHINS.

D. BARBOUR.

G. H. P. EVANS.

SYUD AMEER HOSSEIN.

DOORGA CHURN LAW.

The 12th February, 1889.

No. II.

A Bill to amend the Indian Succession Act, 1865, the Probate and Administration Act, 1881, the Court-fees Act, 1870, and the Indian Stamp Act, 1879, and to make provision with respect to certain other matters.

X of 1865.
V of 1881.
VII of 1870.
I of 1879.

WHEREAS it is expedient to amend the Indian Succession Act, 1865, the Probate and Administration Act, 1881, the Court-fees Act, 1870, and the Indian Stamp Act, 1879, 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 Title, extent and Administration Act, commencement. 1889.

(2) It applies to the whole of British India (inclusive of Upper Burma except the Shan States); and

(3) It shall come into force at once.

Indian Succession Act, 1865.

[New.]

X of 1865.

2. After the 4th clause of the Explanation Amendment of section 234, Act X, 1865. to section 234 of the Indian Succession Act, 1865, the following shall be added, namely:—

"5th, that the person to whom the grant was made has wilfully and without reasonable cause omitted to exhibit an inventory or account in accordance with the provisions of Part XXXIV of this Act or has exhibited under that Part an inventory or account which is untrue in a material respect."

[Act V, 1881, s. 62.]

3. In section 244 of the same Act, for the Amendment of section 244, Act X, 1865. words "and that the petitioner is the executor therein named" the following shall be substituted, namely:—

"the amount of assets which are likely to come to the petitioner's hands, and

"that the petitioner is the executor named in the will;".

4. For the last forty-two words of section 254 of the same Act, the Amendment of section 254, Act X, 1865. following shall be substituted, namely:—

"he having undertaken to administer the same, and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint, and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint."

5. 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 to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint, and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint."

6. In section 256 of the same Act, for the words "Every person to whom any grant of administration shall be committed" the words "Every person to whom any grant of letters of administration is committed" shall be substituted. [I. L. R. 7 Cal. 84: 3 Mad. Ap. 10: and 4 C. L. R. 498.]

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

"277. (1) An executor or administrator shall, within six months from the grant of probate or letters of administration, or within such further time as the Court which granted the probate or letters may from time to time appoint, exhibit in that Court 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 shall in like manner, within one year from the grant or within such further time as the said Court may from time to time appoint, 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) The High Court may from time to time prescribe the form in which an inventory or account under this section is to be exhibited.

(3) If an executor or administrator, on being required by the Court to exhibit an inventory or account under this section, intentionally omits to comply with the requisition, he shall be deemed to have committed an offence under section 176 of the Indian Penal Code. XLV of 1860.

(4) The exhibition of an intentionally false inventory or account under this section shall be deemed to be an offence under section 193 of that Code."

8. In section 277A of the same Act, for the words "it is sought to obtain a grant" the words

"a grant has been made", and for the words and figures "the person applying for administration after the first day of

April, 1875, the word "administrator", shall be substituted.

9. (1) In section 283 of the same Act, for the Amendment of sec. words "the country in tion 283, Act X, 1865. which he was domiciled" the words "British India" shall be substituted.

(2) The Illustration to the same section is hereby repealed.

10. To the same Act the Addition to Act X, 1865, following shall be added, namely:—

[Act XVIII, 1879, ss. 26 and 33.]

"333. (1) When a grant of probate or letters Surrender of revoked of administration is re- probate or letters of ad- voked or annulled under ministration. this Act, the person to whom the grant was made shall forthwith deliver up the probate or letters to the Court which made the grant.

"(2) If such person wilfully and without reasonable cause omits so to deliver up the probate or letters, he shall be punished with fine which may extend to one thousand rupees, or with imprisonment of either description for a term which may extend to three months, or with both."

Probate and Administration Act, 1881.

[New.]

V of 1881.

11. After the 4th clause of the Explanation to section 50 of the Probate and Administration Act, 1881, the following shall be added, namely:—

"5th, that the person to whom the grant was made has wilfully and without reasonable cause omitted to exhibit an inventory or account in accordance with the provisions of Chapter VII of this Act, or has exhibited under that Chapter an inventory or account which is untrue in a material respect."

12. For the portion of section 76 of the same Act beginning with the Amendment of sec- words "he having under- tion 76, Act V, 1881. taken 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 to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint, and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint."

13. For the portion of section 77 of the same Act beginning with the Amendment of sec- words "he having under- tion 77, Act V, 1881. taken 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 to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint, and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint."

Substitution of new 14. For section 90 of the section for section 90, same Act the following shall Act V, 1881. 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 or annexed thereto 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 or annexure required by the last foregoing sub-section not having been made thereon or attached thereto, nor shall the absence of such an endorsement or annexure 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.

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

"98. (1) An executor or administrator shall, within six months from the grant of probate or letters of administration, or within such further time as the Court which granted the probate or letters may from time to time appoint, exhibit in that Court 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 shall in like manner, within one year from the grant or within such further time as the said Court may from time to time appoint, 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) The High Court may from time to time prescribe the form in which an inventory or account under this section is to be exhibited.

"(3) If an executor or administrator, on being required by the Court to exhibit an inventory or account under this section, intentionally omits to comply with the requisition, he shall be deemed to have committed an offence XLV of 1860, under section 176 of the Indian Penal Code.

"(4) The exhibition of an intentionally false inventory or account under this section shall be deemed to be an offence under section 193 of that Code."

[New.] 16. In section 99 of the same Act, for the words "it is sought to obtain a grant" the words "a grant has been made", and for the words "the person applying for administration" the word "administrator", shall be substituted.

Addition to Act V, 1881. 17. To the same Act the following shall be added, namely:—

[Act XVIII, 1879, sec. 25] "157. (1) When a grant of probate or letters of administration is revoked or annulled under this Act, the person to whom the grant was made shall forthwith deliver up the probate or letters to the Court which made the grant.

"(2) If such person wilfully and without sufficient cause omits so to deliver up the probate or letters, he shall be punished with fine which may extend to one thousand rupees, or with imprisonment which may extend to three months, or with both."

Court-fees Act, 1870, and Indian Stamp Act, 1879.

VII of 1870. 18. (1) Article 16 (Administration-bond) of the second schedule to the Court-fees Act, 1870, is hereby repealed.

(2) In article 6 of the second schedule to the Court-fees Act, 1870, for the words "Bail-bond or other instrument of obligation not otherwise provided for by this Act, when given by the direction of any Court or executive authority" the following words shall be substituted, namely:—

"Bail-bond or other instrument of obligation given in pursuance of an order made by a Court or Magistrate under any section of the Code of Criminal Procedure, 1882, or the Code of Civil Procedure." XIV of 1882.

(3) In article 2 of the first schedule to the Indian Stamp Act, 1879, after the words "Administration-bond" the following shall be added, namely:—

"including a bond given under section 256 of the Indian Succession Act, 1865, section 6 of X of 1865, the Government Savings Banks Act, 1873, section 78 of the Probate and Administration Act, V of 1881, or section 9 or section 10 of the Succession Certificate Act, 1889." of 1889.

(4) In article 13 of the first schedule to the Indian Stamp Act, 1879, after the words "not otherwise provided for by this Act" there shall be added the words "or by the Court-fees Act, VII of 1870."

Miscellaneous.

19. Notwithstanding anything in section 906 of the Probate and Administration Act, 1881, a disposal of property by an executor or administrator who was appointed before the commencement of this Act, and to whom the provisions of that section were applicable, shall not be void by reason only that the consent of the Court to the disposal of the property was not obtained.

20. (1) Any penalty or forfeiture under section 19G or section 19H of the Court-fees Act, 1870, VII of 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, or any part of any further penalty payable under section 19E of the said Act.

21. 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,"

is hereby repealed.

S. HARVEY JAMES,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to facilitate the collection of debts on successions and afford protection to parties paying debts to the representatives of deceased persons, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 15th February, 1889 :—

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

the collection of debts on successions and afford protection to parties paying debts to the representatives of deceased persons, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 15th February, 1889 :—

From Mr. P. R. Desai, Pleader, District Court, Tanna, dated 4th September, 1888 [Paper No. 1].

From Chief Commissioner, Ajmere-Merwara, No. 1174-690, dated 2nd October, 1888, and enclosure [Papers No. 2].

From Secretary to Chief Commissioner, Coorg, No. 1840-1848, dated 17th October, 1888, and enclosure [Papers No. 3].

From Chief Secretary to Government, Bengal, No. 235 J. D., dated 16th October, 1888, and enclosures [Papers No. 4].

From Secretary for Berar to Resident, Hyderabad, No. 456 G., dated 26th October 1888 [Paper No. 5].

From Officiating Secretary to Chief Commissioner, Assam, No. 3026, dated 22nd October, 1888, and enclosures [Papers No. 6].

From Officiating Secretary to Chief Commissioner, Burma, No. 632-L., dated 26th October, 1888, and enclosures [Papers No. 7].

From Chief Secretary to Government, Madras, No. 2176, dated 20th October, 1888, and enclosures [Papers No. 8].

From Officiating Secretary to Chief Commissioner, Central Provinces, No. C.-84, dated 23rd October, 1888, and enclosures [Papers No. 9].

From Secretary to Government, Bombay, No. 6253, dated 17th November, 1888, and enclosures [Papers No. 10].

From Officiating Secretary to Government, Punjab, No. 971, dated 3rd November, 1888, and enclosures [Papers No. 11].

From Officiating Secretary to Chief Commissioner, Assam, No. 3616, dated 5th December, 1888, and enclosures [Papers No. 12].

From Secretary to Government, North-Western Provinces and Oudh, No. 15-VII-154 B., dated 16th January, 1889, and enclosures [Papers No. 13].

From Registrar, High Court, Calcutta, No. 198, dated 25th January, 1889 [Paper No. 14].

From Secretary to Government, North-Western Provinces and Oudh, No. 45-6-154 B., dated 25th January, 1889, and enclosures [Papers No. 15].

posed that the Bill shall come into operation on the first day of May, 1889. Some time will be occupied in the making and circulation of translations.

3. *Sections 2 and 28 and the first schedule.*—We have deferred to the opinion of the Government of Bombay that no part of Bombay Regulation VIII of 1827 should at present be repealed, but we consider that several of the provisions of this Bill as regards debts and securities, and the whole of section 98 of the Probate and Administration Act, 1881, as regards the liability of executors and administrators to exhibit inventories and accounts, should, *mutatis mutandis*, apply, respectively, to debts and securities in respect of which certificates are granted under the Regulation on or after the 1st of May next, and to the holders of certificates so granted.

4. *Section 3, clause (1).*—We have modified the definition of "District Court" with reference to the terms of proviso (b) to section 23 of the Punjab Courts Act, 1884.

the collection of debts on successions and afford protection to parties paying debts to the representatives of deceased persons 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 revised by us annexed thereto.

2. *Section 1, sub-section (2).*

—We have pro-

5. *Section 4.*—In revising this section we have had regard to the case reported at I. L. R. 13 Cal. 47.

6. *Section 6.*—We have modified this section in accordance with suggestions received from the North-Western and the Central Provinces.

7. *Section 7.*—We concur with Sir Meredyth Plowden in thinking that the Bill, as revised by us in accordance with his advice, renders it unnecessary to retain sub-section (2) of section 7 of the Bill as introduced; but we consider, with reference to certain remarks of the Bengal Government and its officers, that a clause in the sense of the judgment of Turner, C. J., at I. L. R. 7 Mad. 452, and another clause in the sense of the judgments reported at W. R. (1864) Mis. 41 and 12 W. R. 38 and 356, should be added to the section.

8. *Sections 8, 10, 12 and 13 and the second schedule (sections 8, 17, 19 and 20 and the second schedule of Bill as introduced).*—As some of the securities specified in section 3, clause (2), may not be technically negotiable, we have used, with respect to securities, the word "transfer" as well as the word "negotiate".

9. *Section 14 (section 21 of Bill as introduced).*—We are of opinion that a person desiring to obtain a certificate should present an application for it and should not be able to obtain it as an objector to the application of some other person.

10. *Sections 16 and 22 (sections 9 and 16 of Bill as introduced).*—We consider that a certificate should not afford indemnity to persons making payments in respect of debts or securities which are not specified in the certificate.

11. *Section 18.*—We think, with Sir Meredyth Plowden, that there should be added to the Bill a clause providing, as nearly as possible in the terms of section 234 of the Indian Succession Act, 1865, and section 50 of the Probate and Administration Act, 1881, for the revocation of certificates.

12. *Section 19 (section 13 of Bill as introduced).*—We have, on a suggestion from the Government Advocate of the Central Provinces, made it clear that the period of limitation for appeals under the proposed Act is to be that prescribed by the Indian Limitation Act, 1877, for appeals under the Code of Civil Procedure.

13. *Section 20 (section 14 of Bill as introduced).*—We have revised the expression of this clause for the purpose of avoiding certain difficulties which the expression of the clause in the Bill as introduced appeared to us to be likely to create.

14. *Section 24 (section 25 of Bill as introduced).*—It appears that certain grants of administration made by the Recorder of Rangoon, and possibly by the former Recorder of Maulmain, also require to be validated.

15. *Section 26 and the first schedule.*—We are of opinion that a clause on the lines of section 360 of the Code of Civil Procedure should be enacted for the purposes of the proposed Act and take the place of the sections which occur in some of the local Civil Courts Acts respecting the disposal by inferior Courts of proceedings under Act XXVII of 1860. In the first place, some of the local Acts contain no such sections, and those Acts would, with reference to the large increase in the number of applications for certificates which must result from the passing of the Bill, have in any case to be supplemented. In the second place, the concession to District Courts of a power of merely transferring proceedings to inferior Courts gives little or no relief to applicants for certificates, who often become compelled by the exercise of such a power to employ at least two pleaders, one for the District Court and another for the inferior Court. In the third place, the Courts which are ordinarily to grant or extend certificates should be more easily accessible than District Courts, and should be Courts to which resort is cheaper than to District Courts. In the fourth place, the inferior Courts of thirty years ago were very different from most of such Courts now. Lastly, most District Judges are so heavily worked that, apart from the other considerations which we have mentioned, it is very desirable in most parts of British India that the District Court should cease to be the only tribunal to which in practice applications for certificates must be made.

16. The Bill as introduced followed the arrangement of the Act of 1860. We agree with Sir Meredyth Plowden that the clauses of the Bill may be more conveniently arranged and we have arranged them accordingly.

17. Having regard to section 9 of the revised Bill, to sections 40 and 41 of the Probate and Administration Act, 1881, to Chapter XXXVI of the Code of Civil Procedure and to the balance of local opinion, we consider that section 11 of the Bill as introduced may be omitted. The corresponding sections of Act XXVII of 1860 seem never to have been anywhere used.

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

In English.

<i>Gazette.</i>	<i>Date.</i>
Gazette of India	25th August, 1888.
Fort Saint George Gazette	11th September, 1888.
Bombay Government Gazette	30th September, 1888.
Calcutta Gazette	5th, 12th and 19th September, 1888.
North-Western Provinces and Oudh Government Gazette	1st September, 1888.
Punjab Government Gazette	30th August, 1888.
Central Provinces Gazette	8th September, 1888.
Burma Gazette	15th September, 1888.
Assam Gazette	15th September, 1888.
Coorg District Gazette	1st October, 1888.

In the Vernaculars.

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Madras	Kanarese	30th October, 1888.
	Telugu	13th November, 1888.
	Tamil	20th November, 1888.
Bombay	Maráthi	11th and 18th October, 1888.
	Gujaráthi	11th and 18th October, 1888.
	Kanarese	11th and 18th October, 1888.
Bengal	Bengali	2nd, 9th and 16th October, 1888.
	Uriya	18th October, 1888.
	Hindi	13th November, 1888.
North-Western Provinces and Oudh	Urdu	29th September, 1888.
Punjab	Urdu	11th October, 1888.
Central Provinces	Hindi	17th October, 1888.
	Maráthi	24th October, 1888.
Burma	Burmese	27th October, 1888.
Assam	Bengali	20th October, 1888.
Coorg	Kanarese	1st December, 1888.

19. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

D. BARBOUR.
ANDREW R. SCOBLE.
PHIL. P. HUTCHINS.
G. H. P. EVANS.
SYUD AMEER HOSSEIN.
DOORGA CHURN LAW.

The 12th February, 1889.

No. II.

THE SUCCESSION CERTIFICATE BILL.

CONTENTS.

SECTIONS.

1. Title, commencement, extent and application.
2. Repeal.
3. Definitions.
4. Proof of representative title a condition precedent to recovery through the Courts 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. Requisition of security from grantee of certificate.
10. Extension of certificate.
11. Forms of certificate and extended certificate.
12. Amendment of certificate in respect of powers as to securities.
13. Amendment of Act VII, 1870.

14. Mode of collecting court-fees on certificates.
15. Local extent of certificate.
16. Effect of certificate.
17. Effect of certificate granted or extended by British representative in Foreign State.
18. Revocation of certificate.
19. Appeal.
20. Effect on certificate of previous certificate, probate or letters of administration.
21. Effect on certificate of subsequent probate or letters of administration.
22. Validation of certain payments made in good faith to holder of invalid certificate.
23. Prohibition of exercise of certain powers by curators.
24. Effect of certain probates and letters.
25. Effect of decisions under this Act, and liability of holder of certificate thereunder.
26. Investiture of inferior Courts with jurisdiction of District Court for purposes of this Act.
27. Surrender of superseded and invalid certificate.
28. Provisions with respect to certificates under Bombay Regulation VIII of 1827.

THE FIRST SCHEDULE.—ENACTMENTS REPEALED.

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

X of 1865.
XXI of 1870.

V of 1881.

XVIII of 1884.

The Succession Certificate Bill.

(Sections 1-5.)

No. II.

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:—

Title, commencement, extent and application. I. (1) This Act may be called the Succession Certificate Act, 1889.

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

(3) It extends to the whole of British India (inclusive of Upper Burma except the Shan States);

(4) But a certificate shall not be granted thereunder with respect to any debt or security 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 letters of administration with a copy of such a 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.

(3) Any enactment except this Act and section 152 of the Probate and Administration Act, 1881, or any document, referring to 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) "District Court", subject to the other provisions of this Act and to the provisions of proviso (b) to section 23 of the Punjab Courts Act, 1884, and of any other like enactment for the time being in force, 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.

Proof of representative title a condition precedent to recovery through the Courts of debts from debtors of deceased persons.

4. (1) No Court shall— [J. L. R. 13 Cal. 47.]

- (a) pass a decree against a debtor of a deceased person for payment of his debt to a person claiming to be entitled to the effects of the deceased person or to any part thereof, or
- (b) proceed, upon an application of a person claiming to be so entitled, to execute against such a debtor a decree or order for the payment of his debt,

except on the production, by the person so claiming, of—

- (i) a probate or letters of administration evidencing the grant to him of administration to the estate of the deceased, or
- (ii) a certificate granted under section 36 or section 37 of the Administrator General's Act, 1874, and having the II of 1874 debt mentioned therein, or
- (iii) a certificate granted under this Act and having the debt specified therein, or
- (iv) a certificate granted under Act XXVII of 1860 or an enactment repealed by that Act, or
- (v) a certificate granted under the Regulation of the Bombay Code No. VIII of 1827 and, if granted after the commencement of this Act, having the debt specified therein.

(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.

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.

The Succession Certificate Bill.

(Sections 6-11.)

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 of the death of the deceased;
- (b) the ordinary residence of the deceased at the time of his death and, if such residence was not within the local limits of the jurisdiction of the Court to which the application is made, then the property of the deceased within those limits;
- (c) the family or other near relatives of the deceased and their respective residences;
- (d) the right in which the petitioner claims;
- (e) the absence of any impediment under section 1, sub-section (4), or under any other provision of this Act or any other enactment, to the grant of the certificate or to the validity thereof if it were granted; and
- (f) 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, or does not believe to be true, that person shall be subject to punishment according to the provisions of the law for the time being in force for the punishment of giving or fabricating false evidence.

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—

- (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 practicable, shall proceed to decide in a summary manner the right to the certificate.

(2) When the Court decides the right thereto to belong to the applicant, it shall make an order for the grant of the certificate to him.

(3) If the Court cannot decide the right to the certificate without determining questions of law or fact which seem to it to be too intricate and difficult for determination in a summary proceeding, it may nevertheless grant a certificate to the applicant if he appears to be the person having *prima facie* the best title thereto.

(4) When there are more applicants than one for a certificate and it appears to the Court that more than one of such applicants are in-

terested in the estate of the deceased, the Court may, in deciding to whom the certificate is to be granted, have regard to the extent of interest, and the fitness in other respects, of the applicants.

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—

- (a) to receive interest or dividends on, or
- (b) to negotiate or transfer, or
- (c) both to receive interest or dividends on, and to negotiate or transfer,

the securities or any of them.

9. (1) The District Court shall in any case in which it proposes to proceed under section 7, sub-section (3) or sub-section (4), and may in any other

case, require, as a condition precedent to the granting of a certificate, that the person to whom it proposes to make the grant shall give to the Judge of the Court, to ensure for the benefit of the Judge for the time being, a bond with one or more surety or sureties, or other sufficient security, 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.

(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 or other security to some proper person, and that person shall thereupon be entitled to sue thereon 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 interested, such amount as may be recoverable thereunder.

10. (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.

(2) Upon the extension of a certificate, powers with respect to the receiving of interest or dividends on, or the negotiation or transfer of, any security to which the certificate has been extended may be conferred, and a bond or further bond or other security for the purposes mentioned in the last foregoing section may be required, in the same manner as upon the original grant of a certificate.

11. Certificates shall be granted and extensions of certificates shall be made, as nearly as circumstances admit, in the forms set forth in the second schedule.

Forms of certificate and extended certificate.

The Succession Certificate Bill.

(Sections 12-14.)

12. 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, or to negotiate or transfer, the security, the Court may, on application made by petition and on cause shown to its satisfaction, amend the certificate by conferring any of the powers mentioned in section 8, or by substituting any one for any other of those powers.

13. (1) For articles 11 and 12 of the first 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 the grant of a certificate under the Succession Certificate Act, 1889, or any enactment repealed by that Act, or under the Regulation of the Bombay Code No. VIII of 1827, 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, 1889.	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 10 of the Act.

Number.	Proper fee.
12A. Certificate under the Regulation of the Bombay Code No. VIII of 1827.	on which the inclusion of the debt in the certificate is applied for, so far as such amount can be ascertained. (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 or transfer of, the security, or for both purposes, 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. (1) As regards debts and securities, the same fee as would be payable in respect of a certificate under the Succession Certificate Act, 1889, or in respect of an extension of such a certificate, as the case may be, and (2) as regards other property in respect of which the certificate is granted, two per centum on so much of the amount or value of such property as exceeds one thousand rupees."

(2) In the Court-fees Act, 1870, section 19, clause (iii), for the words and figures "and certificate mentioned in the First Schedule to this Act annexed, No. 12," the words and figures "and, save as regards debts and securities, a certificate under Bombay Regulation VIII of 1827" shall be substituted.

14. (1) Every application for a certificate or Mode of collecting for the extension of a certificate must be accompanied by a deposit of a sum equal to the fee payable under the first schedule to the Court-fees Act, 1870, in respect of the certificate or extension applied for.

VII of 1870.

Amendment of Act VII, 1870.

XIV of 1882.

[Act XV, 1859, s. 28.]

[I. L. R. 7 Mad. 452.]

[W. R. (1864) 41, and 12 W. R. 38 and 355.]

The Succession Certificate Bill.

(Sections 15-23.)

(2) If the application is allowed, the sum deposited by the applicant 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.

(3) Any sum received under sub-section (1) and not expended under sub-section (2) shall be refunded to the person who deposited it.

15. A certificate under this Act shall have effect throughout the whole of British India.

16. 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 as against the persons owing such debts or liable on such securities, and shall, notwithstanding any contravention of section 1, sub-section (4), or other defect, afford full indemnity to all such persons as regards all payments made, or dealings had, in good faith in respect of such debts or securities to or with the person to whom the certificate was granted.

17. Where a certificate in the form, as nearly as the 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.

18. A certificate granted under this Act may be revoked for any of the following causes, namely:—

- that the proceedings to obtain the certificate were defective in substance;
- that the certificate was obtained fraudulently by the making of a false suggestion, or by the concealment from the Court of something material to the case;
- that the certificate was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant thereof, though such allegation was made in ignorance or inadvertently;
- that the certificate has become useless and inoperative through circumstances;
- that a decree or order made by a competent Court in a suit or other proceeding with respect to effects comprising debts or securities specified in the certificate renders it proper that the certificate should be revoked.

19. (1) Subject to the other provisions of this Act, an appeal shall lie to the High Court from an order of a District Court granting, refusing or 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.

(2) An appeal under sub-section (1) must be preferred within the time allowed for an appeal under the Code of Civil Procedure.

XIV of 1882.

(3) 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.

20. Save as provided by this Act, a certificate granted thereunder in respect of any of the effects of a deceased person shall be invalid if there has been a previous grant of such a certificate or of probate or letters of administration in respect of the estate of the deceased person and if such previous grant is in force.

21. (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.

V of 1881.

(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.

22. Where a certificate under this Act has been superseded or is invalid by reason of the certificate having been revoked under section 18, or by reason of the grant of a certificate to a person named in an appellate order under section 19, 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, or dealings had, as regards debts and securities specified in the superseded or invalid certificate, to or with the holder of that 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.

23. (1) Where a certificate has been granted under this Act or Act XXVII of 1860, 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 authorized by a Court to

The Succession Certificate Bill.

(Sections 24-28.)

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.

24. Any probate or letters of administration granted before the first day of April, 1881, by any Supreme or High Court of Judicature, or by the Court of a Recorder in Burma, in any case in which the deceased person was not a British subject within the meaning of that expression as used in the charters of the Supreme Courts of Judicature, and in which 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 persons paying debts, and the negotiation or transfer 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:

X of 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.

[L. R. 12 I. A. 23.]

25. 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 suit or in any other proceeding between the same parties, and nothing in this Act shall be construed to affect the liability of any person who may receive the whole or any part of any debt or security, or any interest or dividend on any security, to account therefor to the person lawfully entitled thereto.

[Act XIV. 1882, s. 350.]

26. (1) The Local Government may, by notification in the official Gazette, invest any Court inferior in grade to a District Court with the functions of a District Court under this Act, and may cancel or vary any such notification.

(2) Any inferior Court so invested shall, within the local limits of its jurisdiction, have concurrent jurisdiction with the District Court in the exercise of all the powers conferred by this Act upon the District Court, and the provisions of this Act relating to the District Court shall apply to such an inferior Court as if it were a District Court:

Provided that an appeal from any such order of an inferior Court as is mentioned in sub-section (1) of section 19 shall lie to the District Court, and not to the High Court, and that the

District Court may, if it thinks fit, by its order on the appeal, make any such declaration and direction as that sub-section authorises the High Court to make by its order on an appeal from an order of a District Court.

(3) An order of a District Court on an appeal from an order of an inferior Court under the last foregoing sub-section shall, subject to the provisions of Chapters XLVI and XLVII of the Code of Civil Procedure as XIV of 1882, applied by section 647 of that Code, be final.

(4) The District Court may withdraw any proceedings under this Act from an inferior Court and may either itself dispose of them or transfer them to another such Court established within the local limits of the jurisdiction of the District Court and having authority to dispose of the proceedings.

(5) A notification under sub-section (1) may specify any inferior Court specially or any class of such Courts in any local area.

(6) Any Civil Court which for any of the purposes of any enactment is subordinate to, or subject to the control of, a District Court shall for the purposes of this section be deemed to be a Court inferior in grade to a District Court.

27. (1) When a certificate under this Act has been superseded or is invalid from any of the causes mentioned in section 22, the holder thereof shall, on the requisition of the Court which granted it, deliver it up to that Court.

[Act XVII. 1870, ss. 26 and 33.]

(2) If he wilfully and without reasonable cause omits so to deliver it up, he shall be punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to three months, or with both.

28. Notwithstanding anything in the Regulation of the Bombay Code No. VIII of 1827, the provisions of section 3, section 6, sub-section (1), clause (f), and sections 8, 9, 10, 11, 12, 14, 16, 18, 19, 25, 26 and 27 of this Act with respect to certificates under this Act and applications therefor, and of section 98 of the Probate and Administration Act, 1881, with respect to the exhibition of inventories and accounts by executors and administrators, shall, so far as they can be made applicable, apply, respectively, to certificates granted under that Regulation, and applications made for certificates thereunder, after the commencement of this Act, and to the holders of such certificates so granted.

*The Succession Certificate Bill.**(The First Schedule.—Enactments repealed.) (The Second Schedule.—Forms of certificate and extended certificate.)*

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>		
XXVII of 1860.	Collection of debts on successions.	So much as has not been repealed.
XIV of 1869.	Bombay Civil Courts Act, 1869.	In section 16, from and inclusive of the words and figures "Bombay Regulation VIII of 1827" down to and inclusive of the words "representatives of deceased persons) and"
XV of 1874.	Laws Local Extent Act, 1874.	So much as relates to Act XXVII of 1860.
XIII of 1879.	Oudh Civil Courts Act, 1879.	Section 25, clause (3), relating to applications for certificates under Act XXVII of 1860.
V of 1881.	Probate and Administration Act, 1881.	Sections 151 and 153.
XVIII of 1884.	Punjab Courts Act, 1884.	Section 29, sub-section (1), clause (a).
XII of 1887.	Bengal, North-Western Provinces and Assam Civil Courts Act, 1887.	Section 23, sub-section (2), clause (c).
<i>Act of the Lieutenant-Governor of Bengal in Council.</i>		
VII of 1880.	Public Demands' Recovery Act, 1880.	In section 7, clause (3), the words "and the note to paragraph 12 of Schedule I."

THE SECOND SCHEDULE.

FORMS OF CERTIFICATE AND EXTENDED

CERTIFICATE.

(See section 11.)

In the Court of

To A. B.

Whereas you applied on the _____ day of _____ for a certificate under the Succession Certificate Act, 1889, 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.

Securities.

Serial number.	DESCRIPTION.			Market-value of security on date of application for certificate.
	Distinguishing number or letter of security.	Name, title or class of security.	Amount or par value of security.	

This certificate is accordingly granted to you and empowers you to collect those debts [and] [to receive] [interest] [dividends] [on] [to negotiate] [to transfer] [those securities].

Dated this _____ day of _____

District Judge.

In the Court of _____

On the application of A. B. made to me on the _____ day of _____, I hereby extend this

*The Succession Certificate Bill.**(The Second Schedule.—Forms of certificate and extended certificate.)*

certificate to the following debts and securities namely:—

Debts.

Serial number.	Name of debtor.	Amount of debt, including interest, on date of application for extension.	Description and date of instrument, if any, by which the debt is secured.

Securities.

Serial number.	DESCRIPTION.			Market-value of security on date of application for extension.
	Distinguishing number or letter of security.	Name, title or class of security.	Amount or par value of security.	

This extension empowers A. B. to collect those debts [and] [to receive] [interest] [dividends] [on] [to negotiate] [to transfer] [those securities].

Dated this _____ day of _____

District Judge.

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



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, FEBRUARY 23, 1889.

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 consolidate and amend the law relating to Courts in Lower Burma was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 22nd February, 1889:—

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

From Officiating Secretary to Government of India, Legislative Department, to Chief Commissioner, Burma, No. 587, dated 7th March, 1887: from Secretary to Chief Commissioner, Burma, No. 724—19C., dated 27th May, 1887, and enclosures [Papers No. 1].

From Officiating Secretary to Government of India, Legislative Department, to Chief Commissioner, Burma, No. 2017, dated 17th December, 1887, and enclosures: from Secretary to Chief Commissioner, Burma, No. 608—37C., dated 27th January, 1888 [Papers No. 2].

From P. C. Sen, Esq., Barrister-at-Law, Burma, dated 16th March, 1888 [Paper No. 3].

From Officiating Secretary to Chief Commissioner, Burma, No. 123—37C., dated 5th June, 1888, and enclosures [Papers No. 4].

From Officiating Secretary to Chief Commissioner, Burma, No. 632—1.L., dated 26th October, 1888 [Paper No. 5].

From Officiating Secretary to Chief Commissioner, Burma, No. 739, dated 31st December, 1888, and enclosure.

the law relating to Courts in Lower Burma was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report

with a substituted Bill as settled by us annexed thereto.

2. The reasons which have led to the proposal to re-enact the existing Burma Courts Act with certain additions and amendments, instead of proceeding on the lines of the Bill of 1887, have already been stated to the Council and need not be further referred to by us here.

3. One of the objects of the substituted Bill is to enable the Chief Commissioner to relieve the Recorder of certain business which can be done by other and less costly agency. The sections of the Bill which have reference to this object are sections 56 and 83. The first of these sections has been suggested by the fact that much of the Recorder's time is now occupied in the disposal of formal business which ought to be, and in a Presidency High Court would be, disposed of by a Registrar or other ministerial officer. The object of section 83 is to give the Local Government power to extend the jurisdiction of the Small Cause Court, and thus transfer cases of minor importance from the Recorder's Court to that tribunal, and that of sections 84 and 85 (suggested by sections 71 and 72 of the Punjab Courts Act, 1884) is to make necessary subsidiary provisions in regard to court-fees.

4. Another object of the Bill is to declare the Court of the Recorder to be the High Court for the whole of Burma, inclusive of Upper Burma and the Shan States, in reference to proceedings against European British subjects and persons jointly charged with European British subjects—sentences of death passed by the Court of the Recorder as

such High Court being subject to confirmation by the Calcutta High Court. The parts of the Bill having special reference to this object are section 46 and those parts of the first and second schedules which relate to Act X of 1882 and Regulation VII of 1886.

5. A third object of the Bill is to enable the Local Government to direct that, for the hearing of any particular case or class of cases, the Judge of the Town of Maulmain shall be included among the members of the Special Court. Effect is given to this object of the Bill by sections 62 and 69, sub-section (2). Section 86 provides for the conferment of subsidiary jurisdiction in small causes in Maulmain, and is supplemental to those sections.

6. Other noticeable portions of the substituted Bill are the following:—

- (a) *Section 12.*—By this section it is proposed to limit the Small Cause Court powers of Myo-dks to suits of value not exceeding one hundred rupees.
- (b) *Section 29, sub-section (1).*—The saving in this sub-section has reference to the proposal of the Chief Commissioner that an Additional Sessions Judge be appointed in aid of the Commissioners of the Pegu and Irrawaddy Divisions.
- (c) *Section 37, sub-sections (3) and (4).*—These sub-sections will enable the Local Government to require the Recorder to sit at Mandalay or elsewhere in Upper Burma for the trial of an European British subject.
- (d) *Section 52.*—This section has been inserted because, in Rangoon as in the presidency-towns, the parallel working of the Insolvency Statute (11 & 12 Vict., c. 21) and the Insolvency Chapter of the Code of Civil Procedure has been found to be almost impracticable.
- (e) *Section 89.*—This section has reference to a proposal to have in each district in Lower Burma a single establishment for the service of processes of all kinds.
- (f) *Section 97 and the second schedule.*—By these provisions it is proposed to have Burma divorces settled in Burma. The expense of carrying proceedings to Calcutta is heavy and must in many cases be prohibitive.
- (g) *Section 99, sub-section (2).*—In this sub-section the substance of section 1 of Act XIX of 1886, in so far as the section relates to Bengal Regulation V of 1799, has been incorporated.
- (h) *Section 100.*—This section removes a mere technical difficulty which has come to notice in the preparation of a new edition of the Burma Code.
- (i) *Section 101.*—The object of this section is to remove a difficulty which arises from the Arakan Hill and Salwin Districts being ordinarily administered by officers of the Burma Police.

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

In English.

<i>Gazette.</i>	<i>Date.</i>
Gazette of India	12th, 19th and 26th February, 1887.
Burma Gazette	5th March, 1887.

In the Vernaculars.

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Burma	Burmese	2nd April, 1887.

8. We consider that the Bill should be re-published in English in the Gazette of India and the Burma Gazette before it is taken into consideration by the Council.

ANDREW R. SCOBLE.
PHIL. P. HUTCHINS.
J. W. QUINTON.
MAUNG ÔN.

The 22nd February, 1889.

No. II.
THE LOWER BURMA COURTS
BILL.

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The Lower Burma Courts Bill.

(Chapter I.—Preliminary. Section 3. Chapter II.—Law to be administered.—Section 4.)

No. II.

A Bill to consolidate and amend the law relating to the Courts, and declare the effect of certain enactments, in Lower Burma.

WHEREAS it is expedient to consolidate and amend the law relating to the Courts, and to declare the effect of certain enactments, in Lower Burma; and whereas the Secretary of State for India in Council has sanctioned and approved the passing of this Act; It is hereby enacted as follows:—

CHAPTER I.**PRELIMINARY.**

Title, extent and commencement. I. (1) This Act may be called the Lower Burma Courts Act, 1889.

(2) Save in so far as it applies expressly or by necessary implication to other parts of British India (inclusive of Upper Burma and the Shan States), and save also as provided by the Arakan Hill District Laws Regulation, 1874, the Arakan Hill Civil Justice Regulation, 1874, and the Arakan Hills Civil Justice Amendment Regulation, 1876, or by or under any other enactment heretofore or hereafter passed, this Act extends to the territories for the time being comprised in Lower Burma; and

(3) It shall come into force at once.

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

(2) Any enactment or document referring to any of the enactments hereby repealed, or to any enactment repealed by any of those enactments, or to any enactment repealed by the Burma Courts Act, 1872, shall, so far as may be, be construed as referring to this Act or to the corresponding portion thereof; and

(3) All rules, orders and appointments made, limits fixed, directions given, powers and jurisdiction conferred, lists, tables and notifications published, and seals, forms, registers, books, accounts, statements and returns prescribed, under any of the said enactments shall, so far as may be, be deemed to have been respectively made, fixed, given, conferred, published and prescribed under this Act.

[Act XVII, 1875, ss. 2 and 95, and Act X, 1884, s. 6.] (4) No trial had, decree made, order passed or proceeding taken by any Court before the day on which this Act comes into force shall, if not invalid before that day, become invalid by reason of any repeal effected by this Act.

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

(1) "Lower Burma" means the territories for the time being comprised in Lower Burma under section 2, sub-sections (1) and (2), of the Upper Burma Laws Act, 1886: [New.] XX of 1886.

(2) "Shan States" means the territories for the time being notified under sub-section (3) of section 8 of the Upper Burma Laws Act, 1886, as Shan States for the purposes of that section and sections 6 and 7 of that Act: [Act XV, 1888, s. 2.]

(3) "Upper Burma" means the whole of Burma except Lower Burma and the Shan States: [New.]

(4) "High Court" means the High Court of Judicature at Fort William in Bengal: [Act XVII, 1875, s. 3.]

(5) "Judicial Commissioner" means the Judicial Commissioner of Lower Burma: [Act XVII, 1875, s. 3.]

(6) "Recorder" means the Recorder of Rangoon: and [New.]

(7) "Special Court" means the Special Court constituted under this Act. [New.]

CHAPTER II.**LAW TO BE ADMINISTERED.**

4. (1) Where, in any suit or other proceeding, it is necessary for any Court under this Act to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution,—

the Buddhist law in cases where the parties are Buddhists,

the Muhammadan law in cases where the parties are Muhammadans, and

the Hindu law in cases where the parties are Hindus,

shall form the rule of decision, except in so far as such law has, by legislative enactment, been altered or abolished, or is opposed to any custom having the force of law in Lower Burma.

(2) Subject to the provisions of sub-section (1) and of any other enactment for the time being in force, all questions arising in suits before the Recorder shall be dealt with and determined according to the law for the time being administered by the High Court in the exercise of its ordinary original civil jurisdiction.

(3) In cases not provided for by sub-section (1) or sub-section (2), or by any such other enactment as aforesaid, the Court shall act according to justice, equity and good conscience.

The Lower Burma Courts Bill.

(Chapter III.—The Court of the Judicial Commissioner and the Courts subordinate thereto.—Sections 5-10.)

CHAPTER III.**THE COURT OF THE JUDICIAL COMMISSIONER AND THE COURTS SUBORDINATE THERETO.***Grades, Location and Control of Civil Courts.*

5. Besides the Courts of Small Causes, the Grades of Civil Court of the Recorder and the Special Court, there shall be six grades of Civil Courts in Lower Burma, namely:—

(a) the Court of the Myo-ök;

(b) the Courts of the Extra Assistant Commissioner and the Assistant Commissioner;

(c) the Court of the Deputy Commissioner;

(d) the Court of the Judge of the Town of Maulmain;

(e) the Court of the Commissioner; and

(f) the Court of the Judicial Commissioner.

6. All existing Courts of the grades specified in Confirmation of the last foregoing section shall be deemed to have been established under this Act.

7. The Local Government may, of its own Number and local authority, vary the number jurisdiction of Civil of Courts of the grade specified in clause (a) or (b) of section 5, and the local limits of the jurisdiction of any such Court, and, with the previous sanction of the Governor General in Council, the number of Courts of the grade specified in clause (c) or (e) and the local limits of the jurisdiction of any such Court or of the Court of the Judge of the Town of Maulmain.

8. Every Court of a grade specified in section 5 shall—

(a) be held at such place or places as the Local Government directs or, in the absence of any such direction, at any place within the local limits of the Court's jurisdiction which the presiding officer thinks fit; and

(b) use a seal of such form and dimensions as the Local Government prescribes.

9. (1) The general superintendence and control over all Courts of the grades specified in clauses (a), (b), (c), (d) and (e) of section 5 shall be vested in, and all such Courts shall be subordinate to, the Court of the Judicial Commissioner.

(2) Subject to such general superintendence and control of the Court of the Judicial Commissioner, the control over all the Courts in a division which are of the grades specified in clauses (a), (b) and (c) of section 5 shall be

vested in, and all such Courts shall be subordinate to, the Court of the Commissioner.

(3) Subject as aforesaid and to the control of the Court of the Commissioner, the control over all the Courts in a district which are of the grades specified in clauses (a) and (b) of section 5 shall be vested in, and all such Courts shall be subordinate to, the Court of the Deputy Commissioner.

Ordinary Civil Jurisdiction.

10. Subject to the provisions of this Act and of the Code of Civil Procedure, the Provincial Small Cause Courts Act, 1887, and any other enactment for the time being in force, the Courts mentioned in the first column of the following table shall have such civil jurisdiction, respectively, as is specified in the second column thereof:—

Grade and name of Court.	Extent of jurisdiction.
(a) The Court of the Myo-ök.	Powers of a Civil Court for the adjudication of any suit of value not exceeding five hundred rupees.
(b) The Court of the Extra Assistant Commissioner and the Court of the Assistant Commissioner.	Powers of a Civil Court for the adjudication of any suit of value not exceeding three thousand rupees.
(c) The Court of the Deputy Commissioner.	Powers of a Civil Court for the adjudication of any suit without restriction as regards the value. Powers of a District Judge. Power to hear appeals from original decrees and orders of Courts of Myo-öks, Extra Assistant Commissioners and Assistant Commissioners.
(d) The Court of the Judge of the Town of Maulmain.	Powers of a Civil Court for the adjudication of any suit without restriction as regards the value. Powers of a District Judge. Powers of a Provincial Court of Small Causes for the adjudication of any suit cognizable by such a Court and of value not exceeding one thousand rupees.

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Grade and name of Court.	Extent of jurisdiction.
(e) The Court of the Commissioner.	As regards the Courts subordinate to the Court of the Commissioner, the same powers of withdrawal, trial and transfer as are conferred by section 25 of the Code of Civil Procedure on a District Court. Power to hear appeals from original decrees and orders of Courts of Deputy Commissioners.
(f) The Court of the Judicial Commissioner.	Powers of a High Court in relation to all Civil Courts in Lower Burma, except the Special Court, the Court of the Recorder and the Court of Small Causes of Rangoon. Power to hear appeals from original decrees and orders of Courts of Commissioners.

Special Civil Jurisdiction.

[Act XVII, 1875, s. 13, and Act X, 1884, s. 3.]

11. The Local Government may, by notification in the Burma Gazette, invest any Extra Assistant Commissioner or Assistant Commissioner with powers for the adjudication of suits of value not exceeding five thousand rupees.

[Act XVII, 1875, s. 14.]

12. The Local Government may, by a like notification, confer, within certain Courts with such local limits as it thinks fit, upon any Myo-òk, Extra Assistant Commissioner or Assistant Commissioner the jurisdiction of a Judge of a Court of Small Causes under the Provincial Small Cause Courts Act, 1887, for the trial of suits cognizable by such Courts, up to such value not exceeding one hundred rupees in the case of a Myo-òk, or five hundred rupees in the case of an Extra Assistant Commissioner or Assistant Commissioner, as it thinks fit, and may withdraw any jurisdiction so conferred.

[Act XVII, 1875, s. 16.]

13. The Local Government may, by a like notification, empower the presiding officer of any Court of a grade specified in clause (a), (b), (c) or (e) of section 5 to exercise within the local limits of the jurisdiction of any other Court of the same grade all or any of the powers which might be exercised by the presiding officer of the other Court.

14. (1) The Local Government may, by a like notification, confer upon the officer in chief executive charge of any district the powers which might be exercised within the district by the Court of a Deputy Commissioner.

(2) Where such powers are so conferred upon such an officer, the officer shall, for purposes connected with the exercise thereof, be deemed to be a Deputy Commissioner and his Court the Court of a Deputy Commissioner.

Civil Procedure.

15. (1) The presiding officer of a Court of a grade specified in clause (a), (b), (c), (d) or (e) of section 5 shall not, without the consent of the parties or authority from the Court to which he is immediately subordinate, adjudicate upon any suit or other proceeding to which he is a party or in which he is personally interested, or upon any appeal against a decree or order passed by himself.

(2) When any such proceeding or appeal comes before the presiding officer of any such Court, he shall, unless the parties consent to his proceeding therewith himself, transmit the record to the Court to which he is immediately subordinate, with a report of the circumstances attending the reference.

(3) The Court to which the record is so transmitted shall thereupon either authorise such presiding officer to proceed with the case or itself dispose thereof under section 25 of the Code of Civil Procedure.

(4) In either of the following cases, namely:—

(a) if an appeal is preferred to the Judicial Commissioner from a decree or order which was passed by him in any other capacity or in which he is personally interested,

(b) if an application is made to him for the revision of such a decree or order,

he shall, unless the parties consent to his proceeding with the case himself, transmit the record to the Local Government with a report of the circumstances attending the reference, and thereupon that Government may transfer the case for trial to the Court of the Recorder.

16. Notwithstanding anything in the Code of Civil Procedure, a Deputy Commissioner may, by written order, direct that any business cognizable under this Act by his Court and the Courts under his control shall be distributed among those Courts in such manner as he thinks fit:

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Provided that no direction issued under this section shall empower any Court to exercise any powers or deal with any business beyond the limits of its proper jurisdiction.

17. Notwithstanding anything in the same Language of plaints Code, plaints may be written and of record of evidence in Civil Courts, be taken down in such language or languages as the Local Government directs in this behalf.

Civil Appeals and References.

18. (1) The period of limitation for an appeal to the Court of the Commissioner shall be forty-two days.

(2) In the computation of that period and in all other respects the limitation of the appeal shall be governed by the provisions of the Indian Limitation Act, 1877.

19. (1) The Local Government may, by order notified in the Burma Gazette, direct that the civil appellate jurisdiction of the Court of any Commissioner or Deputy Commissioner shall be transferred to the Court of the Judicial Commissioner or Commissioner, respectively, either wholly or in respect of a particular suit or class of suits, and either for a specified time or until further orders.

(2) The Local Government may, by order notified as aforesaid, cancel any order made under sub-section (1), but not so as to affect any proceedings pending at the date of the cancelling order.

20. (1) The Local Government may, by notification in the Burma Gazette, confer upon any Assistant Commissioner power to hear appeals from original decrees and orders of any Myo-òk, Extra Assistant Commissioner or Assistant Commissioner, and may withdraw the power.

(2) An Assistant Commissioner, upon whom the power mentioned in sub-section (1) has been conferred, shall, for purposes connected with the exercise thereof, be deemed to be a Deputy Commissioner.

21. (1) When in the trial of any civil appeal an Appellate Court subordinate to the Court of the Judicial Commissioner entertains a doubt in regard to a question of law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence affecting the merits of the case, such Court may draw up a statement of the question in regard to which it

entertains the doubt, and refer it, with the Court's own opinion on the question, for the decision of the Judicial Commissioner.

(2) The Judicial Commissioner shall, after considering the question so referred, send a ruling thereon to the Court by which the reference was made, and that Court shall, on the receipt of the ruling, proceed to dispose of the case in conformity therewith.

(3) The costs, if any, consequent on any such reference to the Judicial Commissioner shall be costs in the appeal out of which the reference arose.

22. If in any case the appellate decree or order of the Court of a Deputy Commissioner or Commissioner reverses or modifies an original decree or order, the Judicial Commissioner may receive a second appeal, if, on a perusal of the grounds of appeal and of copies of the judgments of the subordinate Courts, a further consideration of the case appears to him to be requisite for the ends of justice.

23. If the appellate decree or order of the Court of a Deputy Commissioner or Commissioner confirms an original decree or order on a matter of fact, the appellate decree or order shall be final.

24. (1) If in any case the appellate decree or order of the Court of a Deputy Commissioner or Commissioner confirms an original decree or order on a question of law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence affecting the merits of the case, any party considering himself aggrieved by such appellate decree or order may apply to the Court of the Deputy Commissioner or Commissioner, as the case may be, either to draw up a statement of the question and submit the statement to the Judicial Commissioner, or to allow him to appeal on the question to the Judicial Commissioner.

(2) Such application shall not be admitted unless it is made within the period prescribed for an appeal to the Court of the Deputy Commissioner or Commissioner, as the case may be.

(3) If the Court, on an application for the drawing up of a statement, considers that there is a question of law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence affecting the merits of the case, it shall draw up a statement of the question and of such facts only of the case as are necessary to explain it, and shall submit

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the statement, together with the record of the case, to the Judicial Commissioner.

(4) If the Court refuses to draw up such statement, it shall record in writing its reasons for so refusing, and a certified copy of the reasons shall, on application to the Court, be furnished to any party to the case.

(5) In the case of an application to be allowed to appeal to the Judicial Commissioner, the period during which the application was pending in the Court of the Deputy Commissioner or Commissioner shall, if the appeal is allowed, be excluded in the computation of the period of limitation for an appeal to the Judicial Commissioner.

[Act XVII, 1875, s. 30.] 25. (1) When a case has been referred with a statement under the last foregoing section, the Judicial Commissioner shall, on payment in respect of the statement of the fee which would be payable in the case in respect of a memorandum of appeal to his Court, proceed to try the case as if it were an appeal instituted in his Court, and shall send a copy of his judgment and of his decree or order in the case to the Court by which the statement was submitted.

[Act XVII, 1875, s. 34.] (2) If the statement appears to the Judicial Commissioner to be unduly limited, he may amend it as he thinks fit.

(3) Notwithstanding anything in sub-section (1), it shall not be necessary for any party to the case referred to be present either personally or otherwise at the trial thereof by the Judicial Commissioner.

[Act XVII, 1875, s. 34.] 26. (1) In any case in which the Court of a Deputy Commissioner or Commissioner has, in the opinion of the Judicial Commissioner, wrongly refused to submit a statement or allow an appeal under section 24, the Judicial Commissioner may call for the record of the case, and may, on receipt of the record and on payment of the fee which would be payable in the case in respect of a memorandum of appeal to his Court, proceed to try the case as if it were an appeal instituted in his Court.

(2) Where the Judicial Commissioner so tries the case, he shall send a copy of his judgment and of his decree or order therein to the Court of the Deputy Commissioner or Commissioner, as the case may be.

[Act XVII, 1875, s. 31.] 27. (1) If any question of law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence arises in a case before the Court of the Judicial

Commissioner under this Act, and the Judicial Commissioner, by reason of such question arising, entertains any doubt as to the decision to be passed in the case, he may, if he thinks fit, draw up a statement of the question and submit it to the High Court with the record of the case and his own opinion on the question.

(2) On receiving the statement the High Court, by a bench constituted by two or more Judges, shall decide the question referred therein and transmit to the Judicial Commissioner a copy of its judgment under the signature of its Registrar, and the Judicial Commissioner shall, on receipt of the copy, proceed to dispose of the case in conformity with the decision of the High Court.

(3) It shall not be necessary for any party to the case to be present in the High Court, either personally or otherwise, when the question referred comes before that Court for decision.

(4) Where the Judicial Commissioner makes a reference to the High Court under this section, he may make such a contingent decree or order, and such a decree or order shall be of such effect, as is mentioned in section 618 of the Code of Civil Procedure.

(5) The costs, if any, consequent on a reference to the High Court under this section shall be costs in the case.

Criminal Jurisdiction.

28. Except in reference to proceedings against European British subjects or persons jointly charged with European British subjects, the Court of the Judicial Commissioner shall be the highest Court of criminal appeal or revision in the whole of Lower Burma beyond the limits of the ordinary civil jurisdiction of the Recorder.

29. (1) Subject to the provisions of sections 7 and 9 of the Code of Criminal Procedure, 1882, X of 1882, with respect to the alteration of the limits of sessions divisions and the appointment of Additional Sessions Judges to exercise jurisdiction in Courts of Session, each division for the time being administered by a Commissioner shall be a sessions division, the Court of the Commissioner shall be the Court of Session for the sessions division, and the Commissioner shall be the Judge of the Court of Session.

(2) For the purposes of sub-section (1) the areas for the time being comprised within the local limits of the ordinary civil jurisdiction of the Recorder and the civil jurisdiction of the Court of the Judge of the Town of Maulmain shall

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be deemed not to be included in the divisions in which they are respectively situate.

[Act XVII, 1875, s. 35.] 30. The area for the time being comprised within the local limits of the civil jurisdiction of the Court of the Judge of the Town of Maulmain shall be a sessions division, that Court shall be the Court of Session for the sessions division, and the Judge of that Court shall be the Judge of the Court of Session.

[Act XVII, 1875, s. 36.] 31. (1) The Local Government may, by order notified in the Burma Gazette, direct that the criminal jurisdiction of any Commissioner shall be transferred to the Judicial Commissioner either wholly or in respect of a particular case or class of cases, and either for a specified time or until further orders.

[Cf. Act XIV, 1885, s. 2.] (2) The Local Government may, by order notified as aforesaid, cancel any order made under sub-section (1), but not so as to affect any proceeding pending at the date of the cancelling order.

Provisions with respect to transferred Jurisdiction.

[Act XVII, 1875, s. 37.] 32. When any civil or criminal appellate jurisdiction has been transferred under section 19 of 1877 to certain transferred proceedings.

[VII of 1870.] (a) fees shall be payable under the Court-fees Act, 1870, and any rules thereunder, at the rates at which they would be payable in the Court from which the jurisdiction was transferred; and

(b) all appeals and applications presented to a Court in the exercise of the jurisdiction so transferred shall, for the purposes of the law relating to limitation, be deemed to have been presented to the Court in the exercise of its ordinary jurisdiction.

Appointment and Removal of Officers.

[Act X, 1884, s. 9.] 33. (1) The Judicial Commissioner shall be appointed by the Governor General in Council.

(2) The presiding officers of Courts of the grades specified in clauses (a), (b), (c), (d) and (e) of section 5 may be appointed by the Local Government.

[Act X, 1884, s. 10.] 34. (1) The presiding officer of a Court of a grade specified in any clause of section 5 may be suspended or removed by the Governor General in Council.

(2) The presiding officer of any such Court, except the Court of the Judicial Commissioner, may be suspended or removed by the Local Government.

[Act XVII, 1875, s. 40.] 35. (1) The ministerial officers of Courts of the grades specified in clauses (a) and (b) of section 5 shall be appointed by the Deputy Commissioner to whose Court those Courts are subordinate.

(2) The ministerial officers of Courts of other grades specified in section 5 shall be appointed by the presiding officers of those Courts.

(3) The foregoing sub-sections are subject to the proviso that the appointment of a ministerial officer to an office in a Court of a grade specified in clause (a), (b), (c), (d) or (e) of section 5 shall, if the monthly salary attached to the office exceeds fifty rupees, be subject to the sanction of the Judicial Commissioner.

[Act XVII, 1875, s. 41.] 36. (1) A Court of a grade specified in clause (a) or (b) of section 5 may fine in an amount not exceeding one month's salary any of its ministerial officers who is guilty of misconduct or neglect in the performance of the duties of his office.

(2) The Deputy Commissioner may on appeal or otherwise remit or reduce any fine imposed under sub-section (1), and may himself dismiss or suspend, or fine up to the amount of one month's salary, any ministerial officer of his own Court or of any Court subordinate to his Court.

(3) A Court of a grade specified in clause (d), (e) or (f) of section 5 may dismiss or suspend any of its ministerial officers or fine any such officer in an amount not exceeding one month's salary.

CHAPTER IV.

THE COURT OF THE RECORDER.

The Recorder.

[Act XVII, 1875, s. 45.] 37. (1) There shall continue to be a Court of the Recorder of Rangoon.

(2) The Recorder shall be appointed by the Governor General in Council, and shall be a barrister of not less than five years' standing, and shall hold his office during the pleasure of the Governor General in Council.

(3) He shall ordinarily hold his Court at Rangoon, but the Local Government may direct him on any particular occasion to hold his Court at any other place in Lower Burma for

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the trial of any civil case transferred to him, or at any other place in Lower Burma or Upper Burma for the trial of any criminal case in which a European British subject is concerned.

X of 1882.

(4) A direction given by the Local Government under sub-section (3) with respect to any criminal case shall take effect notwithstanding anything in section 336 of the Code of Criminal Procedure, 1882.

(5) The Recorder shall use a seal of such form and dimensions as the Local Government prescribes.

Civil Jurisdiction.

[Act XVII, 1875, s. 47.]

38. The Local Government may, with the previous sanction of the Governor General in Council, vary the local limits of the ordinary civil jurisdiction of the Recorder.

[Act XVII, 1875, ss. 48 and 51.]
IX of 1887.

39. (1) Subject to the provisions of this Act and of the Provincial Small Cause Courts Act, 1887, and any other enactment for the time being in force, the Recorder shall have the powers of a District Judge within the local limits of his ordinary civil jurisdiction, and may adjudicate upon any suit, without restriction as regards the value, if, in the case of immovable property, the subject-matter of the suit or any part thereof is situate, or if, in any other case, the cause of action or a material part thereof has arisen, or the defendant at the time of the commencement of the suit dwells, or either personally or by his servant or agent carries on business or works for gain, within those limits.

(2) A corporation or company having an office within those limits shall, when the cause of action, or a material part thereof, has arisen in Burma, or in any foreign territory adjacent thereto, be deemed, for the purpose of this section, to carry on business at such office.

[Act XVII, 1875, s. 49.]

40. (1) There shall be no appeal from a decree or order passed by the Recorder in any suit or other civil proceeding where the amount or value of the subject-matter does not exceed three thousand rupees.

(2) But where the amount or value of the subject-matter of the suit or other civil proceeding in the Court of the Recorder exceeds three thousand rupees, and is less than ten thousand rupees, an appeal from his decree or order shall, subject to the provisions of any other enactment for the time being in force, lie to the High Court:

Provided that the amount or value of the matter in dispute on appeal must exceed the former sum and be less than the latter.

41. (1) The Recorder may, if he thinks fit, grant a new trial in any suit or other civil proceeding disposed of by him, if, in a suit relating to immovable property, the new trial is applied for within ninety days from the date of the decree, and if, in any other case, it is applied for within thirty days from the date of the decree or order.

Provided that nothing in this section shall interfere with the power of the Recorder to allow a review of judgment under the Code of Civil Procedure, if such review is applied for within the period allowed for making the application:

Provided also that the Recorder may, if he thinks fit, before granting a new trial or a review, require the party applying therefor to give sufficient security for due compliance with the terms of the decree or order to which the application relates, or for payment of the costs of the new trial or review, or for both purposes.

(2) Where a person has become liable as surety under the second proviso to sub-section (1), the security may be realised in manner provided by section 253 of the Code of Civil Procedure.

42. (1) If in any case before the Recorder any question of law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence affecting the merits of the case arises on which the Recorder entertains any doubt, he may, if he thinks fit, draw up a statement of the question and submit it to the High Court with the record of the case and his own opinion on the question.

(2) On receiving the statement the High Court, by a bench constituted by two or more Judges, shall decide the question referred therein and transmit to the Recorder a copy of its judgment under the signature of its Registrar, and the Recorder shall, on receipt of the copy, proceed to dispose of the case in conformity with the decision of the High Court.

(3) It shall not be necessary for any party to the case to be present in the High Court, either personally or otherwise, when the question referred comes before that Court for decision.

(4) Where the Recorder makes a reference to the High Court under this section, he may make such a contingent decree or order, and such a decree or order shall be of such effect, as is mentioned in section 618 of the Code of Civil Procedure.

(5) The costs, if any, consequent on a reference to the High Court under this section shall be costs in the case.

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43. (1) When any suit or other civil proceeding comes before the Recorder to which he is a party or in which he is personally interested, he shall, unless the parties consent to his proceeding therewith himself, transmit the record to the Local Government, with a report of the circumstances attending the reference, and thereupon that Government may transfer the case for trial to the Court of the Judicial Commissioner.

(2) In the disposal of a case so transferred the Judicial Commissioner shall administer the same law, follow the same procedure, exercise the same powers and use the same seal as would be administered, followed, exercised and used by the Recorder in a like case, and the decree or order made in the case by the Judicial Commissioner shall, for the purposes of the law relating to appeal, be deemed to be made by the Recorder.

44. The Court of the Recorder shall—

- (a) for the purposes of the Suits Valuation Act, 1887, and
 - (b) in respect of the Court of Small Causes of Rangoon,
- be deemed to be a High Court.

Criminal Jurisdiction.

45. The area for the time being comprised within the local limits of the ordinary civil jurisdiction of the Recorder shall be a sessions division, the Court of the Recorder shall be the Court of Session for the sessions division, and the Recorder shall be the Judge of the Court of Session.

46. (1) The Recorder shall be the High Court for the whole of Burma (inclusive of Upper Burma and the Shan States) in reference to proceedings against European British subjects and persons jointly charged with European British subjects.

(2) When the Recorder, as the High Court for Burma under sub-section (1), in reference to such proceedings, passes sentence of death, the proceedings shall be submitted to the High Court of Judicature at Fort William in Bengal, and the sentence shall not be executed unless it is confirmed by that High Court.

(3) When proceedings are submitted to the High Court under sub-section (2), that Court shall, as a High Court, deal therewith, under the provisions, *mutatis mutandis*, of Chapter

XXVII of the Code of Criminal Procedure, 1882, as if they had been submitted by a Court of Session and the Recorder were the Sessions Judge.

(4) If in any case before the Recorder as a High Court under this section any such question arises as is referred to in section 42, and the Government Advocate certifies that in his opinion there is an error in the decision of the question, the Recorder shall make a reference to the High Court in the manner required by that section, and shall, on receipt of the copy of the judgment of the High Court, review the case or such part of it as may be necessary, and may thereupon reduce or remit any sentence which he has passed.

47. So far as the last foregoing section relates to the Shan States, it shall come into force therein at once notwithstanding anything in section 8, sub-section (2), of the Upper Burma Laws Act, 1886, or in section 3, sub-section (1), of the Shan States Act, 1888.

48. The Court of the Recorder shall—

- (a) for the purposes of section 527 of the Code of Criminal Procedure, 1882, and
- (b) in respect of the Magistrates within the local limits of its ordinary civil jurisdiction and the proceedings of such Magistrates,

be deemed to be a High Court.

Admiralty Jurisdiction.

49. (1) Throughout Lower Burma, including the territorial waters thereof, the Recorder shall have and exercise all such civil jurisdiction and maritime jurisdiction of a civil nature as may now be exercised by the High Court as a Court of Admiralty or of Vice-admiralty, and also such jurisdiction for the trial and adjudication of prize-causes and other maritime questions as may now be exercised by the said High Court.

(2) The procedure in cases brought before the Recorder in the exercise of such jurisdiction shall be regulated, as far as may be, by the Code of Civil Procedure, and, in cases to which the rules contained in that Code are not applicable, the procedure shall be in accordance with the rules for the time being applicable to like cases in the High Court.

(3) An appeal shall lie to the High Court from any sentence or decree of the Recorder under this section, subject to the laws, rules and orders for the time being in force regard-

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ing appeals to the High Court under the Code of Civil Procedure.

Insolvency Jurisdiction.

[Act XVII,
1875, s. 66.]

50. (1) Within the local limits of the ordinary civil jurisdiction of the Recorder, and within the Towns of Maulmain, Akyab and Bassein, the Recorder shall have and exercise such powers and authorities with respect to insolvent debtors and their creditors as are for the time being exercisable with respect to insolvent debtors and their creditors by the High Court or a Judge thereof in Calcutta.

(2) The procedure in cases brought before the Recorder in the exercise of such jurisdiction shall be, as far as may be practicable, in accordance with the procedure prescribed by the Statute 11 and 12 Victoria, chapter 21, as amended by any enactment for the time being in force.

(3) The Recorder shall, with the previous sanction of the Local Government, appoint a person to be official assignee in all insolvencies prosecuted in the Court of the Recorder, and the provisions of the said Statute relating to official assignees shall, *mutatis mutandis* and subject to the other provisions of this section, apply to the assignee so appointed.

(4) Every order made by the Recorder in the exercise of the jurisdiction conferred by this section shall have the same force throughout British India as if it had been made by the High Court or a Judge thereof, and all the provisions of the said Statute relating to the persons or property of insolvents shall, *mutatis mutandis*, apply to insolvents applying for relief under this section.

(5) Any person considering himself aggrieved by any adjudication, order or proceeding of the Recorder under this section may, within thirty days from the date thereof, present a petition to the Special Court, and that Court shall enquire into the matter of the petition and make such order thereon as it thinks just, and such order shall be final and conclusive on all parties, and shall be binding on the Court of the Recorder.

(6) The Recorder may from time to time, with the previous sanction of the Local Government, make rules consistent with this Act for facilitating within his jurisdiction the relief intended to be hereby given.

(7) No conveyance, letter-of-attorney or other instrument executed under any order of the Recorder in exercise of the jurisdiction conferred by this section shall be chargeable with stamp-duty.

[Act XIV,
1885, s. 2.]

51. (1) The Local Government may, by order notified in the Burma Gazette, direct that, from a date to be therein specified, the jurisdiction vested in the Recorder within the Towns

of Maulmain, Akyab and Bassein by the last foregoing section shall be vested, as regards each or any of those Towns, as follows:—

(a) in the Judge of the Town of Maulmain within that Town;

(b) in the Deputy Commissioner of Akyab within the Town of Akyab;

(c) in the Deputy Commissioner of Bassein within the Town of Bassein.

(2) While any such order is in force, the last foregoing section shall, with respect to any Town to which the order applies, have effect as if it referred to the officer in whom the jurisdiction is so vested instead of to the Recorder, and all cases pending at the date of the order shall be disposed of accordingly:

Provided that nothing in this sub-section shall prevent the Recorder from entertaining and disposing of in his own Court any case, whether pending at the date of the order or subsequently instituted, which, by reason of its importance or otherwise, may, in his opinion, be more conveniently so disposed of.

(3) The Local Government may, by order notified as aforesaid, cancel any order made under sub-section (1) as to all or any of the Towns to which the order applies, but not so as to affect any proceedings pending at the date of the cancelling order.

52. Nothing in Chapter XX of the Code of Civil Procedure shall apply to any Court having jurisdiction within the local limits of the ordinary civil jurisdiction of the Recorder or within any of the Towns of Maulmain, Akyab and Bassein. [Act VII, 1888, s. 31 (4).] XIV of 1882.

53. The Local Government may fix and vary the limits of the Towns of Maulmain, Akyab and Bassein for the purposes of the three last foregoing sections. [New.]

Registers and Returns.

54. (1) The Recorder shall keep such registers, books and accounts as may be necessary for the transaction of the business of his Court, and shall submit such of those registers, books and accounts, and such statements of the work done in his Court, as may be required by the Local Government. [Act XVII, 1875, s. 69; and Act XVI, 1885, s. 20.]

(2) The Recorder shall also comply, in such form and manner as the Local Government may deem proper, with such requisitions as may be made by the Local Government for records of, or papers belonging to, the Court of the Recorder or any Court with respect to which the

*The Lower Burma Courts Bill.**(Chapter IV.—The Court of the Recorder.—Sections 55-61.)*

Court of the Recorder is under section 44 or section 48 to be deemed to be a High Court, or for certified copies of, or extracts from, such records or papers, or for returns, statements or reports.

Ministerial Officers.

[Act XVII,
1875, s. 70.]

55. The ministerial officers of the Court of the Recorder, including the Registrar of the Court, shall be appointed, and may be dismissed or suspended, or fined in an amount not exceeding one month's salary, by the Recorder, but the suspension or dismissal of any such officer drawing a monthly salary of one hundred rupees or upwards shall be subject to confirmation by the Local Government.

[New. Cf. Act
XIV, 1882, s.
637.]

56. (1) Any non-judicial or quasi-judicial act which is required by the Code of Civil Procedure to be done by a Judge, and any act which may be done by a Commissioner appointed to examine and adjust accounts under section 394 of that Code, may in the Court of the Recorder be done by the Registrar of the Court or by such other officer of the Court as the Recorder may direct.

(2) The Recorder may from time to time, by rule made with the previous sanction of the Local Government, declare what shall be deemed to be non-judicial and quasi-judicial acts within the meaning of sub-section (1).

Exceptional Provisions.

[Act XVII,
1875, s. 46.]

57. Upon the occurrence of any vacancy in the office of Recorder, and during any absence of the Recorder, the Local Government may direct the Judicial Commissioner or any Commissioner to discharge the functions of the Recorder, and the Judicial Commissioner or the Commissioner so directed shall thereupon be authorized to preside in the Court of the Recorder and to exercise the jurisdiction of the Recorder until some person has been appointed by the Governor General in Council to fill, or officiate in, the office of the Recorder, and has entered upon the performance of the duties of such office, or until the Recorder resumes his duties.

[Act XVII,
1875, s. 58.]

58. (1) The Local Government may direct the transfer to the Court of the Recorder of any civil case which may be pending in the Court of the Judicial Commissioner or in any Court subordinate to the Court of the Judicial Commissioner.

(2) Subject to the other provisions of this Act, every case so transferred shall be tried and determined by the Recorder in the same

manner as if he had originally had jurisdiction in the case and it had been instituted in his Court.

59. (1) The Local Government may transfer [Act XIV, 1885, s. 4.] to the Court of the Judicial Commissioner any particular case or class of cases which may be pending in the Court of the Recorder.

(2) In the disposal of any such case the Judicial Commissioner shall administer the same law, follow the same procedure, exercise the same powers and use the same seal as would be administered, followed, exercised and used by the Recorder in such a case.

(3) All decrees, orders and sentences made or passed by the Judicial Commissioner in cases transferred to him under this section shall, for the purposes of the law relating to appeal, reference and revision and to the submission of sentences of death for confirmation, be deemed to be made or passed by the Recorder.

60. (1) The Governor General in Council may, by notification in the Gazette of India, appoint, to be an Additional Recorder and to sit at such in the Court of the Recorder, such person as he thinks fit being a barrister of not less than five years' standing, or a person who has for at least three years served as a District Judge or exercised the like powers as those of a District Judge.

(2) A person so appointed shall hold his office during the pleasure of the Governor General in Council.

61. (1) An Additional Recorder appointed under the last foregoing section shall sit at such of the places at which the Recorder's Court can be held as the Local Government directs, and shall dispose of such cases pending in the Recorder's Court as the Local Government or, subject to the control of that Government, the Recorder may from time to time direct, and in the disposal of such cases shall administer the same law, follow the same procedure, exercise the same powers and use the same seal as would be administered, followed, exercised and used by the Recorder in like cases. [Act XI, 1880, s. 3.]

(2) All decrees, orders and sentences made or passed in such cases by an Additional Recorder shall, for the purposes of the law relating to appeal, reference and revision and to the submission of sentences of death for confirmation, be deemed to be made or passed by the Recorder.

(3) The Local Government may cancel any direction under sub-section (1) requiring the Additional Recorder to dispose of a case.

*The Lower Burma Courts Bill.**(Chapter V.—The Special Court.—Sections 62-69.)*

CHAPTER V.

THE SPECIAL COURT.

[Act XVII, 1875, s. 72.] 62. (1) The Special Court shall ordinarily be constituted by the Judicial Commissioner and the Recorder sitting together.

Constitution of Special Court.

(2) But the Local Government may direct that for the hearing of any particular case or class of cases the Special Court shall be constituted by the Judicial Commissioner, the Recorder and the Judge of the Town of Maulmain sitting together, and the Local Government may cancel any such direction.

(3) As members of the Special Court, the Judicial Commissioner and the Recorder shall have precedence over the Judge of the Town of Maulmain, and shall, as between themselves, have precedence according to priority of appointment.

[Act XVIII, 1884, s. 5.] (4) For the purposes of the last foregoing sub-section, a Judicial Commissioner or Recorder substantively appointed shall be deemed to have precedence, by reason of priority of appointment, over an officiating Recorder or Judicial Commissioner, as the case may be.

[Act XVII, 1875, ss. 73 and 74.] 63. (1) The Special Court shall ordinarily be sittings, seal and held at Rangoon, but the officers of Special Court. Local Government may direct it to be held at any other place in Lower Burma.

(2) The Special Court shall use a seal of such form and dimensions as the Local Government prescribes.

(3) The Judicial Commissioner and the Recorder may appoint, suspend or dismiss the ministerial officers of the Special Court:

Provided that the suspension or dismissal of any officer drawing a monthly salary of one hundred rupees or upwards shall be subject to confirmation by the Local Government.

[Act XVII, 1875, s. 75.] 64. Appeals from decrees and orders passed by the Judge of the Town of Maulmain in suits and other civil proceedings shall, where such appeals are allowed by law, be heard and determined by the Special Court.

[Act XVII, 1875, s. 77.] 65. The Local Government may direct that any civil suit or appeal, or any criminal case or appeal, pending in the Court of the Judicial Commissioner or in the Court of the Recorder shall be transferred to and tried before the Special Court.

[Act XVII, 1875, s. 79.] 66. With reference to trials held by the Special Court as Judicial Commissioner in High Court in certain criminal matters. al criminal jurisdiction of a Court of Session under section 31 of this Act or of a High Court under section 526 of the Code of Criminal Procedure, 1882, or

by the Recorder in exercise of the original jurisdiction of a Court of Session, and to sentences passed on such trials, the Special Court shall, for the purposes of the said Code, be deemed to be a High Court.

67. If in any civil suit or appeal or in any criminal case or appeal pending in the Court of the Judicial Commissioner or in the Court of the Recorder, the Court wishes to obtain the opinion of the Special Court on any question of fact or law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence, or to obtain the assistance of the Special Court for the determination of the case pending before it, such Court shall record a memorandum to that effect, and the Special Court shall, as soon as may be convenient, sit for the disposal of the question or for the determination of the pending case.

68. Any decree, order or sentence passed by the Special Court in a case tried under section 65, or on a memorandum recorded under section 67, shall issue as, and be deemed to be, a decree, order or sentence of the Court from which the case was referred to the Special Court.

69. (1) Whenever, in cases before the Judicial Commissioner and the Recorder sitting together as the Special Court, a difference of opinion arises, the following rules shall be observed:—

(a) In cases coming before the Special Court under section 67, the opinion of the Court which sought the opinion of the Special Court shall prevail unless the difference of opinion is on a question of law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence, and both members of the Special Court concur in stating the question and forwarding such statement, with their respective opinions on the question, to the High Court.

(b) In cases coming before the Special Court by way of appeal, and not being criminal cases or cases provided for by clause (a) of this sub-section, if both members of the Special Court do not concur in a judgment varying the decree or order appealed from, such decree or order shall be upheld:

Provided that, if the difference of opinion is on a question of law or of custom having the force of law or as to the construction of any document or the

*The Lower Burma Courts Bill.**(Chapter V.—The Special Court.—Sections 70-72.) Chapter VI.—Advocates.—Sections 73-75.)*

admissibility of any evidence, and either member of the Special Court is of opinion that the question should be referred to the High Court, both members shall state the question and forward such statement, with their respective opinions on the question, to the High Court.

(c) In criminal cases, and in cases not coming before the Special Court by way of appeal and not being cases provided for by clause (a) of this sub-section, both members of the Special Court shall state the question as to which they differ, and forward such statement, with their respective opinions on the question, to the High Court.

[Act XVII, 1875, s. 72.] (2) Whenever, in cases before the Judicial Commissioner, the Recorder and the Judge of the Town of Maulmain sitting together as the Special Court, a difference of opinion arises, the decision shall be in accordance with the opinion of the majority of the members of the Court.

[Act XVII, 1875, s. 82.] 70. (1) On receiving a statement forwarded in any case under the last foregoing section, the High Court, by a bench constituted by two or more Judges, shall decide the question referred therein and transmit to the Special Court a copy of its judgment under the signature of its Registrar, and the Judicial Commissioner and the Recorder sitting together as the Special Court shall, on receipt of the copy, proceed to dispose of the case in conformity with the decision of the High Court.

[Act XVII, 1875, s. 81.] (2) Until the case is so disposed of, it shall be deemed to be pending in the Special Court.

(3) It shall not be necessary for any party to the case to be present in the High Court, either personally or otherwise, when the question referred comes before that Court for decision.

(4) The costs, if any, consequent on the statement of the question for the decision of the High Court shall be costs in the case.

[Act XVII, 1875, s. 83.] 71. (1) For the purposes of the Court-fees Act, 1870, the Special Court shall be deemed to be a High Court for the purposes of Acts VII of 1870 and XV of 1877. of its jurisdiction as a Court of Appeal or as a Court of Reference, as the case may be.

(2) For the purposes of the Indian Limitation Act, 1877, appeals and applications to the Special Court shall be deemed to be, respectively, appeals and applications to a High Court under the Code of Criminal Procedure, 1882, or under the Code of Civil Procedure, as the case may be.

72. If at any time there is an Additional Recorder appointed under section 60, the foregoing provisions of this Chapter with respect to the Judge of the Town of Maulmain shall, while the Additional Recorder holds office, be construed as referring to the Additional Recorder and not to the Judge of the Town of Maulmain.

CHAPTER VI.

ADVOCATES.

In the Court of the Recorder and the Courts subordinate thereto.

73. (1) Subject to the other provisions of this section, no person shall be permitted to appear, plead or act as an advocate in the Court of the Recorder, or in any Court with respect to which the Court of the Recorder is under section 44 or section 48 to be deemed to be a High Court, or in the Court of the Judicial Commissioner when the Judicial Commissioner is disposing of a case transferred to him under section 43 or section 59, unless such person has been licensed thereto by the Recorder, either generally or specially.

(2) The Recorder may from time to time, with the previous sanction of the Local Government, make rules for the qualification and admission of proper persons to appear, plead or act as advocates in such Courts.

In the Court of the Judicial Commissioner and the Courts subordinate thereto.

74. (1) Subject to the other provisions of this section, no person shall be permitted to appear, plead or act as an advocate in the Court of the Judicial Commissioner, or in any Court, whether civil or criminal, subordinate thereto, or in the Court of the Recorder when the Recorder is disposing of a case transferred to his Court under section 15 or section 58, unless such person has been licensed thereto by the Judicial Commissioner, either generally or specially.

(2) The Judicial Commissioner may from time to time, with the previous sanction of the Local Government, make rules for the qualification and admission of proper persons to appear, plead or act as advocates in such Courts.

Provisos.

75. The two last foregoing sections and any rules thereunder shall be subject to the following provisos, namely:—

(a) any person having general or special authority from the Local Government

*The Lower Burma Courts Bill.**(Chapter VI.—Advocates.—Section 76-81. Chapter VII.—Supplemental Provisions.—Section 82.)*

may, without any license from the Recorder or the Judicial Commissioner, appear, plead or act for the Secretary of State for India in Council;

(b) a party may, without any such license, appear, plead or act on behalf of himself or a co-party;

(c) a person who for the time being is an advocate, vakil or attorney-at-law of any of the High Courts of Judicature in India may, without any such license, appear, plead or act as an advocate; and

(d) nothing in the sections or the rules shall be deemed to affect section 340 of the Code of Criminal Procedure, 1882.

X of 1882.

In the Special Court.

[Act XVII, 1875, s. 88.]

76. Any person for the time being authorised by or under the foregoing provisions of this Chapter to appear, plead or act in the Court of the Recorder or in the Court of the Judicial Commissioner may also appear, plead or act, as the case may be, in the Special Court.

Discipline and Fees.

[Act XVII, 1875, s. 86.]

77. Any person appearing, pleading or acting as an Advocate without authority. Penalty for acting as an Advocate without authority. In any Court in contravention of the foregoing provisions of this Chapter or the rules thereunder shall be liable, by order of the Court, to a fine which may extend to five hundred rupees.

[Act XVII, 1875, ss. 85 and 86.]

78. (1) The Recorder or the Judicial Commissioner may, for any sufficient reason, by order suspend or withdraw any license granted by him under section 73 or section 74, as the case may be.

XV of 1877.

XIV of 1882.

[Act XVII, 1875, s. 89.]

(2) Any person aggrieved by such an order may appeal to the High Court, and, for the purposes of the Indian Limitation Act, 1877, his appeal shall be deemed to be an appeal under the Code of Civil Procedure.

79. The fees to be received by any advocate for business done in any Court under this Act shall at all times be subject to the control and taxation of the presiding Judge, and no such fees shall be recoverable unless they have been allowed on taxation by the Judge or such officer as he appoints in this behalf.

[Act XVII, 1875, s. 90.]

80. (1) The Judicial Commissioner may from time to time make rules regulating the fees payable to advocates in his own Court and in Courts subordinate to him; and

(2) The Recorder may from time to time make rules regulating the fees payable to advocates in his own Court and in the Court of Small Causes of Rangoon; and

(3) The Judicial Commissioner and the Recorder may from time to time make rules regulating the fees payable to advocates in the Special Court.

Legal Practitioners Act, 1879.

81. If the Local Government extends all or any of the provisions of sections 3 to 42 of the Legal Practitioners Act, 1879, to the whole or any part of Lower Burma, the Governor General in Council may, by order notified in the Gazette of India, suspend, within the area to which such provisions have been so extended, the operation of the whole or any part of this Chapter.

[New.]

CHAPTER VII.

SUPPLEMENTAL PROVISIONS.

Court of Small Causes of Rangoon.

82. (1) The Governor General in Council shall be deemed to have had authority, under section 15 of Act XI of 1865, from time to time to invest any person for an unlimited time with the powers of a Judge of the Court of Small Causes of Rangoon.

[Act XVII, 1875, s. 94.]

(2) The persons who have since the thirtieth day of June, 1887, held, or are at the commencement of this Act or may be thereafter holding, office by the names of First Judge and Second Judge of the Court of Small Causes of Rangoon shall be deemed to have been appointed to the offices of Judge and Additional Judge, respectively, under section 6, sub-section (1), and section 8, sub-section (1), of the Provincial Small Cause Courts Act, 1887.

IX of 1887.

(3) Notwithstanding anything in section 8, sub-section (2), of that Act, the Local Government may make rules restricting, in such manner as it thinks fit, the functions which the Judge of the Court of Small Causes of Rangoon may assign to the Additional Judge of that Court, and any rules or instructions made or issued before the commencement of this Act for defining the respective functions of the Judges of that Court shall be deemed to have been lawfully made or issued, and shall, until they are varied by the Local Government, be deemed after the commencement of this Act to be rules under this sub-section.

[New.]

(4) Notwithstanding anything in the Code of Civil Procedure, all or any proceedings, written

[Act X, 1884, s. 12.] XIV of 1882.

*The Lower Burma Courts Bill.**(Chapter VII.—Supplemental Provisions.—Sections 83-88.)*

or oral, before the Additional Judge of the Court of Small Causes of Rangoon shall be in such language as the Local Government may prescribe.

[New.]

83. (1) The Local Government may, by order notified in the Burma Gazette, direct that such suits of a civil nature as are not excepted from the cognizance of a Court of Small Causes by section 15, sub-section (1), of the Provincial Small Cause Courts Act, 1887, and are of value exceeding one thousand and not exceeding two thousand rupees, shall be cognizable by the Judge of the Court of Small Causes of Rangoon as if they were suits cognizable by him under the said Act, and thereupon so much of that Act as relates to—

[Act XV, 1882, s. 18.] IX of 1887.

- the exclusion of the jurisdiction of any other Court in such suits,
- the practice and procedure of Courts of Small Causes,
- appeal from certain orders of those Courts and revision of cases decided by them, and
- the finality of their decrees and orders subject to such appeal and revision as are provided by the said Act,

shall apply to such suits and to the trial thereof and the decrees and orders therein.

(2) The Local Government may, by order notified as aforesaid, cancel any order made under sub-section (1), but not so as to affect any proceedings pending at the date of the cancelling order.

[Act XVIII, 1884, s. 71.] VII of 1870.

84. In the first schedule to the Court-fees Act, 1870, after No. 13, the following shall be inserted, namely:—

Number.	Proper fee.
14. Application to the Court of the Recorder of Rangoon for the exercise of the revisional jurisdiction of a High Court over the Court of Small Causes of Rangoon under section 622 of the Code of Civil Procedure or section 10 of the Provincial Small Cause Courts Act, 1887.	When the amount or value of the subject-matter in dispute does not exceed twenty-five rupees. Two rupees.
	When such amount or value exceeds twenty-five rupees. The fee leviable on a memorandum of appeal.

XIV of 1882.

IX of 1887.

[Act VIII, 1884, s. 72.]

XIV of 1882.

85. If the Recorder, on an application under section 622 of the Code of Civil Procedure or section 25 of the Provincial Small

Cause Courts Act, 1887, on which a fee has been paid under the Court-fees Act, 1870, as amended by the last foregoing section, sets aside or modifies the decree or order of the Court of Small Causes, or remands the case for a fresh decision, he may grant to the applicant a certificate authorising him to receive back from the Collector the full amount of fee paid on the application, or any smaller amount which, with regard to the circumstances of the case, he may think proper to order to be refunded.

IX of 1887. VII of 1870.

Court of the Judge of the Town of Maulmain.

86. (1) The Local Government may, by notification in the Burma Gazette, confer, within the local limits of the jurisdiction of the Court of the Judge of the Town of Maulmain,—

[New.]

- upon any Extra Assistant Commissioner or Assistant Commissioner at Maulmain the jurisdiction of an Additional Judge of a Court of Small Causes, and
- upon the chief ministerial officer of the Court of the Judge of the Town of Maulmain all or any of the powers conferred or conferable by or under the Provincial Small Cause Courts Act, 1887, upon the Registrar of a Court of Small Causes.

(2) For purposes connected with the exercise of jurisdiction and powers so conferred, the provisions of the Provincial Small Cause Courts Act, 1887, shall, so far as they can be made applicable, apply as if the Court of the Judge of the Town of Maulmain were a Court of Small Causes, and the Judge of that Town and the Extra Assistant Commissioner or Assistant Commissioner were respectively the Judge and the Additional Judge of the Court, and the chief ministerial officer were the Registrar thereof.

(3) The Local Government may withdraw any jurisdiction or powers conferred under this section.

87. The Judge of the Town of Maulmain shall, for the purposes of the European British Minors Act, 1874, sections 2 and 8, be deemed to be a Deputy Commissioner.

Provided that appeals from his orders under that Act shall lie to the Special Court.

Powers, Holidays and other Matters.

88. (1) The Local Government shall have a power of general control over all appointments and punishments of ministerial officers of Courts under this Act.

[Act XVII, 1875, ss. 42 and 43.]

(2) Any fine imposed on a ministerial officer of such a Court may, unless the order imposing

[Act XVII, 1875, s. 42.]

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(Chapter VII.—Supplemental Provisions.—Sections 89-93.)

it otherwise directs, be recovered by deduction from such officer's salary.

[New: Bill of 1887, s. 38.]
89. The Local Government may, with the previous sanction of the Governor General in Council, make rules with respect to the establishments to be maintained for the service and execution of processes issued by Civil and Criminal Courts and Revenue Courts and authorities, and may declare rules so made to be in supersession of any rules made under the Court-fees Act, 1870, or under this Act.

VII of 1870.

[Act XVIII, 1884, s. 64.]
90. The Local Government may, when it is empowered by this Act to make any appointment or confer any powers, appoint, or confer the powers on, any person either specially by name or generally by virtue of his office.

[Cf. Act XVII, 1875, ss. 67, 68 and 74; Act XIV, 1882, s. 65; Act XVIII, 1884, s. 14; and Reg. VII, 1886, s. 88.]
91. (1) The Judicial Commissioner, so far as regards his own Court and the Courts subordinate thereto, may, and on the request of the Local Government, make rules as to the fees to be charged in respect of any of the following matters, namely:—

- (a) the making of copies and translations;
- (b) the inspection of records, books and registers; and
- (c) any other matter in respect of which fees are for the time being chargeable by order of the High Court in any part of the Bengal Division of the Presidency of Fort William.

(2) The Recorder may, and on the request of the Local Government shall, with the previous sanction of that Government, make rules,—

- (a) so far as regards his own Court and any Court with respect to which the Court of the Recorder is under section 44 or section 48 to be deemed to be a High Court, as to any of the following matters, namely:—

- (i) the regulation of practice and procedure;
- (ii) the service and execution of processes, and the fees to be charged therefor;

- (iii) subject to the provisions of section 554 of the Code of Criminal Procedure, 1882, and section 644 of the Code of Civil Procedure, the forms to be used for any proceedings; and

- (iv) any matter specified or referred to in clause (a), clause (b) or clause (c) of sub-section (1); and

- (b) so far as regards his own Court and the Courts of the Judge of the Town of Maulmain, the Deputy Commissioner of Akyab and the Deputy Commissioner of Bassein as Courts for the Relief of Insolvent Debtors under this Act, as to the remuneration to be allowed to the official assignees and to the other officers of those Courts.

(3) The Judicial Commissioner and the Recorder, so far as regards the Special Court, may, and on the request of the Local Government shall, with the previous sanction of that Government, make rules as to any of the following matters, namely:—

- (a) the regulation of the times and places for the sitting of the Court;
- (b) the distribution of business among the Judges thereof; and
- (c) any matters specified or referred to in clause (a) of sub-section (2).

92. (1) The Judicial Commissioner and the Recorder for their respective Courts, and the Judicial Commissioner and the Recorder for the Special Court, may also make rules to provide for—

- (a) the recording of judgments, orders and sentences;
- (b) the taking down of the evidence of witnesses; and
- (c) the admission of affidavits as evidence of the matters to which such affidavits relate; and

(2) The Local Government, on being satisfied that such rules provide sufficiently for the matters to which they respectively refer, may exempt the Judicial Commissioner, the Recorder or the Special Court, as the case may be, from the operation of such parts of the Code of Criminal Procedure, 1882, and the Code of Civil Procedure, as relate to the mode of recording judgments, orders and sentences and of taking down the evidence of witnesses, and may permit the admission of affidavits as evidence of the matters aforesaid.

93. If the Judicial Commissioner and the Recorder differ in opinion as to the appointment, suspension or dismissal of a ministerial officer of the Special Court under section 63, sub-section (3), or as to any rule for the Special Court under section 91, sub-section (3), or section 92, the difference shall be referred to the Local Government, and the order of that Government thereon shall be final.

X of 1882.
 XIV of 1882.

The Lower Burma Courts Bill.

(Chapter VII.—Supplemental Provisions.—Sections 94-102.)

[Act XVII, 1875, ss. 44 and 71.
 Cf. Act XII, 1887, s. 15.
 Act XVI, 1887, s. 102, and Act XVII, 1887, s. 24.]
94. (1) The Judicial Commissioner and the Recorder, respectively, with the approval of the Local Government, shall publish in the Burma Gazette, before the commencement of each calendar year, a list of days to be observed in that year as holidays in their own Courts and the Courts respectively subject to their authority.

(2) A judicial act done by a Court on a day specified in the list as a day to be observed by the Court as a holiday shall not be invalid by reason only of its having been done on that day.

[Act IX, 1887, s. 35, and Act XII, 1887, s. 17.]
95. (1) Where a Court has from any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to the case which, if that Court had not ceased to have jurisdiction, might have been had therein may be had in the Court to which the business of the former Court has been transferred.

(2) Nothing in this section applies to cases for which provision is made in section 623 or section 649 of the Code of Civil Procedure or in any other enactment for the time being in force.

[Act XVII, 1875, ss. 66, 67, 68, 74 and 86.]
96. No rule made under this Act shall take effect until it has been published in the Burma Gazette.

Laws.

[Cf. Act XVII, 1875, s. 31.]
97. In the enactments mentioned in the second schedule, for the words specified in the third column of that schedule, there shall be substituted the words specified in the fourth column thereof.

[Act XVII, 1875, s. 93.
 XV of 1869.]
98. (1) For the last paragraph of section 7 of the Prisoners Testimony Act, 1869, the following shall be substituted, namely:—

"For the purposes of this Act, every jail in Lower Burma shall be deemed to be situate within the local limits of the appellate jurisdiction of the Judicial Commissioner, and the Recorder of Rangoon may issue orders under this section or section 3 or 4, and may also issue commissions under Part III of this Act, in any jail in Lower Burma."

(2) For the second paragraph of section 8 of the same Act the following shall be substituted, namely:—

"To obtain the removal of a person confined in a jail situate beyond the limits of Lower

Burma for the purpose of giving evidence in any criminal matter in any Court within the local limits of the ordinary civil jurisdiction of the Recorder of Rangoon, the Recorder shall have the power conferred on a Judge of a High Court by the former part of this section, and the other provisions of such part shall, *mutatis mutandis*, apply."

99. (1) Act XL of 1858 is hereby declared to be, and from the fifteenth day of January, 1863, to have been, in force throughout Lower Burma.

(2) The unrepealed portions of Regulation V of 1799, section 7, and Regulation III of 1818 of the Bengal Code shall, *mutatis mutandis*, be deemed to extend, and on and from the sixteenth day of September, 1875, to have extended, to Lower Burma, and the former of those enactments shall have effect, and, so far as may be necessary to validate anything herebefore done thereunder by the Local Government, shall be deemed to have had effect, as if the Local Government were therein referred to instead of the Governor General in Council.

100. The references in section 1 of the Burma District Cesses and Rural Police Act, 1880, and section 2 of the Rangoon Tramways Act, 1883, to the British Burma Municipal Act, 1874, shall be deemed to be, and on and from the third day of January, 1885, to have been, references to the Burma Municipal Act, 1884.

101. In the tracts of country respectively known as the Salwin District and the Hill District of Arakan section 20 of Act V of 1861 shall not apply to any police-officer appointed under section 4 of that Act, and, notwithstanding anything in the Code of Criminal Procedure, 1882, the Local Government shall be deemed to have, and always to have had, power to confer on any such police-officer in either of those tracts all or any of the powers conferred or conferable by or under that Code on any Magistrate in regard to particular cases or to a particular class or particular classes of cases or to cases generally.

102. To the first division (Acts) of the schedule to the Arakan Hill District Laws Regulation, 1874, IX of 1874, the enactments specified in the third schedule shall be added.

*The Lower Burma Courts Bill.**(The First Schedule.—Enactments repealed.)**(The Second Schedule.—Enactments modified.)*

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.
(See section 2.)

Number and year.	Title.	Extent of repeal.
1	2	3
<i>Acts of the Governor General in Council.</i>		
XVI of 1872	Burma Spirit Duty Act, 1872.	The whole, in so far as it may not already have been repealed.
XVII of 1875	Burma Courts Act, 1875.	So much as has not been repealed.
XI of 1880	Burma Courts Act, 1880.	The whole.
X of 1884	Burma Courts Act, 1884.	The whole.
XIV of 1885	Burma Courts Act, 1885.	The whole.
XX of 1886	Upper Burma Laws Act, 1886.	So much of the second schedule as relates to Bengal Regulation XI of 1812 (<i>Removal of Foreign Emigrants</i>) and to Acts XV of 1859 (<i>Inventions</i>), XXVII of 1860 (<i>Collection of Debts on Successions</i>), XIII of 1872 (<i>Patterns and Designs</i>) and XI of 1865 (<i>Mufassal Small Cause Courts</i>).

Regulation under the Statute 33 Victoria, chapter 3, section 1.

IX of 1874	Arakan Hill District Laws Regulation, 1874.	The first and second paragraphs of section 4, the whole of sections 6 to 9 (both inclusive) and so much of the schedule as relates to Acts III of 1846 (<i>Boundary marks</i>), XXXIII of 1852 (<i>Enforcement of Judgments</i>), XV of 1859 (<i>Patents</i>), VIII of 1860 (<i>Electric Telegraphs</i>), XXVII of 1860 (<i>Collection of Debts on Successions</i>), III of 1871 (<i>Paper Currency</i>), IX of 1871 (<i>Limitation</i>), XI of 1872 (<i>Foreign Jurisdiction and Extradition</i>) and VII of 1874 (<i>British Burma Municipal Act</i>).
VII of 1886	Upper Burma Criminal Justice Regulation, 1886.	Section I, sub-section (2), of the schedule.

THE SECOND SCHEDULE.

ENACTMENTS MODIFIED.
(See section 97.)

Number and year.	Title.	Words to be replaced.	Words to be substituted for those replaced.
1	2	3	4
<i>Acts of the Governor General in Council.</i>			
IV of 1869.	Indian Divorce Act.	In section 3, clause (1), the words "in British Burma—the High Court of Judicature at Fort William in Bengal".	The words— "in Burma—the Special Court constituted under the Lower Burma Courts Act, 1889;" [Act XVII, 1875, s. 51.]
		In section 3, clause (2), the words— "in the Non-Regulation Provinces, other than British Burma and Sindh—a Commissioner of a division; in Pegu—the Recorder at Rangoon; in Arakan—the Recorder at Rangoon until a Recorder's Court is established at Akyab, and thenceforward the Recorder at Akyab; in the Tenasserim Provinces—the Recorder at Maulmain; in Sindh—the Judicial Commissioner in that Province."	The words— "in the Non-Regulation Provinces, other than Sindh and the areas for the time being comprised within the local limits of the ordinary civil jurisdiction of the Recorder of Rangoon and the civil jurisdiction of the Court of the Judge of the Town of Maulmain—a Commissioner of a division; in Sindh—the Judicial Commissioner of that Province; in the areas aforesaid—the Recorder of Rangoon and the Judge of the Town of Maulmain, respectively;"
X of 1882.	Code of Criminal Procedure, 1882.	In section 4, clause (j), the words "the Senior Judge of a Chief Court"; In section 266, the words "the Chief Court of the Punjab,".	The words "the Senior Judge of the Chief Court of the Punjab and the Recorder of Rangoon"; The words "the Chief Court of the Punjab, the Court of the Recorder of Rangoon,".

*The Lower Burma Courts Bill.**(The Second Schedule.—Enactments modified. The Third Schedule.—Enactments to be added to Schedule to Regulation IX of 1874.)*

THE SECOND SCHEDULE—continued.

Number and year.	Title.	Words to be replaced.	Words to be substituted for those replaced.
1	2	3	4
<i>Regulation under the Statute 33 Victoria, chapter 3, section 1.</i>			
IX of 1874.	Arakan Hill District Laws Regulation, 1874.	In section 5, the words from and inclusive of "Act No. XXXI of 1860" down to and inclusive of the word "but".	The words "Notwithstanding anything in the Indian Arms Act, 1878, or in any rule under that Act,".
VII of 1886.	Upper Burma Criminal Justice Regulation, 1886.	In the schedule, section I, sub-section (1), the figures and words— "(1) in reference to proceedings against European British subjects, the Recorder of Rangoon; and (ii) in reference to proceedings against other persons".	The words "except in reference to proceedings against European British subjects or persons jointly charged with European British subjects—".

THE THIRD SCHEDULE.

ENACTMENTS TO BE ADDED TO SCHEDULE TO REGULATION IX OF 1874.
(See section 102.)

Number and year.	Subject.	Extent of application.	Modifications.
1	2	3	4
XIII of 1874.	European British Minors.	The whole Act.	*
XIV of 1874.	Scheduled Districts.	The whole Act, except section 10.	*
XV of 1874.	Laws Local Extent.	The whole Act, except sections 4, 5, 6 and 7.	*
V of 1875.	Unattested Sepoys	The whole Act.	*
VII of 1875.	Burma Fisheries.	The whole Act.	*
IX of 1875.	Majority	The whole Act.	*

S. HARVEY JAMES,
Off. Secy. to the Govt. of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 16, 1889.

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 authorize the imposition of a Patwari rate in North-Western Provinces and Oudh and make certain provisions respecting Kanungos and Patwaris in those provinces was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 15th March, 1889 :—

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

From Chief Secretary to Government, North-Western Provinces and Oudh, No. 337—1.110, dated 9th March, 1889, and enclosures [Papers No. 1].

Opinion by the Hon'ble Muhammad Ali Khan [Paper No. 2].

the imposition of a Patwari rate in the North-Western Provinces and Oudh and make certain provisions respecting Kanungos and Patwaris in those Provinces 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 2.*—We have proposed to save rules and appointments made, and patwaris' circles formed, under previous enactments.

3. *Sections 4 and 9.*—We have, at the suggestion of the Government of the North-Western Provinces and Oudh, set forth the definitions at length instead of merely referring to the North-Western Provinces and Oudh Local Rates Acts.

4. *Sections 5 and 13.*—We have considered it advisable to state expressly that the salaries of supervisor kanungos are debitable to the Patwari Fund.

5. *Sections 7 and 15.*—Where land is rent-free or rent is payable in kind or in service, it must, we consider, be left to the Local Government to lay down the rules and conditions under which the patwari-cess is to be computed and payable, and it would be inexpedient to compel tenants or landlords to resort to the Courts for the purpose of determining the extent of tenants' liability in such cases.

6. *Sections 8 and 16.*—The amendment of sections 7 and 15 has suggested a slight amendment of sections 8 and 16.

7. *Sections 9 (5) and (6), 13 and 15.*—In Oudh, in the case of sub-settlements of whole villages, the whole of the rate will be paid by the inferior proprietors, who will realise the whole of the cess from the tenants, while sub-proprietors of plots of land, not being whole villages, will be treated as tenants and pay the cess only on the rents actually paid by them.

8. *Section 11.*—We have, at the request of the taluqdárs and with the approval of the Lieutenant-Governor and Chief Commissioner, applied to Oudh the provisions of sections 25-28 of the North-Western Provinces Land-revenue Act, 1873, respecting the appointment of patwaris.

9. *Section 17.*—The Government of the North-Western Provinces and Oudh is not prepared without further deliberation to adopt the rule in section 151 of the Punjab Land-revenue Act, 1887. Section 17 of the Bill has been modified accordingly.

10. *Section 18.*—This section provides that, except with the previous sanction of the Governor General in Council, the annual contributions of the Government to the Patwari Funds shall not in the aggregate be less than ten lakhs of rupees.

11. *Section 19.*—This section follows section 40 of the Punjab Land-revenue Act, 1887.

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

<i>In English.</i>		<i>Date.</i>
<i>Gazette.</i>		
Gazette of India		16th February, 1889.
North-Western Provinces and Oudh Government Gazette		23rd February, 1889.

<i>In the Vernaculars.</i>		<i>Date.</i>
<i>Province.</i>	<i>Language.</i>	
North-Western Provinces and Oudh.	Urdu	2nd March, 1889.

13. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

J. W. QUINTON.
ANDREW R. SCOBLE.
C. A. ELLIOTT.
PHIL. P. HUTCHINS.
D. BARBOUR.
FRED. M. HALLIDAY.
MUHAMMAD ALI KHAN.

The 14th March, 1889.

No. II.

A Bill to authorise the imposition of a Patwari-rate in the North-Western Provinces and Oudh, and make certain provisions respecting Kanungos and Patwaris in those Provinces.

WHEREAS it is expedient to authorise the imposition of a patwari-rate in the North-Western Provinces and Oudh, and make certain provisions respecting kanungos and patwaris in those provinces; It is hereby enacted as follows :—

1. (1) This Act may be called the North-Western Provinces and Oudh Kanungos and Patwaris Act, 1889; and

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

XIII of 1882. 2. (1) The Kanungos and Patwaris Act, 1882, is hereby repealed;

Repeal.

(2) But all rules and appointments made and patwaris' circles formed under that Act or any enactment thereby repealed shall, so far as may be, be deemed to have been respectively made and formed under this Act.

Division of Act into Parts, and local extent of the several Parts. 3. (1) The remainder of this Act is divided into the several Parts. Parts as follows, namely :—

Part I.—North-Western Provinces.

Part II.—Oudh.

Part III.—North-Western Provinces and Oudh.

[Act XIII, 1882, s. 11.] (2) Part I extends to the North-Western Provinces, Part II to Oudh, and Part III to the North-Western Provinces and Oudh.

PART I.

NORTH-WESTERN PROVINCES.

[Act III, 1878, ss. 3 and 4.] 4. In this Part, unless there is something repugnant in the subject or context,—

(1) "land" means land used for agricultural purposes, or waste-land which is culturable:

(2) "estate" means the whole or any part of a village separately assessed to land-revenue or separately exempt from the payment thereof:

(3) "landlord" means the person responsible for the payment of the land-revenue, if any, assessed on an estate, whether as owner, mortgagee-in-possession or otherwise, and includes a muafidar, nazranadar or other person holding land whereof the revenue has, either wholly or in part, been released, compounded for, redeemed or assigned:

(4) "tenant", used with reference to any land, means a tenant holding directly from the

landlord of such land, and includes an under-proprietor of such land and a person bound to pay or deliver anything to such landlord in respect of the use or occupation of such land:

(5) "annual value" means,—

(1) where the settlement of the land-revenue of an estate is liable to periodical revision, double the amount of the land-revenue for the time being assessed on the estate, and

(2) where such settlement is not liable to such revision or where the land-revenue has been wholly or in part released, compounded for, redeemed or assigned, double the amount which, if the settlement were liable to such revision, would be assessable as land-revenue:

(6) "rent" means whatever is payable to a landlord by a tenant on account of the use or occupation of land by the tenant: and

(7) "year" means the year commencing on the first day of April.

5. (1) Every estate shall be liable to the payment of such rate, not exceeding two per cent. on its annual value, as the Local Government imposes, for the purpose of defraying the salaries of patwaris and supervisor kanungos and any charges incurred for the supervision, maintenance and correction of patwaris' records and papers, including charges incurred in the preparation of village-maps.

(2) Such rate, hereinafter referred to as the patwari-rate, shall be payable by the landlord independently of, and in addition to, any land-revenue assessed on the estate and any rate or cess leviable under, or recognised by, the North-Western Provinces Local Rates Act, 1878, and any sum due on account of the patwari-rate shall be recoverable as if it were an arrear of land-revenue due in respect of the estate.

(3) The Local Government may, by notification in the official Gazette,—

(a) prescribe by what instalments, and at what times and places, the patwari-rate is to be paid, and by whom it is to be assessed and collected;

(b) fix the periods for which, in the cases referred to in clause (2) of the definition of the expression "annual value" in section 4, assessments to the patwari-rate are to have effect;

[Act III, 1878, ss. 17 and 18; and Act VIII, 1873, s. 75 (2).]

- (c) determine the cases in which, the conditions subject to which, and the officers to or by whom, orders with respect to the assessment or collection of the patwari-rate are to be appealable or subject to revision; and

[Act III, 1878, s. 20 (c).]

- (d) exempt any portion of the North-Western Provinces from the operation of this Part, or exempt any estate from liability to pay the whole or any part of the patwari-rate, and cancel such exemption.

[New.]

6. (1) There shall be formed for the North-Western Provinces a fund, to be called the North-Western Provinces Patwari Fund, and there shall be placed to the credit thereof—

- (a) the proceeds of the patwari-rate, and
(b) a contribution, to be made thereto each year, of such sum as the Local Government may allot from the general revenues at its disposal.

- (2) The fund so formed shall be exclusively applicable to the purpose mentioned in sub-section (1) of the last foregoing section.

- (3) An account of the fund shall be published annually by the Local Government in the official Gazette.

[Cf. Act III, 1878, s. 9.]

7. (1) The landlord of any land in respect of which the patwari-rate is payable to payer of patwari-rate, shall be entitled to recover from the tenant of the land such a cess as is hereinafter mentioned, that is to say,—

- (a) if the rent of the tenant is payable in money, then a cess on such rent at the rate of two pies for every rupee thereof, or
(b) if the land is held rent-free or rent in respect thereof is payable in kind or in service, then a cess equivalent as nearly as may be to one per cent. of the rent in money which would on a reasonable assessment be payable in respect of the land.

- (2) The cess in respect of such land as is described in clause (b) of sub-section (1) shall be computed, and be payable, in such manner as the Local Government may by general or special rules in this behalf prescribe.

[Act III, 1878, s. 16.]

8. Suits for the recovery of any sum on account of the patwari-rate, or for the recovery of the cess mentioned in the last

foregoing section or the money-equivalent of such cess, and appeals and other proceedings arising out of such suits, shall be cognizable as if such suits had been included among the suits mentioned in section 93 of the North-Western Provinces Rent Act, 1881.

XII of 1881.

PART II. OUDH.

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

- (1) "land" means land assessed to land-revenue and includes land of which the revenue has been wholly or in part released, compounded for, redeemed or assigned:

- (2) "estate" means the whole or any part of a village separately assessed to land-revenue or separately exempt from the payment thereof:

- (3) "landholder" means the person in receipt of the rent of any land, whether as owner, mortgagee-in-possession or otherwise, and includes an under-proprietor with whom a sub-settlement has been made of the whole village in which the land is situated:

- (4) "tenant" means the person holding directly from the landholder, and includes an under-proprietor of land, not being an under-proprietor with whom a sub-settlement has been made of the whole village in which the land is situated:

- (5) "annual value" means—

- (1) where the settlement of the land-revenue of an estate is liable to periodical revision, double the amount of the land-revenue assessed on the estate, and

- (2) where such settlement is not liable to periodical revision or where the land-revenue or a portion thereof has been released, compounded for, redeemed or assigned, double the amount which, if the settlement were liable to periodical revision, would, but for such non-liability, release, composition, redemption or assignment, be assessable as land-revenue:

- (6) "rent" means whatever is payable to a landholder by a tenant on account of the use or occupation of land by the tenant: and

- (7) "year" means the year commencing on the first day of April.

10. (1) With the previous sanction of the Local Government, the Deputy Commissioner may from time to time alter the number of patwaris' circles in his district and the respective limits of such circles.

[Act XIX, 1873, s. 24.]

- (2) A patwari shall be appointed to each circle whether the estates in such circle are assessed to land-revenue or not.

[Act XIX, 1873, s. 25.]

- II. (1) Whenever a circle is without a patwari, the proprietors of such circle, or their representatives in interest, shall, in accordance with local custom, nominate a person to be the patwari of the circle, and he shall be appointed by the Deputy Commissioner or Assistant Commissioner.

[Act XIX, 1873, s. 26.]

- (2) In case of disagreement as to the nominee the Deputy Commissioner or Assistant Commissioner shall ascertain the local custom, if any, and shall appoint the person nominated in accordance therewith.

- (3) Where no such custom can be ascertained the Deputy Commissioner or Assistant Commissioner shall appoint the nominee of those proprietors who represent the largest amount of annual value in the circle, or of their representatives in interest.

- (4) If an estate is held under direct management, or if the proprietor of an estate is under the superintendence of the Court of Wards, the Deputy Commissioner or Assistant Commissioner shall be deemed to be the proprietor for the purpose of nominating a patwari under this section.

[Act XIX, 1873, s. 27.]

- (5) If the persons in whom the nomination is vested neglect to nominate a successor to the patwari within fifteen days from the occurrence of the vacancy, the Deputy Commissioner or Assistant Commissioner shall call on them by notice to make the nomination, and, if they fail to do so within fifteen days from the receipt of the notice, the Deputy Commissioner or Assistant Commissioner shall make the appointment.

[Act XIX, 1873, s. 28.]

- (6) If the persons in whom the nomination is vested nominate a person not qualified to perform the duties of a patwari, or in the nomination neglect to follow the local custom, the Deputy Commissioner or Assistant Commissioner shall refuse to appoint the nominee, and, if no fit person is nominated within fifteen days from the date of the notification of such refusal, shall himself appoint a person to the vacant office.

[Act XIII, 1882, s. 7.]

11. The Local Government may make rules consistent with this Act—
Power to make rules respecting kanungos and patwaris.

- (a) regulating the appointment of supervisor kanungos and the qualifications, remuneration, suspension, dismissal, duties and supervision of kanungos and patwaris, and

- (b) prescribing the fines which may be imposed on kanungos and patwaris for neglect of duty.

[Cf. Act IV, 1878, s. 4.]

13. (1) Every estate shall be liable to the payment of such rate, not exceeding one and a half per cent. on its annual value, as the Local Gov-

ernment imposes, for the purpose of defraying the salaries of patwaris and supervisor kanungos and any charges incurred for the supervision, maintenance and correction of patwaris' records and papers, including charges incurred in the preparation of village-maps.

- (2) Such rate, hereinafter referred to as the patwari-rate, shall be payable by the landholder independently of, and in addition to, any land-revenue assessed on the estate and any rate or cess leviable under, or recognised by, the Oudh Local Rates Act, 1878, and any sum due on account of the patwari-rate shall be recoverable as if it were an arrear of land-revenue due in respect of the estate.

- (3) The Local Government may, by notification in the official Gazette,—

- (a) prescribe by what instalments, and at what times and places, the patwari-rate is to be paid, and by whom it is to be assessed and collected;

- (b) fix the periods for which, in the cases referred to in clause (a) of the definition of the expression "annual value" in section 9, assessments to the patwari-rate are to have effect;

- (c) determine the cases in which, the conditions subject to which, and the officers to or by whom, orders with respect to the assessment or collection of the patwari-rate are to be appealable or subject to revision; and

- (d) exempt any portion of Oudh from the operation of this Part, or exempt any estate from liability to pay the whole or any part of the patwari-rate, and cancel such exemption.

14. (1) There shall be formed for Oudh a fund, to be called the Oudh Patwari Fund, and there shall be placed to the credit thereof—

- (a) the proceeds of the patwari-rate, and
(b) a contribution, to be made thereto every year, of such sum as the Local Government may allot from the general revenues at its disposal.

- (2) The fund so formed shall be exclusively applicable to the purpose mentioned in sub-section (1) of the last foregoing section.

- (3) An account of the fund shall be published annually by the Local Government in the official Gazette.

15. The landholder of any land in respect of which the patwari-rate is payable to payer of patwari-rate, shall be entitled to recover from the tenant of the land such a cess as is hereinafter mentioned, that is to say,—

- (a) if the rent of the tenant is payable in money, then a cess on such rent at the rate of one-and-a-half pies for every rupee thereof, or

(b) if the land is held rent-free or rent in respect thereof is payable in kind or service, then a cess equivalent as nearly as may be to three-fourths of one per cent. of the rent in money which would on a reasonable assessment be payable in respect of the land.

(2) The cess in respect of such land as is described in clause (b) of sub-section (1) shall be computed, and be payable, in such manner as the Local Government may by general or special rules in this behalf prescribe.

[Act IV,
1878, s. 8.]

16. Suits for the recovery of any sum on account of the patwari-rate, or for the recovery of the cess mentioned in the last foregoing section or the money-equivalent of such cess, and appeals and other proceedings arising out of such suits, shall be cognizable as if such suits had been included among the suits mentioned in section 108 of the Oudh Rent Act, 1836.

XXII of 1886.

[Act XIII,
1882, s. 8.]

17. Every kanungo and patwari shall be deemed to be a public servant within the meaning of the Indian Penal Code, and all official records and papers kept by him shall

XLV of 1860.

be deemed to be public records and the property of the Government.

PART III.

NORTH-WESTERN PROVINCES AND OUDH.

18. The contributions to be made by the [New.] Contributions of the Local Government to Government to the the North-Western Provinces Patwari Fund and the Oudh Patwari Fund under sections 6 and 14 shall not, without the previous sanction of the Governor General in Council, amount in the aggregate in any year to a smaller sum than ten lakhs of rupees.

19. Any person whose rights, interests or liabilities are required by any enactment for the time being in force or by any rule under any such enactment to be entered in any official record or paper by a kanungo or patwari shall be bound to furnish, on the requisition of the kanungo or patwari or of any revenue-officer engaged in compiling the record or paper, all information necessary for the correct compilation thereof.

[Act XVII,
1887, s. 40.]

S. HARVEY JAMES,

Secretary to the Government of India.



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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 Ports and Port-charges was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 22nd March, 1889:—

WE, the undersigned, Members of the Select Committee to which the Bill to consolidate and amend the law relating to Ports and Port-charges 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.

From Officiating Secretary to Chief Commissioner, Burma, No. 598—10 P. D., dated 22nd February, 1889, and enclosure [Papers No. 1].
From Under Secretary to Government, Bengal, No. 476 Marine, dated 1st March, 1889, and enclosures [Papers No. 2].
From Under Secretary to Government, Bengal, No. 493 Marine, dated 5th March, 1889, and enclosure [Papers No. 3].
From Registrar, High Court, Calcutta, No. 592, dated 5th March, 1889 [Paper No. 4].
From Chief Secretary to Government, Madras, No. 81, dated 1st March, 1889, and enclosures [Papers No. 5].
From Officiating Secretary to Chief Commissioner, Burma, No. 187—10 P. D., dated 8th March, 1889, and enclosure [Papers No. 6].
From Chief Secretary to Government, Bombay, No. 1906, dated 9th March, 1889, and enclosures [Papers No. 7].
From Secretary, Bengal Chamber of Commerce, No. 231, dated 14th March, 1889, and enclosure [Papers No. 8].
From Chief Secretary to Government, Bombay, No. 1960, dated 12th March, 1889, and enclosure [Papers No. 9].
From Chief Secretary to Government, Bombay, No. 2027, dated 14th March, 1889, and enclosure.
Telegram from Government, Bombay, dated 18th March, 1889.

2. In section 3 we have, at the instance of the Government of Bengal, declared, with reference to enactments in which mention is made of master-attendant, that "port-officer" and "master-attendant" are synonymous expressions. We have also, on the advice of the Bengal Chamber of Commerce and the Calcutta Port Commissioners, omitted the definition of "owner", and we have made it clear by the definition of "ton" that the proposed Act is concerned with net, and not gross, tonnage.

3. To section 4, sub-section (1), we have added a clause (p) in the terms of the second of the additional clauses in Madras Act II of 1872. We have also added a sub-section requiring port-rules to be hereafter made after previous publication in the manner set forth in section 6 of the General Clauses Act, 1887.

4. We have not considered it necessary, as suggested in one of the papers before us, to amend section 7 so as to define more clearly the position of the port-officer. In Calcutta the port-officer is not the subordinate of the Port Commissioners. In Bombay he is, and will continue to be, as deputy conservator, the subordinate of the Port Trustees, who hold and will continue to hold the office of Conservator.

5. Nor have we considered it expedient, with reference to another paper before us, to modify section 8 so as to require notice of a direction under that section to be in writing. There are circumstances in which notice must be given orally or by signal.

6. We have so modified section 14 as to remove an objection to the repeal of Bengal Act III of 1872.

7. We have omitted from section 21 the clause which had been suggested by the case reported at I. L. R. 9 Cal. 849. The Trustees of the Port of Bombay accepted the clause, but the Calcutta Port Commissioners, in whose interest the clause was inserted, and the Bengal Chamber of Commerce, have objected to it.

8. Certain amendments in section 31 have been proposed by the Trustees of the Port of Bombay, but the difficulties brought to our notice may, in our opinion, be overcome by action under section 4, sub-section (1), clause (c), or by the licensing of certain masters as pilots, or by both means. The case of inland steam-vessels is covered by section 68, sub-section (1), of the Inland Steam-vessels Act, VI of 1884.

9. In section 37 of the Bill as revised we have made special provision with respect to the grouping of ports and the levy and expenditure of port-dues in ports which have been grouped either by the Act or in pursuance of powers conferred thereby.

10. In section 39 and Schedule I, Part I, we have maintained existing arrangements as regards ballam-boats in the Port of Chittagong.

11. In the Second Schedule, Part II, we have inserted the scale of fees proposed by the Madras Chamber of Commerce and Harbour Trust Board, as modified by the Local Government. The modifications made by that Government will appear from its order of the 1st instant, which is in the following terms:—

“The Government entirely approve of the complete separation of Madras from the eastern group of ports as set forth in the draft schedule now proposed by the Chamber of Commerce and the Harbour Trust Board.

2. It is observed, however, that the proposed maximum charges on coasting ships and steamers disturb the relation which has hitherto existed between the dues leviable on these two classes of vessels; the latter being at present liable to pay twice as much as the former. The Government think that this proportion should be preserved and would, therefore, raise the maximum charge on coasting steamers calling at Madras to 3 annas a ton.

3. The proposed schedule reduces very considerably the rates chargeable on ‘foreign vessels’ entering the Madras port. The maximum rate now leviable is 8 annas a ton, and the actual charge was 6 annas until it was reduced to 4½ annas by G.O., 27th April, 1888, No. 161. A further reduction to 3 annas is now proposed. The future receipts and charges at Madras under the present rates have been estimated by the Presidency Port-officer at Rs. 1,33,300 and Rs. 1,03,900, respectively (in round numbers), as shown below:—

Receipts.		Rs.
(a) Dues on coasters	.	36,300
(b) Do. foreign vessels	.	80,300
(c) Sundry receipts	.	10,700
Total		1,33,300
Charges	.	1,03,900
Balance		29,400

The reduction of item (b) of receipts by one-third would almost entirely destroy the estimated surplus, and the Government consider that this is a loss which the port could not, in the long run, be able to afford. At present no doubt the port is in a prosperous condition, having accumulated a considerable surplus which will operate as a reserve to meet special charges, and which, when invested, will yield an annual income. But this state of things may not last, and it may ultimately be necessary to increase the revenue from port as well as from harbour dues, in order to meet the charges of harbour improvements. Without, therefore, in any way implying that the dues should be raised at present, but on the contrary with every readiness to sanction a further reduction of existing rates with reference to the surplus now in hand should the Chamber and the Harbour Trust Board desire it, the Government consider that a higher maximum should be authorized in the Act. This maximum they would fix at 6 annas a ton.

4. Subject to these remarks, the draft schedule will be forwarded for the favourable consideration of the Government of India.”

12. The Trustees of the Port of Bombay have consented to waive the privilege, which they have exercised since 1873, of fixing the rates of port-dues for that port. Hence the alterations in sections 33, 34, 46 and 47 and in Schedule I, Part III.

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

Gazette.	Date.
Gazette of India	2nd February, 1889.
Fort Saint George Gazette	19th February, 1889.
Bombay Government Gazette	7th February, 1889.
Calcutta Gazette	6th February, 1889.
Burma Gazette	16th February, 1889.

14. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

D. BARBOUR.
ANDREW R. SCOBLE.
J. W. QUINTON.
ROBT. STEEL.
DINSHAW MANOCKJEE PETIT.
FRED. M. HALLIDAY.

The 21st March, 1889.

No. II.**THE INDIAN PORTS BILL.****CONTENTS.****CHAPTER I.****PRELIMINARY.****SECTIONS.**

1. Title, commencement and extent.
2. Repeal.
3. Definitions.

CHAPTER II.**POWERS OF THE LOCAL GOVERNMENT.**

4. Power to extend or withdraw the Act or certain portions thereof.
5. Alteration of limits of ports.
6. Power to make port-rules.

CHAPTER III.**PORT-OFFICIALS AND THEIR POWERS AND DUTIES.**

7. Appointment of conservator.
8. Power of conservator to give and enforce directions for certain specified purposes.
9. Power to cut warps and ropes.
10. Removal of obstructions within limits of port.
11. Recovery of expenses of removal.
12. Removal of lawful obstructions.
13. Fouling of Government moorings.
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16. Power to require crews to prevent or extinguish fire.
17. Appointment and powers of health-officer.
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CHAPTER IV.**RULES FOR THE SAFETY OF SHIPPING AND THE CONSERVATION OF PORTS.***General Rules.*

19. Injuring buoys, beacons and moorings.
20. Wilfully loosening vessel from moorings.

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21. Improperly discharging ballast.
22. Graving vessel within prohibited limits.
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27. Discharge of fire-arms in port.
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THE FIRST SCHEDULE.—PORTS, VESSELS CHARGEABLE, RATE OF PORT-DUES AND FREQUENCY OF PAYMENT.

THE SECOND SCHEDULE.—ENACTMENTS REPEALED.

*The Indian Ports Bill.**(Chapter I.—Preliminary.—Sections 1-3. Chapter II.—Powers of the Local Government.—Section 4.)***No. II.***A Bill to consolidate and amend the law relating to Ports and Port-charges.*

WHEREAS it is expedient to consolidate and amend the law relating to ports and port-charges; It is hereby enacted as follows:—

CHAPTER I.**PRELIMINARY.**

[Act XII, 1875, ss. 1 and 2.]

I. (1) This Act may be called the Indian Ports Act, 1889; and

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

(3) It shall extend, save as otherwise appears from its subject or context,—

XII of 1875.

(a) to the ports mentioned in the first schedule, and to such parts of the navigable rivers and channels leading to such ports respectively as have been declared to be subject to Act XXII of 1855 (*for the regulation of Ports and Port-dues*) or to the Indian Ports Act, 1875;

(b) to the other ports or parts of navigable rivers or channels to which the Local Government, in exercise of the power hereinafter conferred, extends this Act:

(4) But nothing in this Act shall—

(i) apply to any vessel belonging to, or in the service of, Her Majesty or the Government of India, or to any vessel of war belonging to any Foreign Prince or State, or

(ii) deprive any person of any right of property or other private right, except as hereinafter expressly provided, or

(iii) affect any law or rule relating to the customs or any order or direction lawfully made or given pursuant thereto:

(5) And nothing in section 31 or section 32 shall apply to any port, river or channel to which the section has not been specially extended by the Local Government.

[Act XII, 1875, s. 3.]

2. (1) The enactments mentioned in the second schedule are hereby repealed to the extent specified in the third column of that schedule.

(2) All declarations, appointments, requisitions, orders and rules made, authorizations, directions and permissions given, prohibitions issued and notifications published under any of those enactments or under any enactment repealed by any of them shall, if in force at the commencement of this Act, be deemed, so far as may be, to have been made, given, issued and published under this Act: and

(3) Any enactment or document referring to any such repealed enactment shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

Definitions.

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

[Act XII, 1875, s. 4.]

(1) "port" includes also any part of a river or channel in which this Act is for the time being in force:

(2) "port-officer" is synonymous with master-attendant:

(3) "vessel" includes anything made for the conveyance by water of human beings or of property:

(4) "master", when used in relation to any vessel, means, subject to the provisions of any other enactment for the time being in force, any person (except a pilot or harbour-master) having for the time being the charge or control of the vessel:

(5) "pilot" means a person for the time being authorized by the Local Government to pilot vessels:

(6) "ton" means a ton as determined or determinable by the rules for the time being in force for regulating the measurement of the net tonnage of British ships: and

[New.]

(7) "Magistrate" means a person exercising powers under the Code of Criminal Procedure, 1882, not less than those of a Magistrate of the second class, and includes, in the towns of Calcutta, Madras and Bombay, a Presidency Magistrate.

[Act XII, 1875, s. 6.]

[Act XII, 1875, s. 7.]

CHAPTER II.**POWERS OF THE LOCAL GOVERNMENT.**

4. (1) With the previous sanction of the Governor General in Council, the Local Government may, by notification in the official Gazette,—

(a) extend this Act to any port in which this Act is not in force or to any part of any navigable river or channel which leads to a port and in which this Act is not in force;

(b) specially extend the provisions of section 31 or section 32 to any port to which they have not been so extended;

(c) withdraw this Act, or section 31 or section 32, from any port or any part thereof in which it is for the time being in force.

[Act XII, 1875, s. 5.]

Power to extend or withdraw the Act or certain portions thereof.

*The Indian Ports Bill.**(Chapter II.—Powers of the Local Government.—Sections 5-6. (Chapter III.—Port-officials and their Powers and Duties.—Section 7.)*

(a) A notification under clause (a) or clause (b) of sub-section (1) shall define the limits of the area to which it refers.

(3) Limits defined under sub-section (2) may include any piers, jetties, landing-places, wharves, quays, docks and other works made on behalf of the public for convenience of traffic, for safety of vessels, or for the improvement, maintenance or good government of the port and its approaches, whether within or without high-water-mark, and, subject to any rights of private property therein, any portion of the shore or bank within fifty yards of high-water-mark.

(4) In sub-section (3) the expression "high-water-mark" means the highest point reached by ordinary spring tides at any season of the year.

5. (1) The Local Government may, with the previous sanction of the Governor General in Council and subject to any rights of private property, alter the limits of any port in which this Act is in force.

(2) When the Local Government alters the limits of a port under sub-section (1), it shall declare or describe, by notification in the official Gazette, and by such other means, if any, as it thinks fit, the precise extent of such limits.

6. (1) The Local Government may, in addition to any rules which it may make under any other enactment for the time being in force, make such rules, consistent with this Act, as it thinks necessary for any of the following purposes, namely:—

(a) for regulating the time at which, and the manner in which, vessels are to enter or leave any port subject to this Act;

(b) for regulating the berths, stations and anchorages to be occupied by vessels in any such port;

(c) for striking the yards and top-masts, and for rigging-in the booms and yards, of vessels in any such port, and for swinging or taking in davits, boats and other things projecting from such vessels;

(d) for the removal or proper hanging or placing of anchors, spars and other things being in or attached to vessels in any such port;

[Partly new.]

(e) for regulating vessels whilst taking-in or discharging passengers, ballast or cargo, or any particular kind of cargo, in any such port, and the stations to be occupied by vessels whilst so engaged;

(f) for keeping free passages of such width as may be deemed necessary within any such port, and along or near to the piers, jetties, landing-places, wharves, quays, docks, moorings and other works in or adjoining to the same, and for marking out the spaces so to be kept free;

(g) for regulating the anchoring, fastening, mooring and unmooring of vessels in any such port;

(h) for regulating the moving and warping of all vessels within any such port and the use of warps therein;

(i) for regulating the use of the mooring buoys, chains and other moorings in any such port;

(j) for fixing the rates to be paid for the use of such moorings when belonging to the Government, or of any boat, hawser or other thing belonging to the Government;

(k) for licensing and regulating catamarans [Partly new.] plying for hire, and flats and cargo, passenger and other boats plying, whether for hire or not and whether regularly or only occasionally, in, or partly within and partly without, any such port, and for determining the quantity of cargo or number of passengers to be carried by any such vessel;

(l) for regulating the use of fires and lights within any such port;

(m) for enforcing and regulating the use of signals or signal-lights by vessels by day or by night in any such port;

(n) for regulating the number of the crew which must be on board any vessel afloat within the limits of any such port;

(o) for regulating the employment of persons engaged in cleaning or painting vessels, or in working in the bilges, boilers or double bottoms of vessels, in any such port; and

(p) for regulating the action to be taken by a master where there is disease or sickness, or a dead body, on board his vessel in any such port.

(2) The power to make rules under sub-section (1) is subject to the condition of the rules being made after previous publication:

Provided that nothing in this sub-section shall be construed to affect the validity of any rule in force immediately before the commencement of this Act and continued by section 2, sub-section (2).

CHAPTER III.**PORT-OFFICIALS AND THEIR POWERS AND DUTIES.**

7. (1) The Local Government shall appoint some officer or body of persons to be conservator of every port subject to this Act, and may suspend or remove such officer or body.

(2) Subject to any direction by the Local Government to the contrary,—

(a) in ports where there is a port-officer, the port-officer shall be the conservator;

(b) in ports where there is no port-officer, but where there is a harbour-master, the harbour-master shall be the conservator.

[Act XII, 1875, s. 8.]

*The Indian Ports Bill.**(Chapter III.—Port-officials and their Powers and Duties.—Sections 8-13.)*

(3) Where the harbour-master is not conservator, the harbour-master and his assistants shall be subordinate to, and subject to the control of, the conservator.

(4) The conservator shall be subject to the control of the Local Government, or of any intermediate authority which that Government may appoint.

[Act XII,
1875, s. 9.]

8. (1) The conservator of any port subject to this Act may, with respect to any vessel within the port, give directions for carrying into effect any rule for the time being in force therein under section 6.

Power of conservator to give and enforce directions for certain specified purposes.

(2) If any person wilfully and without lawful excuse refuses or neglects to obey any lawful direction of the conservator, after notice thereof has been given to him, he shall, for every such offence, be punished with fine which may extend to one hundred rupees, and with further fine which may extend to one hundred rupees for every day on which, after such notice as aforesaid, he wilfully and without lawful excuse continues to disobey the direction.

(3) In case of such refusal or neglect, the conservator may do, or cause to be done, all acts necessary for the purpose of carrying the direction into execution, and may hire and employ proper persons for that purpose, and all reasonable expenses incurred in doing such acts shall be recoverable by him from the person so refusing or neglecting to obey the direction.

[Act XII,
1875, s. 10.]

9. The conservator of any such port may, in case of urgent necessity, cut, or cause to be cut, any warp, rope, cable or hawser endangering the safety of any vessel in the port or at or near to the entrance thereof.

Power to cut warps and ropes.

[Act XII,
1875, s. 11.]

10. (1) The conservator may remove, or cause to be removed, any timber, raft or other thing, floating or being in any part of any such port, which in his opinion obstructs or impedes the free navigation thereof or the lawful use of any pier, jetty, landing-place, wharf, quay, dock, mooring or other work on any part of the shore or bank which has been declared to be within the limits of the port and is not private property.

(2) The owner of any such timber, raft or other thing shall be liable to pay the reasonable expenses of the removal thereof, and if such owner or any other person has without lawful excuse caused any such obstruction or impediment, or causes any public nuisance affecting or likely to affect such free navigation or lawful use, he shall also be punished with fine which may extend to one hundred rupees.

(3) The conservator or any Magistrate having jurisdiction over the offence may cause any such nuisance to be abated.

11. If the owner of any such timber, raft or other thing, or the person who has caused any such obstruction, impediment or public nuisance as is mentioned in the last foregoing section neglects to pay the reasonable expenses incurred in the removal thereof, within one week after demand, or within fourteen days after such removal has been notified in the official Gazette or in such other manner as the Local Government by general or special order directs, the conservator may cause such timber, raft or other thing, or the materials of any public nuisance so removed, or so much thereof as may be necessary, to be sold by public auction;

Recovery of expenses of removal.

and may retain all the expenses of such removal and sale out of the proceeds of the sale, and shall pay the surplus of such proceeds, or deliver so much of the thing or materials as may remain unsold, to the person entitled to receive the same;

and, if no such person appears, shall cause the same to be kept and deposited in such manner as the Local Government directs;

and may, if necessary, from time to time, realize the expenses of keeping the same, together with the expenses of sale, by a further sale of so much of the thing or materials as may remain unsold.

12. (1) If any obstruction or impediment to the navigation of any port subject to this Act has been lawfully made, or has become lawful by reason of the long continuance of such obstruction or impediment, or otherwise, the conservator shall report the same for the information of the Local Government, and shall, with the sanction of that Government, cause the same to be removed or altered, making reasonable compensation to the person suffering damage by such removal or alteration.

Removal of lawful obstructions.

(2) Any dispute arising concerning such compensation shall be determined according to the law relating to like disputes in the case of land required for public purposes.

13. (1) If any vessel hooks or gets foul of any of the buoys or moorings laid down by or by the authority of the Local Government in any such port, the master of such vessel shall not, nor shall any other person, except in case of emergency, lift the buoy or mooring for the purpose of unhooking or getting clear from the same without the assistance of the conservator;

Fouling of Government moorings.

[Act XII,
1875, s. 12.]

[Act XII,
1875, s. 13.]

[Act XII,
1875, s. 14.]

*The Indian Ports Bill.**(Chapter III.—Port-officials and their Powers and Duties.—Sections 14-18.)*

and the conservator, immediately on receiving notice of such accident, shall assist and superintend the clearing of such vessel;

and the master of such vessel shall, upon demand, pay such reasonable expenses as may be incurred in clearing the same.

(2) Any master or other person offending against the provisions of this section shall, for every such offence, be punished with fine which may extend to one hundred rupees.

14. (1) If any vessel is wrecked, stranded or sunk in any such port, so as to impede, or be likely to impede, the navigation thereof, the conservator may cause the vessel to be raised, removed or destroyed.

Raising or removal of wreck impeding navigation within limits of port.

(2) If any property recovered by a conservator acting under sub-section (1) is unclaimed, or the person claiming it fails to pay the reasonable expenses incurred by the conservator under that sub-section and a further sum of twenty per cent. of the amount of such expenses, the conservator may sell the property by public auction, if the property is of a perishable nature, forthwith, and, if it is not of a perishable nature, at any time not less than six months after the recovery thereof.

(3) The expenses and further sum aforesaid shall be payable to the conservator out of the sale-proceeds of the property, and the balance shall be paid to the person entitled to the property recovered, or, if no such person appears and claims the balance, shall be held in deposit for payment, without interest, to any person thereafter establishing his right thereto:

Provided that the person makes his claim within three years from the date of the sale.

15. (1) The conservator or any of his assistants may, whenever he suspects that any offence against this Act has been, or is about to be, committed, or whenever it is necessary for him so to do in the performance of any duty imposed upon him by this Act,

and the person appointed under this Act to receive any port-dues, fees or other charges payable in respect of any vessel, may, whenever it is necessary for him so to do in the performance of any duty imposed upon him by this Act,

either alone or with any other person, board any vessel, or enter any building or place, within the limits of any port subject to this Act.

(2) If the master of the vessel, or any person in possession or occupation of the building or place, without lawful excuse, refuses to allow any such person as is mentioned in sub-section (1) to board or enter such vessel, building or place

in the performance of any duty imposed upon him by this Act, he shall for every such offence be punished with fine which may extend to two hundred rupees.

16. (1) For the purpose of preventing or extinguishing fire in any port subject to this Act, the conservator or port-officer may require the master of any vessel within the port to place at his disposal such number as he requires, not exceeding three-fourths, of the crew then under the orders of such master.

Power to require crews to prevent or extinguish fire.

(2) Any master refusing or neglecting to comply with such requisition shall be punished with fine which may extend to five hundred rupees, and any seaman then under his orders who, after being directed by the master to obey the orders of the conservator or port-officer for the purpose aforesaid, refuses to obey such orders shall be punished with fine which may extend to twenty-five rupees.

17. (1) The Local Government may appoint at any port subject to this Act an officer to be called the health-officer, and may suspend or remove from office any officer so appointed.

Appointment and powers of health-officer.

(2) A health-officer shall, subject to the control of the Local Government, have the following powers within the limits of the port for which he is appointed, namely:—

(a) with respect to any vessel, the powers conferred on a shipping-master by Act I of 1859, section 71;

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

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

(d) power to call before him and question for any such purpose all or any of those persons and to require true answers to any questions which he thinks fit to ask;

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

18. The Government shall not be responsible for any act or default of any conservator, port-officer or harbour-master of any port subject to this Act, or of any deputy or assistant of any of the authorities aforesaid.

Indemnity to Government against act or default of port-official or pilot.

[Act XII,
1875, s. 17.]

[Act XII,
1875, s. 18 A—Act V, 1883, s. 31.]

[Act XII,
1875, s. 19.]

*The Indian Ports Bill.**(Chapter IV.—Rules for the Safety of Shipping and the Conservation of Ports.—Sections 19-26.)*

said, or of any person acting under the control or direction of any such authority, deputy or assistant, or for any act or default of any pilot, or for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers or other things belonging to the Government which may be used by the vessel:

Provided that nothing in this section shall protect the Secretary of State for India in Council from a suit in respect of any act done by or under the express order or sanction of the Government.

CHAPTER IV.

RULES FOR THE SAFETY OF SHIPPING AND THE CONSERVATION OF PORTS.

General Rules.

[Act XII, 1875, s. 23.]

19. (1) No person shall, without lawful excuse, lift, injure, loosen or set adrift any buoy, beacon or mooring fixed or laid down by, or by the authority of, the Local Government in any port subject to this Act.

(2) If any person offends against the provisions of this section, he shall for every such offence be liable, in addition to the payment of the amount of damage done, to fine which may extend to two thousand rupees, or to imprisonment for a term which may extend to two years.

[Act XII, 1875, s. 21.]

20. If any person wilfully and without lawful excuse loosens or removes from her moorings any vessel within any such port without leave or authority from the owner or master of the vessel, he shall, for every such offence, be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to six months.

[Act XII, 1875, s. 22.]

21. (1) No ballast or rubbish, and no other thing likely to form a bank or shoal or to be detrimental to navigation, shall, without lawful excuse, be cast or thrown into any such port, or into or upon any place on shore from which the same is liable to be washed into any such port, either by ordinary or high tides, or by storms or land-floods.

(2) Any person who by himself or another so casts or throws any ballast or rubbish or any such other thing, and the master of any vessel from which the same is so cast or thrown,

shall be punished with fine which may extend to five hundred rupees, and shall pay any reasonable expenses which may be incurred in removing the same.

(3) If, after receiving notice from the conservator of the port to desist from so casting or throwing any ballast or rubbish or such other thing, any master continues so to cast or throw it, he shall also be liable to simple imprisonment for a term which may extend to two months.

(4) Nothing in this section applies to any case in which the ballast or rubbish or such other thing is cast or thrown into any such port with the consent in writing of the conservator, or within any limits within which such act may be authorized by the Local Government.

22. If any person graves, breams or smokes any vessel in any such port, contrary to the directions of the conservator, or at any time or within any limits at or within which such act is prohibited by the Local Government, he and the master of the vessel shall for every such offence be punished with fine which may extend to five hundred rupees each.

23. If any person boils or heats any pitch, tar, resin, dammer, turpentine, oil or other such combustible matter on board any vessel within any such port, or at any place within its limits where such act is prohibited by the Local Government, or contrary to the directions of the conservator, he and the master of the vessel shall for every such offence be punished with fine which may extend to two hundred rupees each.

24. If any person, by an unprotected artificial light, draws off spirits on board any vessel within any port subject to this Act, he and the master of the vessel shall for every such offence be punished with fine which may extend to two hundred rupees each.

25. (1) Every master of a vessel in any port subject to this Act shall, when required so to do by the conservator, permit warps or hawsers to be made fast to the vessel for the purpose of warping any other vessel in the port, and shall not allow any such warp or hawser to be let go until required so to do.

(2) A master offending against sub-section (1) shall be punished for every such offence with fine which may extend to two hundred rupees.

26. (1) A master of a vessel shall not cause or suffer any warp or hawser attached to his vessel to be left out in any port subject to this Act after

*The Indian Ports Bill.**(Chapter IV.—Rules for the Safety of Shipping and the Conservation of Ports.—Sections 27-32. Chapter V.—Port-dues, Fees and other Charges.—Section 33.)*

sunset in such a manner as to endanger the safety of any other vessel navigating in the port.

(2) A master offending against sub-section (1) shall be punished for every such offence with fine which may extend to two hundred rupees.

[Act XII, 1875, s. 35.]

27. If any person, without lawful excuse, discharges any fire-arm in any port subject to this Act, or on or from any pier, landing-place, wharf or quay thereof, except a gun loaded only with gunpowder for the purpose of making a signal of distress, or for such other purpose as may be allowed by the Local Government, he shall for every such offence be punished with fine which may extend to fifty rupees.

[Act XII, 1875, s. 36.]

28. If the master of any vessel in which fire takes place while lying in any such port wilfully omits to take order to extinguish the fire or obstructs the conservator or the port-officer, or any person acting under the authority of the conservator or port-officer, in extinguishing or attempting to extinguish the fire, he shall be punished with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

[Act XII, 1875, s. 40.]

29. (1) No person, without the permission of the conservator, shall in any port subject to this Act creep or sweep for anchors, cables or other stores lost or supposed to be lost therein.

(2) If any person offends against the provisions of sub-section (1), he shall be punished with fine which may extend to one hundred rupees.

[Act XII, 1875, s. 41.]

30. (1) No person without the permission of the conservator shall in any port subject to this Act remove or carry away any rock, stones, shingle, gravel, sand or soil or any artificial protection from any part of the bank or shore of the port;

and no person shall sink or bury in any part of such bank or shore, whether the same is public or private property, any mooring-post, anchor or any other thing, or do any other thing which is likely to injure or to be used so as to injure such bank or shore, except with the permission of the conservator, and with the aid or under the inspection of such person, if any, as the conservator may appoint to take part in, or overlook the performance of, such work.

(2) If any person offends against sub-section (1), he shall for every such offence be punished with fine which may extend to one hundred rupees and shall pay any reasonable expenses which may be incurred in repairing any injury done by him to the bank or shore.

Special Rules.

31. (1) No vessel of the measurement of two hundred tons or upwards shall enter, leave or be moved in any port to which this section has been specially extended without having a pilot, harbour-master or assistant of the port-officer or harbour-master on board;

and no vessel of any measurement less than two hundred tons and exceeding one hundred tons shall enter, leave or be moved in any such port without having a pilot, harbour-master or assistant of the port-officer or harbour-master on board, unless authority in writing so to do has been obtained from the conservator or some officer empowered by him to give such authority.

(2) If any vessel, except in case of urgent necessity, enters, leaves or is moved in the port contrary to the provisions of sub-section (1), the master of the vessel shall for every such offence be punished with fine which may extend to two hundred rupees, unless upon application to the proper officer the master was unable to procure a pilot, harbour-master or assistant of the port-officer or harbour-master to go on board the vessel.

(3) Nothing in sub-sections (1) and (2) shall apply to Native vessels when they are entering, leaving or being moved in the port of Bombay.

(4) If any question arises as to whether any vessel is a Native vessel within the meaning of this section, the decision thereon of such authority as the Governor of Bombay in Council may appoint in this behalf shall be conclusive.

32. (1) Every vessel exceeding the measurement of two hundred tons and lying in any port to which this section has been specially extended shall be provided with a proper force-pump and hose and appurtenances, for the purpose of extinguishing any fire which may occur on board.

(2) The master of such a vessel who, having been required by the conservator to comply with the provisions of sub-section (1), neglects or refuses, without lawful excuse, so to do for the space of seven days after such requisition, shall be punished with fine which may extend to five hundred rupees.

CHAPTER V.

PORT-DUES, FEES AND OTHER CHARGES.

33. (1) In each of the ports mentioned in the first schedule such port-duce, not exceeding the amount specified for the port in the third column of the

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schedule as the Local Government directs, shall be levied on vessels entering the port and described in the second column of the schedule, but not oftener than the time fixed for the port in the fourth column of the schedule.

(2) Whenever the Local Government, with the previous sanction of the Governor General in Council, declares any other port to be subject to this Act, it may, with the like sanction, by the same or any subsequent declaration, further declare,—

(a) in the terms of any of the entries in the second column of the first schedule, the vessels which are to be chargeable with port-dues on entering the port,

(b) the highest rates at which such dues may be levied in respect of vessels chargeable therewith, and

(c) the times at which such vessels are to be so chargeable.

(3) All port-dues now leviable in any port shall continue to be so leviable until it is otherwise declared in exercise of the powers conferred by this section.

(4) An order increasing or imposing port-dues under this section shall not take effect till the expiration of sixty days from the day on which the order was published in the local official Gazette.

[Act XII, 1875, s. 46.]

34. The Local Government may exempt the variation of port-dues by Local Government. payment of port-dues and cancel the exemption, or may vary the rates at which port-dues are to be levied in the port, in such manner as, having regard to the receipts and charges on account of the port, it thinks expedient, by reducing or raising the dues, or any of them :

Provided that the rates shall not in any case exceed the amount authorized to be taken by or under this Act.

[Act XII, 1875, s. 61.]

35. (1) Within any port subject to this Act, fees may be charged for pilotage, hauling, mooring, re-mooring, hooking, measuring and other services rendered to vessels, at such rates as the Local Government may direct :

Provided that, in the case of fees for pilotage, the previous sanction of the Governor General in Council has been obtained.

(2) The fees now chargeable for such services shall continue to be chargeable unless and until they are altered in exercise of the power conferred by sub-section (1).

[Cl. Act XII, 1875, ss. 47 and 48.]

36. (1) The Local Government shall appoint some officer or body of persons at every port at which any dues, fees or other charges are authorized to be taken by or under this Act to receive the same and, subject to the control of the Local Government, to expend the receipts on any of the objects authorized by this Act.

(2) Such officer or body shall keep for the port a distinct account, to be called the port fund

account, showing, in such detail as the Local Government prescribes, the receipts and expenditure of the port, and shall publish annually as soon after the first day of April as may be practicable an abstract, in such form as that Government prescribes, of the account for the past financial year.

(3) If, for any of the purposes of this Act, an advance of money has been or shall be made by the Government on account of any port subject to this Act, simple interest upon that advance, or upon so much of it as remains or shall remain unpaid, at such rate as the Governor General in Council may determine, shall be charged in the port fund account of the port.

(4) All moneys received under this Act at or on account of any port subject to this Act, excluding receipts on account of pilotage but including—

(a) fines,

(b) proceeds of waifs, and

(c) any balance of the proceeds of a sale under section 14 where no right to the balance has been established on a claim made within three years from the date of the sale,

shall be credited in the port fund account of the port.

(5) All expenses incurred for the sake of any such port, excluding expenses on account of pilotage but including—

(a) the pay and allowances of all persons upon the establishment of the port,

(b) the cost of buoys, beacons, lights and all other works maintained chiefly for the benefit of vessels being in or entering or leaving the port or passing through the rivers or channels leading thereto,

(c) pensions, allowances and gratuities of persons who have been employed in the port under this or any other enactment relating to ports and port-dues, or such portion of those pensions, allowances and gratuities as the Local Government may by rule determine,

(d) with the previous sanction of the Local Government, contributions towards the support of public hospitals or dispensaries suitable for the reception or relief of seamen or otherwise towards the provision of sanitary superintendence and medical aid for the shipping in the port and for seamen, whether ashore or afloat, belonging to vessels in the port, and

(e) with the like sanction, contributions towards sailors' homes, institutes, rest-houses and coffee-houses and for other purposes connected with the health, recreation and temporal well-being of sailors,

shall be charged to the port fund account of the port.

(6) Subject to the provisions of any local law as to the disposal of any balance from time to time standing to the credit of a port fund account, any such balance may be temporarily in-

vested in such manner as the Local Government may direct.

37. (1) The Local Government may direct that for the purposes of the last foregoing section any number of ports shall be regarded as constituting a single port, and thereupon all moneys to be credited to the port fund account under sub-section (4) of that section shall form a common port fund account which shall be available for the payment of all expenses incurred for the sake of any of the ports

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vested in such manner as the Local Government may direct.

37. (1) The Local Government may direct that for the purposes of the last foregoing section any number of ports shall be regarded as constituting a single port, and thereupon all moneys to be credited to the port fund account under sub-section (4) of that section shall form a common port fund account which shall be available for the payment of all expenses incurred for the sake of any of the ports

Provided, with respect to the ports of Calcutta, Madras, Bombay, Rangoon, Karachi, Chittagong and Aden, that none of those ports may be grouped with any other port, and that the port fund account of each of those ports shall be kept separate from the port fund account of any other port.

(2) Where ports are grouped by or under this Act, the following consequences ensue, namely :—

(a) the Local Government, in the exercise of its control over expenditure debitable to the common port fund account of the group, may, with the previous sanction of the Governor General in Council, make rules with respect to the expenditure of the fund for the sake of the several ports of the group on the objects authorised by this Act, and shall cause effect to be given to any directions which the Governor General in Council may deem it necessary to issue with respect to such expenditure ; and

(b) the Local Government may exercise its authority under section 34 as regards all the ports in the group collectively or as regards any of them separately.

[Act XII, 1875, s. 48.]

38. The person to whom any dues, fees or other charges authorized to be taken by or under this Act are paid shall grant to the person paying the same a proper voucher in writing under his hand, describing the name of his office, the port or place at which the dues, fees or other charges are paid, and the name, tonnage and other proper description of the vessel in respect of which the payment is made.

[Act XII, 1875, s. 49.]

39. (1) Within twenty-four hours after the arrival within the limits of any port subject to this Act of any vessel liable to the payment of port-dues under this Act the master of the vessel shall report her arrival to the conservator of the port.

(2) A master failing without lawful excuse to make such report within the time aforesaid shall for every such offence be punished with fine which may extend to one hundred rupees.

(3) Nothing in this section applies to tug-boats, ferry-boats or river-steamers plying to and from any of the ports subject to this Act or to ballam-boats plying to and from the port of Chittagong.

40. If any vessel liable to the payment of port-dues is in any such port without proper marks on the stem and stern posts thereof for denoting her draught, the conservator may cause the same to be ascertained by means of the operation of hooking, and the master of the vessel shall be liable to pay the expenses of the operation.

41. In order to ascertain the tonnage of any vessel liable to pay port-dues the following rules shall be observed :—

(1) (a) If the vessel is a British registered vessel, or a vessel registered under Act X of 1841 or Act XI of 1850 or under any other law for the time being in force for the registration of vessels in British India, the conservator may require the owner or master of the vessel or any person having possession of her register to produce the register for inspection.

(b) If the owner or master or such person neglects or refuses to produce the register or otherwise to satisfy the conservator as to what is the true tonnage of the vessel in respect of which the port-dues are payable, he shall be punished with fine which may extend to one hundred rupees, and the conservator may cause the vessel to be measured, and the tonnage thereof to be ascertained, according to the mode of measurement prescribed by the rules for the time being in force for regulating the measurement of British vessels, and in such case the owner or master of the vessel shall also be liable to pay the expenses of the measurement.

(2) If the vessel is not a British registered vessel or a vessel registered under Act X of 1841 or Act XI of 1850, or under any other law for the time being in force for the registration of vessels in British India, and the owner or master thereof fails to satisfy the conservator as to what is her true tonnage according to the mode of measurement prescribed by the rules for the time being in force for regulating the measurement of British vessels, the conservator shall cause the vessel to be measured and the tonnage thereof to be ascertained, according to the mode aforesaid, and in such case the owner or master of the vessel shall be liable to pay the expenses of the measurement.

(3) If the vessel is a vessel of which the tonnage cannot be ascertained according to the mode of measurement mentioned in clauses (1) and (2), the tonnage of the vessel shall be determined by the conservator on such an estimate as may seem to him to be just.

42. If the master of any vessel in respect of which any port-dues, fees or other charges are payable under this Act refuses or neg-

ligates to pay port-dues, the conservator may cause the vessel to be measured, and the tonnage thereof to be ascertained, according to the mode of measurement prescribed by the rules for the time being in force for regulating the measurement of British vessels, and in such case the owner or master of the vessel shall also be liable to pay the expenses of the measurement.

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lects to pay the same on demand, the authority appointed to receive such port-dues, fees or other charges may detain or arrest the vessel, and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount due is paid;

and in case any part of the port-dues, fees or other charges, or of the costs of the distress or arrest or of the keeping of the vessel or other thing detained or arrested, remains unpaid for the space of five days next after any such distress or arrest, may cause the vessel or other thing detained or arrested to be sold, and with the proceeds of such sale may satisfy the port-dues, fees or other charges and the costs, including the costs of sale, remaining unpaid, and shall render the surplus, if any, to the master of the vessel upon demand.

[Act XII, 1875, s. 53.] 43. The officer of Government whose duty it is to grant a port-clearance to any vessel shall not grant such clearance—

(a) until her owner or master, or some other person, has paid or secured to the satisfaction of such officer the amount of all port-dues, fees and other charges, and of all fines, penalties and expenses to which the vessel or her owner or master is liable under this Act;

17 & 18 Vict., c. 104. (b) until all expenses, which by the Merchant Shipping Act, 1854, section 228, are to be borne by her owner, incurred since her arrival in the port from which he seeks clearance, have been paid.

[Act XII, 1875, s. 54.] 44. (1) If the master of any vessel in respect of which any such sum as is mentioned in the last foregoing section is payable causes her to leave any port without having paid the sum, the authority appointed to receive port-dues, fees and other charges at the port under this Act may require in writing the authority appointed to receive port-dues, fees and other charges under this Act at any other port in British India to which she may proceed, or in which she may be, to levy the sum.

(2) The authority to whom the requisition is directed shall proceed to levy such sum in the manner prescribed in section 42, and a certificate purporting to be made by the authority appointed to receive port-dues, fees and other charges at the port where such sum as is mentioned in the last foregoing section became payable, stating the amount payable, shall be sufficient *prima facie* proof of such amount in any proceeding under section 42, and also (in case the amount payable is disputed) in any subsequent proceeding under section 59.

[Act XII, 1875, s. 55.] 45. (1) If the master of a vessel evades the payment of port-dues, fees and other charges, as is mentioned in section 43, he shall be punished with fine which may extend to five times the amount of the sum.

(2) In any proceeding before a Magistrate on a prosecution under sub-section (1), any such certificate as is mentioned in section 44, sub-section (2), stating that the master has evaded such payment, shall be sufficient *prima facie* proof of the evasion, unless the master shows to the satisfaction of the Magistrate that the departure of the vessel without payment of the sum was caused by stress of weather, or that there was lawful or reasonable ground for such departure.

(3) Any Magistrate having jurisdiction under this Act in any port to which the vessel may proceed, or in which she may be found, shall be deemed to have jurisdiction in any proceeding under this section.

46. A vessel entering any port subject to this Act (other than a port in Burma) in ballast and not carrying passengers shall be charged with a port-due at a rate to be determined by the Local Government and not exceeding three-fourths of the rate with which she would otherwise be chargeable.

Port-due on vessels in ballast.

47. When a vessel enters a port subject to this Act, but does not discharge or take in any cargo or passengers therein (with the exception of such unshipment and reshipment as may be necessary for purposes of repair), she shall be charged with a port-due at a rate to be determined by the Local Government and not exceeding half the rate with which she would otherwise be chargeable:

Port-due on vessels not discharging or taking in cargo.

Provided that a vessel entering any of the ports within the territories administered by the Governor of Fort St. George in Council and leaving the same within forty-eight hours, without discharging or taking in any passengers or cargo, shall not be charged with any port-due.

48. No port-due shall be chargeable in respect of any pleasure-yacht, nor shall any such due be chargeable in respect of any vessel which, having left any port, is compelled to re-enter it by stress of weather or in consequence of having sustained any damage.

Port-dues not chargeable on pleasure-yachts or on vessels re-entering from stress of weather.

49. (1) The Local Government may, by notification in the official Gazette, order that there shall be paid in respect of every vessel entering any port subject to this Act, within a reasonable distance of which there is a public hospital or dispensary suitable for the reception or relief of seamen requiring medical aid, such further port-dues not exceeding one anna per ton as the Local Government thinks fit.

Power to impose hospital port-dues.

(2) Such port-dues shall be called hospital port-dues, and the Local Government shall, in making any order under sub-section (1), have regard to any contributions made under section 36, sub-section (5), clause (d).

(3) An order imposing or increasing hospital port-dues shall not take effect till the expiration

of sixty days from the day on which the order was published in the local official Gazette.

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of sixty days from the day on which the order was published in the local official Gazette.

(4) Whenever the Local Government is satisfied that proper provision has been made by the owners or agents of any class of vessels for giving medical aid to the seamen employed on board such class of vessels, or that such provision is unnecessary in the case of any class of vessels, it may, by notification in the official Gazette, exempt such class of vessels from any payment under this section.

(5) The Local Government may, by notification in the official Gazette, cancel any order under sub-section (1) or withdraw any exemption under sub-section (4).

50. (1) Hospital port-dues shall be applied, as the Local Government may direct, to the support of any such hospital or dispensary as aforesaid, or otherwise for providing sanitary superintendence and medical aid for the shipping in the port in which they are levied and for the seamen belonging to the vessels therein, whether such seamen are ashore or afloat.

(2) The Local Government shall publish annually in the official Gazette, as soon after the first day of April as may be, an account, for the past financial year, of the sums received as hospital port-dues at each port where such dues are payable, and of the expenditure charged against those receipts.

(3) Such account shall be published as a supplement to the abstract published under section 36, sub-section (2).

[Act XII, 1875, s. 56.]

[Act XII, 1875, s. 57.]

[Act XII, 1875, s. 58.]

[Act XII, 1875, s. 59.]

[Act XII, 1875, s. 60.]

[Act XII, 1875, s. 61.]

[Act XII, 1875, s. 62.]

[Act XII, 1875, s. 63.]

[Act XII, 1875, s. 64.]

[Act XII, 1875, s. 65.]

[Act XII, 1875, s. 66.]

[Act XII, 1875, s. 67.]

[Act XII, 1875, s. 68.]

[Act XII, 1875, s. 69.]

[Act XII, 1875, s. 70.]

[Act XII, 1875, s. 71.]

[Act XII, 1875, s. 72.]

(2) When, on such requisition from the pilot, the master refuses to hoist the number of a vessel, or to adopt such other means of making her name known as may be practicable and usual, the pilot may, on arrival at the first place of safe anchorage, anchor the vessel and refuse to proceed on his course until the requisition has been complied with.

53. Any pilot in charge of a vessel who disobeys, or abets disobedience to, any of the provisions of this Chapter shall be punished with fine which may extend to five hundred rupees for each instance of such disobedience or abetment, and in addition shall be liable to have his authority to act as a pilot withdrawn.

[Act XII, 1875, s. 65.]

[Act XII, 1875, s. 66.]

[Act XII, 1875, s. 67.]

[Act XII, 1875, s. 68.]

[Act XII, 1875, s. 69.]

[Act XII, 1875, s. 70.]

[Act XII, 1875, s. 71.]

[Act XII, 1875, s. 72.]

[Act XII, 1875, s. 73.]

[Act XII, 1875, s. 74.]

[Act XII, 1875, s. 75.]

[Act XII, 1875, s. 76.]

[Act XII, 1875, s. 77.]

[Act XII, 1875, s. 78.]

[Act XII, 1875, s. 79.]

[Act XII, 1875, s. 80.]

[Act XII, 1875, s. 81.]

[Act XII, 1875, s. 82.]

[Act XII, 1875, s. 83.]

[Act XII, 1875, s. 84.]

[Act XII, 1875, s. 85.]

[Act XII, 1875, s. 86.]

[Act XII, 1875, s. 87.]

[Act XII, 1875, s. 88.]

[Act XII, 1875, s. 89.]

[Act XII, 1875, s. 90.]

[Act XII, 1875, s. 91.]

[Act XII, 1875, s. 92.]

[Act XII, 1875, s. 93.]

[Act XII, 1875, s. 94.]

[Act XII, 1875, s. 95.]

[Act XII, 1875, s. 96.]

[Act XII, 1875, s. 97.]

CHAPTER VII.

PROVISIONS WITH RESPECT TO PENALTIES.

54. If any person disobeys any rule or order which a Local Government has made in pursuance of this Act and for the punishment of disobedience to which express provision has not been made elsewhere in this Act, he shall be punished for every such offence with fine which may extend to one hundred rupees.

[Act XII, 1875, s. 42.]

[Act XII, 1875, s. 43.]

[Act XII, 1875, s. 44.]

[Act XII, 1875, s. 45.]

[Act XII, 1875, s. 46.]

[Act XII, 1875, s. 47.]

[Act XII, 1875, s. 48.]

[Act XII, 1875, s. 49.]

[Act XII, 1875, s. 50.]

[Act XII, 1875, s. 51.]

[Act XII, 1875, s. 52.]

[Act XII, 1875, s. 53.]

[Act XII, 1875, s. 54.]

[Act XII, 1875, s. 55.]

[Act XII, 1875, s. 56.]

[Act XII, 1875, s. 57.]

[Act XII, 1875, s. 58.]

[Act XII, 1875, s. 59.]

[Act XII, 1875, s. 60.]

[Act XII, 1875, s. 61.]

[Act XII, 1875, s. 62.]

[Act XII, 1875, s. 63.]

[Act XII, 1875, s. 64.]

[Act XII, 1875, s. 65.]

[Act XII, 1875, s. 66.]

[Act XII, 1875, s. 67.]

[Act XII, 1875, s. 68.]

[Act XII, 1875, s. 69.]

[Act XII, 1875, s. 70.]

[Act XII, 1875, s. 71.]

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Magistrate, upon application made to him by the authority to whom the sum is payable, may, in addition to or instead of any other means for enforcing payment, recover the sum as if it were a fine.

CHAPTER VIII.

SUPPLEMENTAL PROVISIONS.

62. (1) If any vessel belonging to any of Her Majesty's subjects, or sailing under British colours, hoists, carries or wears, within the limits of any port subject to this Act, any flag, jack, pennant or colours, the use whereof on board such vessel has been prohibited by the Merchant Shipping Act, 1854, or any other statute now or hereafter to be in force, or by any proclamation made or to be made in pursuance of any such statute, or by any of Her Majesty's regulations in force for the time being, the master of the vessel shall, for every such offence, be punished with fine which may extend to fifty rupees.

(2) Such fine shall be in addition to any other penalty recoverable in respect of such an offence.

(3) The conservator of the port, or any officer of Her Majesty's Navy or Indian Marine Service, may enter on board any such vessel, and seize and take away any flag, jack, pennant or colours so unlawfully hoisted, carried or worn on board the same.

63. Any Magistrate, upon an application being made to him by the Consul of any Foreign Power to which the Foreign Deserters Act, 1852, has been applied, or by an order of Her Majesty in Council been, or shall hereafter be, declared to be applicable, or by the representative of such Consul, and upon complaint on oath of the desertion of any seaman, not being a slave, from any vessel of such Foreign Power, may, until a revocation of such Order in Council has been publicly notified, issue his warrant for the apprehension of any such deserter, and, upon due proof of the desertion, may order him to be conveyed on board the vessel to which he belongs, or, at the instance of the Consul, to be detained in custody until the vessel is ready to sail, or, if the vessel has sailed, for a reasonable time not exceeding one month:

Provided that a deposit be first made of such sum as the Magistrate deems necessary for the subsistence of the deserter during the detention, and that the detention of the deserter shall not be continued beyond twelve weeks.

64. (1) The provisions of sections 10 and 21 shall be applicable to all ports heretofore or hereafter declared by the Local Government to be ports for the shipment and landing of goods but not otherwise subject to this Act, and may be enforced by any Magistrate to whose ordinary jurisdiction any such port is subject.

(2) Any penalties imposed by him, and any expenses incurred by his order, under the said

[Act XII,
1875, s. 69.]

58. Whenever any fine, expenses or damages is or are levied under this Act by distress and sale, the costs of the distress and sale may be levied in addition to such fine, expenses or damages, and in the same manner.

[Act XII,
1875, s. 70.]

59. If any dispute arises concerning the amount leviable by any distress or arrest under this Act or the costs payable under the last foregoing section, the person making the distress or using the arrest may detain the goods distrained or arrested, or the proceeds of the sale thereof, until the amount to be levied has been determined by a Magistrate, who, upon application made to him for that purpose, may determine the amount, and award such costs to be paid by either of the parties to the other of them as he thinks reasonable, and payment of such costs, if not paid on demand, shall be enforced as if they were a fine.

[Act XII,
1875, s. 71.]

60. (1) Any person offending against the provisions of this Act in any port subject to this Act shall be punishable by any Magistrate having jurisdiction over any district or place adjoining the port.

(2) Such Magistrate may exercise all the powers of a Magistrate under this Act, in the same manner and to the same extent as if the offence had been committed locally within the limits of his jurisdiction, notwithstanding that the offence may not have been committed locally within such limits, and, in case any such Magistrate exercises the jurisdiction hereby vested in him, the offence shall be deemed, for all purposes, to have been committed locally within the limits of his jurisdiction.

[Act XII,
1875, s. 72.]

61. (1) No conviction, order or judgment of any Magistrate under this Act shall be quashed on merits only, error of form or procedure, but only on the merits, and it shall not be necessary to state, on the face of the conviction, order or judgment, the evidence on which it proceeds.

(2) If no jurisdiction appears on the face of the conviction, order or judgment, but the depositions taken supply that defect, the conviction, order or judgment shall be aided by what so appears in the depositions.

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provisions shall be recoverable respectively in the manner provided in sections 55 and 57.

(3) In any of the said ports for the shipment and landing of goods the consent referred to in section 21, sub-section (4), may be given by the principal officer of customs at such port or by any other officer appointed in that behalf by the Local Government.

[Act XII,
1875, s. 72,
and Act IX,
1879, s. 17.]

65. The port-due leviable under this Act in either of the ports of Maulmain and Bassein shall, to the extent of one anna and six pie per ton, be applicable in the first place to defray the expenses of maintaining the existing port-lights of Burma.

[New.]

66. Any money contributed before the passing of this Act from any port for any purpose connected with the health, recreation and well-being of sailors shall be deemed to have been lawfully contributed from the fund.

[17 & 18
Vict., c. 104,
s. 546.]

67. Any local authority in which any immovable property in or near a port is vested may, with the previous sanction of the Local Government, appropriate, and either retain and apply, or transfer by way of gift or otherwise, the whole or any part of the property as a site for, or for use as, a sailors' home or other institution for the health, recreation and temporal well-being of sailors.

68. (1) All acts, orders or directions by this Act authorized to be done or given by any conservator may, subject to his control, be done or given by any harbour-master or any deputy or assistant of such conservator or harbour-master.

(2) Any person authorized by this Act to do any act may call to his aid such assistance as may be necessary.

69. Any written notice of a direction given under this Act, left for the master of any vessel with any person employed on board thereof, or affixed on a conspicuous place on board of the vessel, shall, for the purposes of this Act, be deemed to have been given to the master thereof.

70. Every declaration, order and rule of a Local Government made in pursuance of this Act shall be published in the official Gazette, and a copy thereof shall be kept in the office of the conservator and at the custom-house, if any, of every port to which the declaration, order or rule relates, and shall there be open at all reasonable times to the inspection of any person without payment of any fee.

*The Indian Ports Bill.**(The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of Payment.)*

THE FIRST SCHEDULE.

PORTS, VESSELS CHARGEABLE, RATE OF PORT-DUES AND FREQUENCY OF PAYMENT.

(See sections 1 and 33.)

PART I.—BENGAL.

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
Calcutta	Sea-going vessels of twenty tons and upwards.	Not exceeding four annas per ton: provided that, in the case of <i>dhonis</i> and country vessels employed in the coasting trade, the rate shall be one-half the rate chargeable in respect of other vessels.	Whenever the vessel enters the port, except in the case of <i>dhonis</i> and country vessels employed in the coasting trade, which shall not be chargeable with port-dues at the same port more than once in sixty days.
	Tug-steamers and river-steamers.	Not exceeding four annas per ton.	Once between the 1st January and the 30th June, and once between the 1st July and the 31st December, in each year.
Chittagong	Sea-going vessels of ten tons and upwards, not being ballam-boats.	Not exceeding four and a half annas per ton.	Whenever the vessel enters the port, except in the case of mail-steamers and coasting vessels, which shall not be chargeable more than once in sixty days.
	Tug-steamers and river-steamers.	Ditto	Once between the 1st January and the 30th June, and once between the 1st July and the 31st December, in each year.
	Ballam-boats	Not exceeding one anna per ton.	Whenever the vessel enters the port.
Cuttack Ports,—namely, False Point and Pooree.	Sea-going vessels of ten tons and upwards.	Not exceeding four annas per ton.	Whenever the vessel enters any one of the ports, except in the case of mail-steamers and coasting vessels, which shall not be chargeable more than once in sixty days.
Balasore Ports,—namely, Balasore, Churaman, Laichunpur, Chanua, Subarnarekha, Dhamra (Chandbally) and Sartha.	Ditto	Ditto	Ditto.

*The Indian Ports Bill.**(The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of Payment.)*

PART II.—MADRAS PRESIDENCY.

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.		
1	2	3	4		
Madras	Sea-going vessels of fifteen tons and upwards.	<i>Foreign Vessels.</i> (a) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements or Ceylon, calling at Madras, not exceeding six annas a ton. (b) In the case of any other foreign ship or steamer calling at Madras, not exceeding six annas a ton.	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again. The due is payable on each entry into the port.		
		<i>Coasting Vessels.</i> (c) In the case of a coasting ship calling at Madras, not exceeding one and a half annas a ton. (d) In the case of a coasting steamer calling at Madras, not exceeding three annas a ton.	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again. The due is payable once in thirty days.		
<i>Eastern Group.</i>					
District.	Port.	<i>Foreign Vessels.</i>			
Ganjam.	1. Gopálpur. 2. Sonnapuram. 3. Baruva. 4. Púndi. 5. Calingapatam.	(a) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at any one port in the Eastern group, not exceeding three annas a ton.	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that port.		
	Vizagapatam.	(b) In the case of any other foreign ship or steamer calling at any one port in the Eastern group, not exceeding three annas a ton.	The due is payable on each entry into the port.		
		Godávari.	(c) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at more than one port in the Eastern group, not exceeding four and a half annas a ton.	The payment of the due at the first port called at in the group will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that or any other port in the group.	
			Krishna.	(d) In the case of any other foreign ship or steamer calling at more than one port in the Eastern group, not exceeding four and a half annas a ton.	The due is payable once for the voyage.
				Nellore .	<i>Coasting Vessels.</i> (e) In the case of a coasting ship calling at any port, not exceeding one and a half annas a ton. (f) In the case of a coasting steamer calling at one or more ports in the Eastern group, not exceeding three annas a ton.

*The Indian Ports Bill.**(The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of Payment.)*PART II.—MADRAS PRESIDENCY—*contd.*

Name of port.		Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4	
<i>Eastern Group—contd.</i>				
District.	Port.			
Nellore — <i>contd.</i>	36. Iskapalle.	Foreign Vessels.	(a) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at any one port in the Eastern group, not exceeding three annas a ton.	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that port.
	37. Ponnepudi.			
	38. Maipadu.			
	39. Kistnapatnam.			
	40. Pamanji.			
Chingleput.	41. Tupili.		(b) In the case of any other foreign ship or steamer calling at any one port in the Eastern group, not exceeding three annas a ton.	The due is payable on each entry into the port.
	42. Dugarazpatnam.			
	43. Pudi.			
	44. Pulicat.			
	45. Ennore.			
South Arcot.	46. Covelong.		(c) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at more than one port in the Eastern group, not exceeding four and a half annas a ton.	The payment of the due at the first port called at in the group will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that or any other port in the group.
	47. Marakanam.			
	48. Cuddalore.			
	49. Porto Novo.			
	50. Tirumalavasa.			
Tanjore.	51. Kodyampalaiyam.		(d) In the case of any other foreign ship or steamer calling at more than one port in the Eastern group, not exceeding four and a half annas a ton.	The due is payable once for the voyage.
	52. Tranquebar.			
	53. Nagore.			
	54. Negapatnam.			
	55. Velankani.			
	56. Toppaturai.			
	57. Point Calimere.			
	58. Mutupet.			
	59. Adirampatnam.			
	60. Gopalapatnam.			
	61. Kattumavadi.			
	62. Krishnajiapatnam.			
	63. Ammapatnam.			
	64. Kottaiapatnam.			
	65. Sundarapandiapatnam.			
	66. Pasipatnam.			
	67. Damodara-patnam.			
	68. Tondi.			
	69. Nambitalai.			
	70. Pudupatnam.			
	71. Karangadu.			
	72. Tiruppalankudi.			
	73. Devipatnam.			
	74. Mudiyanpatnam.			
	75. Attankarai.			
Madura.	76. Emanangundu.			
	77. Pillaimadam.			
	78. Pambam.			
	79. Ramesvaram.			
	80. Mandapam.			
	81. Vedalai.			
	82. Marakkaya-patnam.			
	83. Muttupettai.			
	84. Kilakarai.			
	85. Ervadi.			
Tinnevely.	86. Valinokkam.			
	87. Vaippar.			
	88. Tuticorin.			
	89. Kyalpatnam.			
	90. Kulasekharapatnam.			

*The Indian Ports Bill.**(The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of Payment.)*PART II.—MADRAS PEESIDENCY—*concl.*

Name of port.		Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4	
<i>Western Group.</i>				
District.	Port.			
Malabar.	91. Cochin.	Foreign Vessels.	(a) In the case of a foreign ship or steamer, engaged in trade with the Straits Settlements, calling at any one port in the Western group, not exceeding three annas a ton.	The payment of the due at the port will exempt the ship or steamer for a period of sixty days from liability to pay the due again at that port.
	92. Arrupuram.			
	93. Kukkuyi.			
	94. Madayi.			
	95. Attakuri.			
	96. Chavakad.			
	97. Veliyangod.			
	98. Ponani.			
	99. Kuttayi.			
	100. Parapanna.			
	101. Tanur.			
	102. Parpanangadi.			
	103. Kadalvandi.			
	104. Beypore.			
	105. Molakkadava.			
	106. Calicut.			
	107. Pudiyangadi.			
	108. Elatturu.			
	109. Kappatta.			
	110. Quilandi.			
	111. Kollam.			
	112. Kadalura.			
	113. Triakodi.			
	114. Kottakkal.			
	115. Badagara.			
	116. Muttankal.			
	117. Chompayi.			
	118. Kallayi.			
	119. Talayi.			
	120. Tellicherry.			
	121. Dharmapatnam.			
	122. Kzhara.			
	123. Cannanore.			
	124. Pudiyangadi.			
	125. Palapatnam (Baliapatam).			
South Canara.	126. Ettikulam.	Coasting Vessels.	(e) In the case of a coasting ship calling at any port, not exceeding one and a half annas a ton.	The payment of the due at the port will exempt the ship for a period of sixty days from liability to pay the due again at that port.
	127. Kavvayi.			
	128. Hosdrug.			
	129. Baikal.			
	130. Kasaragod.			
	131. Kumbale.			
	132. Manjesvara.			
	133. Mangalore.			
	134. Mulki.			
	135. Padubidri.			
	136. Ermala.			
	137. Uchhila.			
	138. Kaph.			
	139. Udiyavara.			
	140. Malpe.			
	141. Barkur or Hangarakatta.			
	142. Coondapoor.			
	143. Nyakinakatte (Nayakkankottai).			
	144. Baindur.			
	145. Siruru.			

*Explanations to Part II of the First Schedule.**Explanation 1.—In this Part of the Schedule—**(a) "ship" means a sailing vessel, and "steamer" a steam-vessel:**(b) "coasting ship" or "coasting steamer" means respectively a ship or steamer which at any port discharges cargo exclusively from, or takes in cargo exclusively for, any port in the island of Ceylon or in any part of India between the westernmost part of Sind and the south-easternmost part of Burma; and "coasting steamer" includes a coasting steam-vessel having a general pass under section 164 of the Sea Customs Act, 1878:**(c) "foreign ship" or "foreign steamer" means respectively a ship or steamer not being a coasting ship or coasting steamer.**Explanation 2.—As regards the levy of port dues, each of the following pairs of ports, namely, Cocanada and Coringa, Nagore and Negapatnam, Beypore and Calicut, is to be treated as if it were only one port; every vessel in respect of which such dues have been charged and taken at one of any of the said pairs being exempted from the dues on entering the other of the same pair immediately after leaving the one in which the dues were charged and taken.*

*The Indian Ports Bill.**(The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of Payment.)*

PART III.—BOMBAY PRESIDENCY.

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
Bombay	Sea-going vessels of ten tons and upwards (except fishing-boats).	Not exceeding four annas per ton.	Once in the same month.
	Tug-steamers, ferry-steamers and river-steamers.	Ditto	Once between the 1st January and the 30th June, and once between the 1st July and 31st December, in each year.
<i>Northern Group of Ports—</i>			
1. Gogha . . .			
2. Dholerá . . .			
3. Tankári . . .			
4. Dehegám . . .			
5. Dehej . . .			
6. Broach . . .			
7. Bhagwá . . .			
8. Surat . . .			
9. Matwád . . .			
10. Balsár . . .			
11. Umarsádi . . .	Sea-going vessels of ten tons and upwards (except fishing-boats).	Not exceeding three annas per ton: provided that a coasting steamer whenever it enters any port may be charged at a rate to be determined by the Local Government and not exceeding the highest rate of port-dues leviable at any port of the group to which such port belongs and an addition of one-half of such highest rate.	Once in thirty days at the same port: provided that no coasting vessel or coasting steamer, having paid port-dues at any port, shall be chargeable with port-dues again at the same time or any other port of the same group within thirty days.
12. Kolak . . .			
13. Kálai . . .			
14. Maroli . . .			
15. Umbargám . . .			
16. Gholwad . . .			
17. Dáhánu Creek . . .			
18. Tárápur . . .			
19. Olivará Navápur . . .			
20. Sátpáti Creek . . .			
21. Máhim (Kelva) . . .			
22. Kelva . . .			
23. Dántiora . . .			
24. Arnála . . .			

*The Indian Ports Bill.**(The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of payment.)*

PART III.—BOMBAY PRESIDENCY—contd.

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
<i>Southern Group of Ports—</i>			
1. Bándra . . .	Sea-going vessels of ten tons and upwards (except fishing-boats).	Not exceeding three annas per ton: provided that a coasting steamer whenever it enters any port may be charged at a rate to be determined by the Local Government and not exceeding the highest rate of port-dues leviable at any port of the group to which such port belongs, and an addition of one-half of such highest rate.	Once in thirty days at the same port: provided that no coasting vessel or coasting steamer, having paid port-dues at any port, shall be chargeable with port-dues again at the same or any other port of the same group within thirty days.
2. Vesáva . . .			
3. Manori . . .			
4. Utan . . .			
5. Bassein . . .			
6. Bhiwndi . . .			
7. Kalyan . . .			
8. Tháná . . .			
9. Trombay . . .			
10. Panwel . . .			
11. Karanjá . . .			
12. Rewas . . .			
13. Nagothna . . .			
14. Thal . . .			
15. Alibág . . .			
16. Revdandá . . .			
17. Mándád . . .			
18. Bánkot . . .			
19. Kelshi . . .			
20. Harnai . . .			
21. Anjanwel . . .			
22. Borya . . .			
23. Jaygad . . .			
24. Varavdá . . .			
25. Ratnágiri . . .			
26. Purangad . . .			
27. Jaytápur . . .			
28. Vijaydurg . . .			
29. Devgad . . .			
30. Achra . . .			
31. Málwan . . .			
32. Nivti . . .			
33. Vengurla . . .			
34. Redi . . .			
35. Terekhol . . .			
36. Kárwár, including Baitkhol . . .			
37. Chendiya . . .			
38. Ankolá . . .			
39. Gangávali . . .			
40. Tadri . . .			
41. Kumptá . . .			
42. Honáwar . . .			
43. Murdeshwar . . .			
44. Shiráli . . .			
45. Bhatkal . . .			
Karáchi . . .	Ditto	Not exceeding four annas per ton	Once in three months.
	Tug-steamers and river-steamers.	Ditto	Once between the 1st January and the 30th June, and once between the 1st July and the 31st December, in each year.
Aden . . .	Sea-going vessels of ten tons and upwards.	Not exceeding three annas per ton.	Once a month.

*The Indian Ports Bill.**(The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of Payment.)*

PART IV.—BURMA.

Name of port.	Vessels chargeable.	Rate of port-dues.	Due how often chargeable in respect of same vessel.
1	2	3	4
Rangoon	Sea-going vessels of ten tons and upwards.	Not exceeding six annas per ton.	Once in sixty days.
	Tug-steamers and river-steamers.	Not exceeding four annas per ton.	Once between the 1st January and the 30th June, and once between the 1st July and the 31st December, in each year.
Maulmain	Sea-going vessels of ten tons and upwards, but less than twenty-five tons.	Not exceeding four annas per ton.	Once in sixty days.
	Sea-going vessels of twenty-five tons and upwards.	Not exceeding five annas six pie per ton.	Ditto.
Kyauk-Phyu	Sea-going vessels of ten tons and upwards.	Not exceeding four annas per ton.	Ditto.
Akyab	Ditto	Ditto	Ditto.
Bassein	Sea-going vessels of ten tons and upwards, but less than twenty-five tons.	Ditto	Ditto.
	Sea-going vessels of twenty-five tons and upwards.	Not exceeding five annas six pie per ton.	Ditto.
Tavoy	Sea-going vessels of ten tons and upwards.	Not exceeding four annas per ton.	Ditto.
Mergui	Ditto	Ditto	Ditto.

*The Indian Ports Bill.**(The Second Schedule.—Enactments repealed.)*

THE SECOND SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

Number and year.	Subject or title.	Extent of repeal.
<i>Acts of the Governor General in Council.</i>		
XII of 1875	Indian Ports Act, 1875	So much as has not been repealed.
IX of 1879	Burma Coast-lights Act, 1879	Section 17 and the preamble to that section.
VII of 1880	Indian Merchant Shipping Act, 1880.	The first paragraph of section 72, from and inclusive of the word "Chapter" down to and inclusive of the word "repealed".
IV of 1881	Madras Port-dues Act, 1881	The whole.
XVII of 1882	Indian Ports Act, 1882	The whole.
V of 1883	Indian Merchant Shipping Act, 1883.	Section 31.
XI of 1883	Reduction of Port-dues in the Port of Bombay.	The whole.
IV of 1884	Indian Explosives Act, 1884	Section 3.
V of 1885	Amendment of the Indian Ports Act, 1875.	The whole.
<i>Act of the Governor of Fort St. George in Council.</i>		
II of 1872	Madras Port Rules	The whole.
<i>Act of the Lieutenant-Governor of Bengal in Council.</i>		
III of 1872	Calcutta Port Commissioners	The whole.

S. HARVEY JAMES,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Further Report of the Select Committee on the Bill to consolidate and amend the law relating to Courts in Lower Burma was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 22nd March, 1889:—

WE, the undersigned, Members of the Select Committee to which the Bill to con-

From Sherlock Hare, Esq., dated the 8th March, 1889.
From E. Garnet Man, Esq., dated the 8th March, 1889, and enclosures.
From the Rangoon Trades Association, dated the 8th March, 1889.
From the Officiating Secretary to the Chief Commissioner of Burma, No. 251—32 C., dated the 12th March, 1889, and enclosures.

solidate and amend the law relating to Courts in Lower Burma was recommitted, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our further Report, with the Bill as settled by us annexed hereto.

2. *Section 20.*—We have, at the request of the Chief Commissioner, empowered him to confer appellate jurisdiction on Extra Assistant Commissioners as well as on Assistant Commissioners.

3. *Section 40.*—We have, on the recommendation of the Chief Commissioner, the Recorder and the Rangoon Bar, Chamber of Commerce and Trades Association, provided that appeals from original decrees of the Recorder in suits of smaller value than ten thousand rupees shall lie to the Calcutta High Court. We consider that appeals from original decrees of the Recorder in suits of higher value should continue to lie to Her Majesty in Council.

4. *Sections 50-53.*—We have, on the advice of the Chief Commissioner, so revised these sections as to exclude Akyab and Bassein from their operation.

5. The Bill was published in the Gazette of India of the 23rd ultimo and in the Burma Gazette of the 9th instant.

6. The Bill has not, in our opinion, been so altered as to require republication, and we recommend that it be passed as amended by us.

ANDREW R. SCOBLE.
PHIL. P. HUTCHINS.
J. W. QUINTON.
MAUNG ÔN.

The 21st March, 1889.

No. III.

THE LOWER BURMA COURTS
BILL.

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98. Amendment of sections 7 and 8, Act XV of 1869.
99. Saving of Act XL of 1858 and Bengal Regulations V of 1799 and III of 1818.
100. Certain references to Act VII of 1874 to be read as references to Act XVII of 1884.
101. Conferment of magisterial and other powers upon police-officers in Salween and Arakan Hill Districts.
102. Correction of schedule to Regulation IX of 1874.

THE FIRST SCHEDULE.—ENACTMENTS REPEALED.

THE SECOND SCHEDULE.—ENACTMENTS MODIFIED.

THE THIRD SCHEDULE.—ENACTMENTS TO BE ADDED TO SCHEDULE TO REGULATION IX OF 1874.

The Lower Burma Courts Bill.

(Chapter I.—Preliminary. Sections 1-3. Chapter II.—Law to be administered.—Section 4.)

No. III.

A Bill to consolidate and amend the law relating to the Courts, and declare the effect of certain enactments, in Lower Burma.

WHEREAS it is expedient to consolidate and amend the law relating to the Courts, and to declare the effect of certain enactments, in Lower Burma; and whereas the Secretary of State for India in Council has sanctioned and approved the passing of this Act; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement. I. (1) This Act may be called the Lower Burma Courts Act, 1889.

(2) Save in so far as it applies expressly or by necessary implication to other parts of British India (inclusive of Upper Burma and the Shan States), and save also as provided by the Arakan Hills Civil Justice Regulation, 1874, the Arakan Hill District Laws Regulation, 1874, and the Arakan Hills Civil Justice Amendment Regulation, 1876, or by or under any other enactment heretofore or hereafter passed, this Act extends to the territories for the time being comprised in Lower Burma; and

(3) It shall come into force at once.

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

(2) Any enactment or document referring to any of the enactments hereby repealed, or to any enactment repealed by any of those enactments, or to any enactment repealed by the Burma Courts Act, 1872, shall, so far as may be, be construed as referring to this Act or to the corresponding portion thereof; and

(3) All rules, orders and appointments made, limits fixed, directions given, powers and jurisdiction conferred, lists, tables and notifications published, and seals, forms, registers, books, accounts, statements and returns prescribed, under any of the said enactments shall, so far as may be, be deemed to have been respectively made, fixed, given, conferred, published and prescribed under this Act.

(4) No trial had decree made, order passed or proceeding taken by any Court before the day on which this Act comes into force shall, if not invalid before that day, become invalid by reason of any repeal effected by this Act.

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

(1) "Lower Burma" means the territories [New.] for the time being comprised in Lower Burma under section 2. sub-sections (1) and (2), of the Upper Burma Laws Act, 1886: XX of 1886.

(2) "Shan States" means the territories for [Act XV, 1888, s. 2.] the time being notified under sub-section (3) of section 8 of the Upper Burma Laws Act, 1886, as Shan States for the purposes of that section and sections 6 and 7 of that Act:

(3) "Upper Burma" means the whole of [New.] Burma except Lower Burma and the Shan States:

(4) "High Court" means the High Court of [Act XVII, 1875, s. 3.] Judicature at Fort William in Bengal:

(5) "Judicial Commissioner" means the Judicial Commissioner of Lower Burma: [Act XVII, 1875, s. 3.]

(6) "Recorder" means the Recorder of [New.] Rangoon: and

(7) "Special Court" means the Special Court [New.] constituted under this Act.

CHAPTER II.

LAW TO BE ADMINISTERED.

4. (1) Where, in any suit or other proceeding, it is necessary for any [Act XVII, 1875, ss. 4 and 5.] Court under this Act to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution,—

the Buddhist law in cases where the parties are Buddhists,

the Muhammadan law in cases where the parties are Muhammadans, and

the Hindu law in cases where the parties are Hindus,

shall form the rule of decision, except in so far as such law has, by legislative enactment, been altered or abolished, or is opposed to any custom having the force of law in Lower Burma.

(2) Subject to the provisions of sub-section (1) and of any other enactment for the time being in force, all questions arising in suits before the Recorder shall be dealt with and determined according to the law for the time being administered by the High Court in the exercise of its ordinary original civil jurisdiction.

(3) In cases not provided for by sub-section (1) or sub-section (2), or by any such other enactment as aforesaid, the Court shall act according to justice, equity and good conscience.

[Act XVII, 1875, ss. 2 and 95, and Act X, 1884, s. 6.]

*The Lower Burma Courts Bill.**(Chapter III.—The Court of the Judicial Commissioner and the Courts subordinate thereto.—Sections 5-10.)*

CHAPTER III.

THE COURT OF THE JUDICIAL COMMISSIONER
AND THE COURTS SUBORDINATE THERETO.*Grades, Location and Control of Civil Courts.*

[Act XVII, 1875, s. 6, and Act X, 1884, s. 3.] 5. Besides the Courts of Small Causes, the Grades of Civil Court of the Recorder and the Special Court, there shall be six grades of Civil Courts in Lower Burma, namely:—

- the Court of the Myo-òk;
- the Courts of the Extra Assistant Commissioner and the Assistant Commissioner;
- the Court of the Deputy Commissioner;
- the Court of the Judge of the Town of Maulmain;
- the Court of the Commissioner; and
- the Court of the Judicial Commissioner.

[Act XVII, 1875, s. 7.] 6. All existing Courts of the grades specified in Confirmation of ex- the last foregoing section isting Civil Courts. shall be deemed to have been established under this Act.

[Act XVII, 1875, ss. 8 and 9, and Act X, 1884, ss. 4 and 5.] 7. The Local Government may, of its own Number and local authority, vary the number jurisdiction of Civil of Courts of the grade specified in clause (a) or (b) of section 5, and the local limits of the jurisdiction of any such Court, and, with the previous sanction of the Governor General in Council, the number of Courts of the grade specified in clause (c) or (e) and the local limits of the jurisdiction of any such Court or of the Court of the Judge of the Town of Maulmain.

[Act XVII, 1875, s. 10.] 8. Every Court of a grade Place of sitting and seal of Civil Courts. specified in section 5 shall—

- be held at such place or places as the Local Government directs or, in the absence of any such direction, at any place within the local limits of the Court's jurisdiction which the presiding officer thinks fit; and
- use a seal of such form and dimensions as the Local Government prescribes.

[Act XVII, 1875, s. 11, and Act XVI, 1885, s. 14.] 9. (1) The general superintendence and control over all Courts of the Superintendence and control over Civil grades specified in clauses Courts. (a), (b), (c), (d) and (e) of section 5 shall be vested in, and all such Courts shall be subordinate to, the Court of the Judicial Commissioner.

(a) Subject to such general superintendence and control of the Court of the Judicial Commissioner, the control over all the Courts in a division which are of the grades specified in clauses (a), (b) and (c) of section 5 shall be

vested in, and all such Courts shall be subordinate to, the Court of the Commissioner.

(3) Subject as aforesaid and to the control of the Court of the Commissioner, the control over all the Courts in a district which are of the grades specified in clauses (a) and (b) of section 5 shall be vested in, and all such Courts shall be subordinate to, the Court of the Deputy Commissioner.

Ordinary Civil Jurisdiction.

10. Subject to the provisions of this Act and [Act XVII, 1875, s. 12 and Act X, 1884, s. 3.] Jurisdiction of the of the Code of Civil Pro- and Act X, several grades of Civil cedure, the Provincial Small Cause Courts Act, XIV of 1882, 1887, and any other enactment for the time being in force, the Courts mentioned in the first column of the following table shall have such civil jurisdiction, respectively, as is specified in the second column thereof:—

Grade and name of Court.	Extent of jurisdiction.
1	2
(a) The Court of the Myo-òk.	Powers of a Civil Court for the adjudication of any suit of value not exceeding five hundred rupees.
(b) The Court of the Extra Assistant Commissioner and the Court of the Assistant Commissioner.	Powers of a Civil Court for the adjudication of any suit of value not exceeding three thousand rupees.
(c) The Court of the Deputy Commissioner.	Powers of a Civil Court for the adjudication of any suit without restriction as regards the value. Powers of a District Judge. Power to hear appeals from original decrees and orders of Courts of Myo-òks, Extra Assistant Commissioners and Assistant Commissioners.
(d) The Court of the Judge of the Town of Maulmain.	Powers of a Civil Court for the adjudication of any suit without restriction as regards the value. Powers of a District Judge. Powers of a Provincial Court of Small Causes for the adjudication of any suit cognizable by such a Court and of value not exceeding one thousand rupees.

*The Lower Burma Courts Bill.**(Chapter III.—The Court of the Judicial Commissioner and the Courts subordinate thereto.—Sections 11-16.)*

Grade and name of Court.	Extent of jurisdiction.
1	2
(e) The Court of the Commissioner.	As regards the Courts subordinate to the Court of the Commissioner, the same powers of withdrawal, trial and transfer as are conferred by section 25 of the Code of Civil Procedure on a District Court. Power to hear appeals from original decrees and orders of Courts of Deputy Commissioners.
(f) The Court of the Judicial Commissioner.	Powers of a High Court in relation to all Civil Courts in Lower Burma, except the Special Court, the Court of the Recorder and the Court of Small Causes of Rangoon. Power to hear appeals from original decrees and orders of Courts of Commissioners.

[Act XVI, 1885, s. 5.]

[Act XVII, 1875, s. 13, and Act X, 1884, s. 3.]

[Act XVII, 1875, s. 14.]

IX of 1887.

[Act XVII, 1875, s. 16.]

Special Civil Jurisdiction.

11. The Local Government may, by notification in the Burma Gazette, Enhance of original jurisdiction of invest any Extra Assistant Commissioner or Assistant Commissioner with powers for the adjudication of suits of value not exceeding five thousand rupees.

12. The Local Government may, by a like notification, confer, within certain Courts with such local limits as it thinks fit, upon any Myo-òk, Extra Assistant Commissioner or Assistant Commissioner the jurisdiction of a Judge of a Court of Small Causes under the Provincial Small Cause Courts Act, 1887, for the trial of suits cognizable by such Courts, up to such value not exceeding one hundred rupees in the case of a Myo-òk, or five hundred rupees in the case of an Extra Assistant Commissioner or Assistant Commissioner, as it thinks fit, and may withdraw any jurisdiction so conferred.

13. The Local Government may, by a like notification, empower the presiding officer of any Court of a grade specified in clause (a), (b), (c) or (e) of section 5 to exercise within the local limits of the jurisdiction of any other Court of the same grade all or any of the powers which might be exercised by the presiding officer of the other Court.

14. (1) The Local Government may, by a like notification, confer upon [Act XVII, 1875, s. 17.] the officer in chief executive charge of any district the powers which might be exercised within the district by the Court of a Deputy Commissioner.

(2) Where such powers are so conferred upon [New. Cf. Act XVIII, 1884, s. 42.] such an officer, the officer shall, for purposes connected with the exercise thereof, be deemed to be a Deputy Commissioner and his Court the Court of a Deputy Commissioner.

Civil Procedure.

15. (1) The presiding officer of a Court of a grade specified in clause (a), (b), (c), (d) or (e) of section 5 shall not, without the consent of the parties or authority from the Court to which he is immediately subordinate, adjudicate upon any suit or other proceeding to which he is a party or in which he is personally interested, or upon any appeal against a decree or order passed by himself.

(2) When any such proceeding or appeal comes before the presiding officer of any such Court, he shall, unless the parties consent to his proceeding therewith himself, transmit the record to the Court to which he is immediately subordinate, with a report of the circumstances attending the reference.

(3) The Court to which the record is so transmitted shall thereupon either authorise such presiding officer to proceed with the case or itself dispose thereof under section 25 of the Code of Civil Procedure.

XIV of 1882.

(4) In either of the following cases, namely:—

(a) if an appeal is preferred to the Judicial Commissioner from a decree or order which was passed by him in any other capacity or in which he is personally interested,

(b) if an application is made to him for the revision of such a decree or order,

he shall, unless the parties consent to his proceeding with the case himself, transmit the record to the Local Government with a report of the circumstances attending the reference, and thereupon that Government may transfer the case for trial to the Court of the Recorder.

16. Notwithstanding anything in the Code of Civil Procedure, a Deputy Commissioner may, by written order, direct that any business cognizable under this Act by his Court and the Courts under his control shall be distributed among those Courts in such manner as he thinks fit: [Act XVII, 1875, s. 20, and Act XVIII, 1884, s. 35.]

*The Lower Burma Courts Bill.**(Chapter III.—The Court of the Judicial Commissioner and the Courts subordinate thereto.—Sections 17-24.)*

Provided that no direction issued under this section shall empower any Court to exercise any powers or deal with any business beyond the limits of its proper jurisdiction.

[Act XVII, 1875, s. 20.] **17.** Notwithstanding anything in the same Language of plaints Code, plaints may be written and evidence may be taken down in such language or languages as the Local Government directs in this behalf.

Civil Appeals and References.

[Act XVII, 1875, s. 22, and Act XVI, 1885, s. 18.] **18.** (1) The period of limitation for an appeal to the Court of the Commissioner shall be forty-two days.

(2) In the computation of that period and in all other respects the limitation of the appeal shall be governed by the provisions of the Indian Limitation Act, 1877.

[Act XVII, 1875, s. 23, and Act X, 1884, s. 7.] **19.** (1) The Local Government may, by order notified in the Burma Gazette, direct that the civil appellate jurisdiction of the Court of any Commissioner or Deputy Commissioner shall be transferred to the Court of the Judicial Commissioner or Commissioner, respectively, either wholly or in respect of a particular suit or class of suits, and either for a specified time or until further orders.

(2) The Local Government may, by order notified as aforesaid, cancel any order made under sub-section (1), but not so as to affect any proceedings pending at the date of the cancelling order.

[Act X, 1884, s. 8, and Act XVIII, 1884, s. 42.] **20.** (1) The Local Government may, by notification in the Burma Gazette, confer upon any Assistant Commissioner power to hear appeals from original decrees and orders of any Myo-δk, Extra Assistant Commissioner or Assistant Commissioner, and upon any Extra Assistant Commissioner power to hear appeals from original decrees and orders of any Myo-δk or Extra Assistant Commissioner, and may withdraw such power.

(2) An Assistant Commissioner or Extra Assistant Commissioner upon whom power to hear appeals has been conferred under sub-section (1) shall, for purposes connected with the exercise thereof, be deemed to be a Deputy Commissioner.

[Act XVII, 1875, ss. 25 & 26.] **21.** (1) When in the trial of any civil appeal an Appellate Court subordinate to the Court of the Judicial Commissioner entertains a doubt in regard to a question of law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence affecting the merits

of the case, such Court may draw up a statement of the question in regard to which it entertains the doubt, and refer it, with the Court's own opinion on the question, for the decision of the Judicial Commissioner.

(2) The Judicial Commissioner shall, after considering the question so referred, send a ruling thereon to the Court by which the reference was made, and that Court shall, on the receipt of the ruling, proceed to dispose of the case in conformity therewith.

(3) The costs, if any, consequent on any such reference to the Judicial Commissioner shall be costs in the appeal out of which the reference arose.

22. If in any case the appellate decree or order of the Court of a Deputy Commissioner or Commissioner reverses or modifies an original decree or order, the Judicial Commissioner may receive a second appeal, if, on a perusal of the grounds of appeal and of copies of the judgments of the subordinate Courts, a further consideration of the case appears to him to be requisite for the ends of justice.

[Act XVII, 1875, s. 28.] **23.** If the appellate decree or order of the Court of a Deputy Commissioner or Commissioner confirms an original decree or order on a matter of fact, the appellate decree or order shall be final.

[Act XVII, 1875, s. 29.] **24.** (1) If in any case the appellate decree or order of the Court of a Deputy Commissioner or Commissioner confirms an original decree or order on a question of law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence affecting the merits of the case, any party considering himself aggrieved by such appellate decree or order may apply to the Court of the Deputy Commissioner or Commissioner, as the case may be, either to draw up a statement of the question and submit the statement to the Judicial Commissioner, or to allow him to appeal on the question to the Judicial Commissioner.

(2) Such application shall not be admitted unless it is made within the period prescribed for an appeal to the Court of the Deputy Commissioner or Commissioner, as the case may be.

(3) If the Court, on an application for the drawing up of a statement, considers that there is a question of law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence affecting the merits of the case, it shall draw up a statement of the question and of such facts only of the case as are necessary to explain it, and shall submit

*The Lower Burma Courts Bill.**Chapter III.—The Court of the Judicial Commissioner and the Courts subordinate thereto.—Sections 25-29.)*

the statement, together with the record of the case, to the Judicial Commissioner.

(4) If the Court refuses to draw up such statement, it shall record in writing its reasons for so refusing, and a certified copy of the reasons shall, on application to the Court, be furnished to any party to the case.

(5) In the case of an application to be allowed to appeal to the Judicial Commissioner, the period during which the application was pending in the Court of the Deputy Commissioner or Commissioner shall, if the appeal is allowed, be excluded in the computation of the period of limitation for an appeal to the Judicial Commissioner.

[Act XVII, 1875, s. 30.] **25.** (1) When a case has been referred with a statement under the last foregoing section, the Judicial Commissioner shall, on payment in respect of the statement of the fee which would be payable in the case in respect of a memorandum of appeal to his Court, proceed to try the case as if it were an appeal instituted in his Court, and shall send a copy of his judgment and of his decree or order in the case to the Court by which the statement was submitted.

(2) If the statement appears to the Judicial Commissioner to be unduly limited, he may amend it as he thinks fit.

[Act XVII, 1875, s. 34.] (3) Notwithstanding anything in sub-section (1), it shall not be necessary for any party to the case referred to be present either personally or otherwise at the trial thereof by the Judicial Commissioner.

[Act XVII, 1875, s. 34.] **26.** (1) In any case in which the Court of a Deputy Commissioner or Commissioner has, in the opinion of the Judicial Commissioner, wrongly refused to submit a statement or allow an appeal under section 24, the Judicial Commissioner may call for the record of the case, and may, on receipt of the record and on payment of the fee which would be payable in the case in respect of a memorandum of appeal to his Court, proceed to try the case as if it were an appeal instituted in his Court.

(2) Where the Judicial Commissioner so tries the case, he shall send a copy of his judgment and of his decree or order therein to the Court of the Deputy Commissioner or Commissioner, as the case may be.

[Act XVII, 1875, s. 31.] **27.** (1) If any question of law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence arises in a case before the Court of the Judicial

Commissioner under this Act, and the Judicial Commissioner, by reason of such question arising, entertains any doubt as to the decision to be passed in the case, he may, if he thinks fit, draw up a statement of the question and submit it to the High Court with the record of the case and his own opinion on the question.

(2) On receiving the statement the High Court, by a bench constituted by two or more Judges, shall decide the question referred therein and transmit to the Judicial Commissioner a copy of its judgment under the signature of its Registrar, and the Judicial Commissioner shall, on receipt of the copy, proceed to dispose of the case in conformity with the decision of the High Court.

(3) It shall not be necessary for any party to the case to be present in the High Court, either personally or otherwise, when the question referred comes before that Court for decision.

(4) Where the Judicial Commissioner makes a reference to the High Court under this section, he may make such a contingent decree or order, and such a decree or order shall be of such effect, as is mentioned in section 618 of the Code of Civil Procedure.

[Act XVII, 1875, s. 32.] **XIV of 1882.** (5) The costs, if any, consequent on a reference to the High Court under this section shall be costs in the case.

Criminal Jurisdiction.

[Act XVII, 1875, s. 35, and Act X, 1884, s. 4.] **28.** Except in reference to proceedings against European British subjects or persons jointly charged with European British subjects, the Court of the Judicial Commissioner shall be the highest Court of criminal appeal or revision for the whole of Lower Burma beyond the limits of the ordinary civil jurisdiction of the Recorder.

[Act XVII, 1875, s. 35.] **29.** (1) Subject to the provisions of sections 7 and 9 of the Code of Criminal Procedure, 1882, with respect to the alteration of the limits of sessions divisions and the appointment of Additional Sessions Judges to exercise jurisdiction in Courts of Session, each division for the time being administered by a Commissioner shall be a sessions division, the Court of the Commissioner shall be the Court of Session for the sessions division, and the Commissioner shall be the Judge of the Court of Session.

(2) For the purposes of sub-section (1) the areas for the time being comprised within the local limits of the ordinary civil jurisdiction of the Recorder and the civil jurisdiction of the Court of the Judge of the Town of Maulmain shall

The Lower Burma Courts Bill.

(Chapter III.—The Court of the Judicial Commissioner and the Courts subordinate thereto.—Sections 30-36. Chapter IV.—The Court of the Recorder.—Section 37.)

be deemed not to be included in the divisions in which they are respectively situate.

[Act XVII, 1875, s. 35.]

30. The area for the time being comprised within the local limits of the civil jurisdiction of the Court of the Judge of the Town of Maulmain shall be a sessions division, that Court shall be the Court of Session for the sessions division, and the Judge of that Court shall be the Judge of the Court of Session.

[Act XVII, 1875, s. 36.]

31. (1) The Local Government may, by order notified in the Burma Gazette, direct that the criminal jurisdiction of any Commissioner shall be transferred to the Judicial Commissioner either wholly or in respect of a particular case or class of cases, and either for a specified time or until further orders.

[Cf. Act XIV, 1885, s. 2.]

(2) The Local Government may, by order notified as aforesaid, cancel any order made under sub-section (1), but not so as to affect any proceeding pending at the date of the cancelling order.

Provisions with respect to transferred Jurisdiction.

[Act XVII, 1875, s. 37.]

32. When any civil or criminal appellate jurisdiction has been transferred under section 19 of 1870 and XV of 1877 to certain transferred proceedings.

VII of 1870.

(a) fees shall be payable under the Court-fees Act, 1870, and any rules thereunder, at the rates at which they would be payable in the Court from which the jurisdiction was transferred; and

(b) all appeals and applications presented to a Court in the exercise of the jurisdiction so transferred shall, for the purposes of the law relating to limitation, be deemed to have been presented to the Court in the exercise of its ordinary jurisdiction.

Appointment and Removal of Officers.

[Act X, 1884, s. 9.]

33. (1) The Judicial Commissioner shall be appointed by the Governor General in Council.

(2) The presiding officers of Courts of the grades specified in clauses (a), (b), (c), (d) and (e) of section 5 may be appointed by the Local Government.

[Act X, 1884, s. 10.]

34. (1) The presiding officer of a Court of a grade specified in any clause of section 5 may be suspended or removed by the Governor General in Council.

(2) The presiding officer of any such Court, except the Court of the Judicial Commissioner, may be suspended or removed by the Local Government.

35. (1) The ministerial officers of Courts of the grades specified in clauses (a) and (b) of section 5 shall be appointed by the Deputy Commissioner to whose Court those Courts are subordinate.

[Act XVII, 1875, s. 40.]

(2) The ministerial officers of Courts of other grades specified in section 5 shall be appointed by the presiding officers of those Courts.

(3) The foregoing sub-sections are subject to the proviso that the appointment of a ministerial officer to an office in a Court of a grade specified in clause (a), (b), (c), (d) or (e) of section 5 shall, if the monthly salary attached to the office exceeds fifty rupees, be subject to the sanction of the Judicial Commissioner.

36. (1) A Court of a grade specified in clause (a) or (b) of section 5 may fine in an amount not exceeding one month's salary any of its ministerial officers who is guilty of misconduct or neglect in the performance of the duties of his office.

[Act XVII, 1875, s. 41.]

(2) The Deputy Commissioner may on appeal or otherwise remit or reduce any fine imposed under sub-section (1), and may himself dismiss or suspend, or fine up to the amount of one month's salary, any ministerial officer of his own Court or of any Court subordinate to his Court.

(3) A Court of a grade specified in clause (d), (e) or (f) of section 5 may dismiss or suspend any of its ministerial officers or fine any such officer in an amount not exceeding one month's salary.

CHAPTER IV.

THE COURT OF THE RECORDER.

The Recorder.

37. (1) There shall continue to be a Court to be called the Court of the Recorder of Rangoon.

(2) The Recorder shall be appointed by the Governor General in Council, and shall be a barrister of not less than five years' standing, and shall hold his office during the pleasure of the Governor General in Council.

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(Chapter IV.—The Court of the Recorder.—Sections 38-42.)

(3) He shall ordinarily hold his Court at Rangoon, but the Local Government may direct him on any particular occasion to hold his Court at any other place in Lower Burma for the trial of any civil case transferred to him, or at any other place in Lower Burma or Upper Burma for the trial of any criminal case in which a European British subject is concerned.

X of 1882.

(4) A direction given by the Local Government under sub-section (3) with respect to any criminal case shall take effect notwithstanding anything in section 336 of the Code of Criminal Procedure, 1882.

(5) The Recorder shall use a seal of such form and dimensions as the Local Government prescribes.

Civil Jurisdiction.

[Act XVII, 1875, s. 47.]

38. The Local Government may, with the Variation of local limits of ordinary civil jurisdiction of Recorder, vary the local limits of the ordinary civil jurisdiction of the Recorder.

[Act XVII, 1875, ss. 48 and 51.]

IX of 1887.

39. (1) Subject to the provisions of this Act and of the Provincial Small Cause Courts Act, 1887, and any other enactment for the time being in force, the Recorder shall have the powers of a District Judge within the local limits of his ordinary civil jurisdiction, and may adjudicate upon any suit, without restriction as regards the value, if, in the case of immoveable property, the subject-matter of the suit or any part thereof is situate, or if, in any other case, the cause of action or a material part thereof has arisen, or the defendant at the time of the commencement of the suit dwells, or either personally or by his servant or agent carries on business or works for gain, within those limits.

(2) A corporation or company having an office within those limits shall, when the cause of action, or a material part thereof, has arisen in Burma, or in any foreign territory adjacent thereto, be deemed, for the purpose of this section, to carry on business at such office.

[Act XVII, 1875, s. 49.]

40. Save as otherwise provided by any enactment for the time being in force, an appeal from an original decree or order passed by the Recorder in any suit or other civil proceeding of which the amount or value of the subject-matter is less than ten thousand rupees.

41. (1) The Recorder may, if he thinks fit, grant a new trial in any suit or other civil proceeding disposed of by him, if, in a suit relating to immoveable property, the new trial is applied for within ninety days from the date of the decree, and if, in any other case, it is applied for within thirty days from the date of the decree or order.

Provided that nothing in this section shall interfere with the power of the Recorder to allow a review of judgment under the Code of Civil Procedure, if such review is applied for within the period allowed for making the application:

Provided also that the Recorder may, if he thinks fit, before granting a new trial or a review, require the party applying therefor to give sufficient security for due compliance with the terms of the decree or order to which the application relates, or for payment of the costs of the new trial or review, or for both purposes.

(2) Where a person has become liable as surety under the second proviso to sub-section (1), the security may be realised in manner provided by section 253 of the Code of Civil Procedure.

42. (1) If in any case before the Recorder any question of law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence affecting the merits of the case arises on which the Recorder entertains any doubt, he may, if he thinks fit, draw up a statement of the question and submit it to the High Court with the record of the case and his own opinion on the question.

(2) On receiving the statement the High Court, by a bench constituted by two or more Judges, shall decide the question referred therein and transmit to the Recorder a copy of its judgment under the signature of its Registrar, and the Recorder shall, on receipt of the copy, proceed to dispose of the case in conformity with the decision of the High Court.

(3) It shall not be necessary for any party to the case to be present in the High Court, either personally or otherwise, when the question referred comes before that Court for decision.

(4) Where the Recorder makes a reference to the High Court under this section, he may make such a contingent decree or order, and such a decree or order shall be of such effect, as is mentioned in section 618 of the Code of Civil Procedure.

(5) The costs, if any, consequent on a reference to the High Court under this section shall be costs in the case.

*The Lower Burma Courts Bill.**(Chapter IV.—The Court of the Recorder.—Sections 43-49.)*[Act XVII,
1875, s. 59.]

43. (1) When any suit or other civil proceeding comes before the Recorder to which he is a party or in which he is personally interested, he shall, unless the parties consent to his proceeding therewith himself, transmit the record to the Local Government, with a report of the circumstances attending the reference, and thereupon that Government may transfer the case for trial to the Court of the Judicial Commissioner.

[Cf. Act XIV,
1885, s. 4.]

(2) In the disposal of a case so transferred the Judicial Commissioner shall administer the same law, follow the same procedure, exercise the same powers and use the same seal as would be administered, followed, exercised and used by the Recorder in a like case, and the decree or order made in the case by the Judicial Commissioner shall, for the purposes of the law relating to appeal, be deemed to be made by the Recorder.

[Act XVII,
1875, s. 52.]

44. The Court of the Recorder as High Court for certain purposes.

VII of 1887.

(a) for the purposes of the Suits Valuation Act, 1887, and
(b) in respect of the Court of Small Causes of Rangoon,
be deemed to be a High Court.

Criminal Jurisdiction.[Act XVII,
1875, s. 60.]

45. The area for the time being comprised within the local limits of Session for Rangoon. the ordinary civil jurisdiction of the Recorder shall be a sessions division, the Court of the Recorder shall be the Court of Session for the sessions division, and the Recorder shall be the Judge of the Court of Session.

[Act XVII,
1875, ss. 62,
63 and 64:
Act XI, 1880,
s. 6: and
Act X, 1882,
s. 4 (i).]

46. (1) The Recorder shall be the High Court for the whole of Burma (inclusive of Upper Burma and the Shan States) in reference to proceedings against European British subjects, persons jointly charged with European British subjects.

(2) When the Recorder, as the High Court for Burma under sub-section (1), in reference to such proceedings, passes sentence of death, the proceedings shall be submitted to the High Court of Judicature at Fort William in Bengal, and the sentence shall not be executed unless it is confirmed by that High Court.

(3) When proceedings are submitted to the High Court under sub-section (2), that Court shall, as a High Court, deal therewith, under the provisions, *mutatis mutandis*, of Chapter

XXVII of the Code of Criminal Procedure, 1882, as if they had been submitted by a Court of Session and the Recorder were the Sessions Judge. X of 1882.

(4) If in any case before the Recorder as a High Court under this section any such question arises as is referred to in section 42, and the Government Advocate certifies that in his opinion there is an error in the decision of the question, the Recorder shall make a reference to the High Court in the manner required by that section, and shall, on receipt of the copy of the judgment of the High Court, review the case or such part of it as may be necessary, and may thereupon reduce or remit any sentence which he has passed. [Letters Patent of High Court of Judicature at Fort William, s. 26; and Act X, 1882, s. 434.]

47. So far as the last foregoing section relates to the Shan States, it shall come into force therein at once notwithstanding anything in section 8, sub-section (2), of the Upper Burma Laws Act, 1886, or in section 3, sub-section (1), of the Shan States Act, 1888. XX of 1886. XY of 1888.

48. The Court of the Recorder as High Court for certain purposes. Recorder shall— [Act XVII, 1875, ss. 60 and 61.]

(a) for the purposes of section 527 of the Code of Criminal Procedure, 1882, and X of 1882.
(b) in respect of the Magistrates within the local limits of its ordinary civil jurisdiction and the proceedings of such Magistrates,

be deemed to be a High Court.

Admiralty Jurisdiction.

49. (1) Throughout Lower Burma, including the territorial waters thereof, the Recorder shall have and exercise all such civil jurisdiction and maritime jurisdiction of a civil nature as may now be exercised by the High Court as a Court of Admiralty or of Vice-admiralty, and also such jurisdiction for the trial and adjudication of prize-causes and other maritime questions as may now be exercised by the said High Court. [Act XVII, 1875, s. 65.]

(2) The procedure in cases brought before the Recorder in the exercise of such jurisdiction shall be regulated, as far as may be, by the Code of Civil Procedure, and, in cases to which the rules contained in that Code are not applicable, the procedure shall be in accordance with the rules for the time being applicable to like cases in the High Court. XIV of 1882.

(3) An appeal shall lie to the High Court from any sentence or decree of the Recorder under this section, subject to the laws, rules and orders for the time being in force regard-

ing appeals to the High Court under the Code of Civil Procedure.

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ing appeals to the High Court under the Code of Civil Procedure.

Insolvency Jurisdiction.[Act XVII,
1875, s. 66.]

50. (1) Within the local limits of the ordinary civil jurisdiction of the Recorder, and of the jurisdiction of the Court of the Judge of the Town of Maulmain, the Recorder shall have and exercise such powers and authorities with respect to insolvent debtors and their creditors as are for the time being exercisable with respect to insolvent debtors and their creditors by the High Court or a Judge thereof in Calcutta.

(2) The procedure in cases brought before the Recorder in the exercise of such jurisdiction shall be, as far as may be practicable, in accordance with the procedure prescribed by the Statute 11 and 12 Victoria, chapter 21, as amended by any enactment for the time being in force.

(3) The Recorder shall, with the previous sanction of the Local Government, appoint a person to be official assignee in all insolvencies prosecuted in the Court of the Recorder, and the provisions of the said Statute relating to official assignees shall, *mutatis mutandis* and subject to the other provisions of this section, apply to the assignee so appointed.

(4) Every order made by the Recorder in the exercise of the jurisdiction conferred by this section shall have the same force throughout British India as if it had been made by the High Court or a Judge thereof, and all the provisions of the said Statute relating to the persons or property of insolvents shall, *mutatis mutandis*, apply to insolvents applying for relief under this section.

(5) Any person considering himself aggrieved by any adjudication, order or proceeding of the Recorder under this section may, within thirty days from the date thereof, present a petition to the Special Court, and that Court shall enquire into the matter of the petition and make such order thereon as it thinks just, and such order shall be final and conclusive on all parties, and shall be binding on the Court of the Recorder.

(6) The Recorder may from time to time, with the previous sanction of the Local Government, make rules consistent with this Act for facilitating within his jurisdiction the relief intended to be hereby given.

(7) No conveyance, letter-of-attorney or other instrument executed under any order of the Recorder in exercise of the jurisdiction conferred by this section shall be chargeable with stamp-duty.

[Act XIV,
1885, s. 2.]

51. (1) The Local Government may, by order notified in the Burma Gazette, direct that, from a date to be therein specified, the jurisdiction vested by the last foregoing section

in the Recorder within the local limits of the jurisdiction of the Court of the Judge of the Town of Maulmain shall be vested in the Judge of that Town.

(2) While any such order is in force, the last foregoing section shall, within the local limits of the jurisdiction of the Court of the Judge of the Town of Maulmain, have effect as if it referred to the Judge of that Town instead of to the Recorder, and all cases pending at the date of the order shall be disposed of accordingly:

Provided that the Recorder may withdraw from the Court of the Judge and dispose of in his own Court any case, whether pending at the date of the order or subsequently instituted, which, by reason of its importance or otherwise, may, in his opinion, be more conveniently so disposed of.

(3) The Local Government may, by order notified as aforesaid, cancel any order made under sub-section (1), but not so as to affect any proceedings pending at the date of the cancelling order.

52. Nothing in Chapter XX of the Code of Civil Procedure shall apply to any Court having jurisdiction within the local limits of the ordinary civil jurisdiction of the Recorder or of the jurisdiction of the Court of the Judge of the Town of Maulmain. [Act VII, 1888, s. 31 (4).] XIX of 1884.

53. The provisions of section 2 of the Burma Courts Act, 1885, shall continue to apply, as if this Act had not been passed, to any proceedings under section 66 of the Burma Courts Act, 1875, which may be pending before the Deputy Commissioner of Akyab or the Deputy Commissioner of Bassein at the commencement of this Act. [New.] XIV of 1884. XVII of 1885.

Registers and Returns.

54. (1) The Recorder shall keep such registers, books and accounts as may be necessary for the transaction of the business of his Court, and shall submit to the Local Government such of those registers, books and accounts, and such statements of the work done in his Court, as may be required by the Local Government. [Act XVII, 1875, s. 69: and Act XVI, 1885, s. 20.]

(2) The Recorder shall also comply, in such form and manner as the Local Government may deem proper, with such requisitions as may be made by the Local Government for records of, or papers belonging to, the Court of the Recorder or any Court respect to with which the

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Court of the Recorder is under section 44 or section 48 to be deemed to be a High Court, or for certified copies of, or extracts from, such records or papers, or for returns, statements or reports.

Ministerial Officers.

[Act XVII, 1875, s. 70.] 55. The ministerial officers of the Court of the Recorder, including the Registrar of the Court, shall be appointed, and may be dismissed or suspended, or fined in an amount not exceeding one month's salary, by the Recorder, but the suspension or dismissal of any such officer drawing a monthly salary of one hundred rupees or upwards shall be subject to confirmation by the Local Government.

[New Cf. Act XIV, 1882, s. 637.] 56. (1) Any non-judicial or quasi-judicial act which is required by the Code of Civil Procedure to be done by a Judge, and any act which may be done by a Commissioner appointed to examine and adjust accounts under section 394 of that Code, may in the Court of the Recorder be done by the Registrar of the Court or by such other officer of the Court as the Recorder may direct.

(2) The Recorder may from time to time, by rule made with the previous sanction of the Local Government, declare what shall be deemed to be non-judicial and quasi-judicial acts within the meaning of sub-section (1).

Exceptional Provisions.

[Act XVII, 1875, s. 46.] 57. Upon the occurrence of any vacancy in the office of Recorder, and during any absence of the Recorder, the Local Government may direct the Judicial Commissioner or any Commissioner so directed shall thereupon be authorized to preside in the Court of the Recorder and to exercise the jurisdiction of the Recorder until some person has been appointed by the Governor General in Council to fill, or officiate in, the office of the Recorder, and has entered upon the performance of the duties of such office, or until the Recorder resumes his duties.

[Act XVII, 1875, s. 58.] 58. (1) The Local Government may direct the transfer to the Court of the Recorder of any civil case which may be pending in the Court of the Judicial Commissioner or in any Court subordinate to the Court of the Judicial Commissioner.

(2) Subject to the other provisions of this Act, every case so transferred shall be tried and determined by the Recorder in the same

manner as if he had originally had jurisdiction in the case and it had been instituted in his Court.

59. (1) The Local Government may transfer to the Court of the Judicial Commissioner any particular case or class of cases which may be pending in the Court of the Recorder.

(2) In the disposal of any such case the Judicial Commissioner shall administer the same law, follow the same procedure, exercise the same powers and use the same seal as would be administered, followed, exercised and used by the Recorder in such a case.

(3) All decrees, orders and sentences made or passed by the Judicial Commissioner in cases transferred to him under this section shall, for the purposes of the law relating to appeal, reference and revision and to the submission of sentences of death for confirmation, be deemed to be made or passed by the Recorder.

60. (1) The Governor General in Council may, by notification in the Gazette of India, appoint, to be an Additional Recorder and to sit as such in the Court of the Recorder, such person as he thinks fit being a barrister of not less than five years' standing, or a person who has for at least three years served as a District Judge or exercised the like powers as those of a District Judge.

(2) A person so appointed shall hold his office during the pleasure of the Governor General in Council.

61. (1) An Additional Recorder appointed under the last foregoing section shall sit at such of the places at which the Recorder's Court can be held as the Local Government directs, and shall dispose of such cases pending in the Recorder's Court as the Local Government or, subject to the control of that Government, the Recorder may from time to time direct, and in the disposal of such cases shall administer the same law, follow the same procedure, exercise the same powers and use the same seal as would be administered, followed, exercised and used by the Recorder in like cases.

(2) All decrees, orders and sentences made or passed in such cases by an Additional Recorder shall, for the purposes of the law relating to appeal, reference and revision and to the submission of sentences of death for confirmation, be deemed to be made or passed by the Recorder.

(3) The Local Government may cancel any direction under sub-section (1) requiring the Additional Recorder to dispose of a case,

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CHAPTER V.

THE SPECIAL COURT.

[Act XVII, 1875, s. 72.] 62. (1) The Special Court shall ordinarily be constituted by the Judicial Commissioner and the Recorder sitting together.

Constitution of Special Court.

(2) But the Local Government may direct that for the hearing of any particular case or class of cases the Special Court shall be constituted by the Judicial Commissioner, the Recorder and the Judge of the Town of Maulmain sitting together, and the Local Government may cancel any such direction.

(3) As members of the Special Court, the Judicial Commissioner and the Recorder shall have precedence over the Judge of the Town of Maulmain, and shall, as between themselves, have precedence according to priority of appointment.

[Act XVIII, 1884, s. 5.] (4) For the purposes of the last foregoing sub-section, a Judicial Commissioner or Recorder substantially appointed shall be deemed to have precedence, by reason of priority of appointment, over an officiating Recorder or Judicial Commissioner, as the case may be.

[Act XVII, 1875, ss. 73 and 74.] 63. (1) The Special Court shall ordinarily be sittings, seal and held at Rangoon, but the officers of Special Court. Local Government may direct it to be held at any other place in Lower Burma.

(2) The Special Court shall use a seal of such form and dimensions as the Local Government prescribes.

(3) The Judicial Commissioner and the Recorder may appoint, suspend or dismiss the ministerial officers of the Special Court:

Provided that the suspension or dismissal of any officer drawing a monthly salary of one hundred rupees or upwards shall be subject to confirmation by the Local Government.

[Act XVII, 1875, s. 75.] 64. Appeals from decrees and orders passed by the Judge of the Town of Maulmain in suits and other civil proceedings shall, where such appeals are allowed by law, be heard and determined by the Special Court.

[Act XVII, 1875, s. 77.] 65. The Local Government may direct that any civil suit or appeal, or any criminal case or appeal, pending in the Court of the Judicial Commissioner or in the Court of the Recorder shall be transferred to and tried before the Special Court.

[Act XVII, 1875, s. 79.] 66. With reference to trials held by the Special Court as Judicial Commissioner in High Court in certain the exercise of the original criminal jurisdiction of a Court of Session under section 31 of this Act or of a High Court under section 526 of the Code of Criminal Procedure 1882, or

by the Recorder in exercise of the original jurisdiction of a Court of Session, and to sentences passed on such trials, the Special Court shall, for the purposes of the said Code, be deemed to be a High Court.

67. If, in any civil suit or appeal or in any criminal case or appeal pending in the Court of the Judicial Commissioner or in the Court of the Recorder, the Court wishes to obtain the opinion of the Special Court on any question of fact or law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence, or to obtain the assistance of the Special Court for the determination of the case pending before it, such Court shall record a memorandum to that effect, and the Special Court shall, as soon as may be convenient, sit for the disposal of the question or for the determination of the pending case.

[Act XVII, 1875, s. 76.] 68. Any decree, order or sentence passed by the Special Court in a case tried under section 65, or on a memorandum recorded under section 67, shall issue as, and be deemed to be, a decree, order or sentence of the Court from which the case was referred to the Special Court.

[Act XVII, 1875, s. 80.] 69. (1) Whenever, in cases before the Judicial Commissioner and the Recorder sitting together as the Special Court, a difference of opinion arises, the following rules shall be observed:—

(a) In cases coming before the Special Court under section 67, the opinion of the Special Court which sought the opinion of the Recorder shall prevail unless the difference of opinion is on a question of law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence, and both members of the Special Court concur in stating the question and forwarding such statement, with their respective opinions on the question, to the High Court.

(b) In cases coming before the Special Court by way of appeal, and not being criminal cases or cases provided for by clause (a) of this sub-section, if both members of the Special Court do not concur in a judgment varying the decree or order appealed from, such decree or order shall be upheld:

Provided that, if the difference of opinion is on a question of law or of custom having the force of law or as to the construction of any document or the

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admissibility of any evidence, and either member of the Special Court is of opinion that the question should be referred to the High Court, both members shall state the question and forward such statement, with their respective opinions on the question, to the High Court.

(c) In criminal cases, and in cases not coming before the Special Court by way of appeal and not being cases provided for by clause (a) of this sub-section, both members of the Special Court shall state the question as to which they differ, and forward such statement, with their respective opinions on the question, to the High Court.

[Act XVII, 1875, s. 82.]

(2) Whenever, in cases before the Judicial Commissioner, the Recorder and the Judge of the Town of Maulmain sitting together as the Special Court, a difference of opinion arises, the decision shall be in accordance with the opinion of the majority of the members of the Court.

[Act XVII, 1875, s. 82.]

70. (1) On receiving a statement forwarded in any case under the last foregoing section, the High Court, by a bench constituted by two or more Judges, shall decide the question referred therein and transmit to the Special Court a copy of its judgment under the signature of its Registrar, and the Judicial Commissioner and the Recorder sitting together as the Special Court shall, on receipt of the copy, proceed to dispose of the case in conformity with the decision of the High Court.

[Act XVII, 1875, s. 82.]

(2) Until the case is so disposed of, it shall be deemed to be pending in the Special Court.

(3) It shall not be necessary for any party to the case to be present in the High Court, either personally or otherwise, when the question referred comes before that Court for decision.

(4) The costs, if any, consequent on the statement of the question for the decision of the High Court shall be costs in the case.

VII of 1870. [Act XVII, 1875, s. 83.]

71. (1) For the purposes of the Court-fees Act, 1870, the Special Court shall be deemed to be a High Court in the exercise of its jurisdiction as a Court of Appeal or as a Court of Reference, as the case may be.

XV of 1877.

(2) For the purposes of the Indian Limitation Act, 1877, appeals and applications to the Special Court shall be deemed to be, respectively, appeals and applications to a High Court under the Code of Criminal Procedure, 1882, or under the Code of Civil Procedure, as the case may be.

X of 1882. XIV of 1882.

72. If at any time there is an Additional Recorder appointed under section 60, the foregoing provisions of this Chapter with respect to the Judge of the Town of Maulmain shall, while the Additional Recorder holds office, be construed as referring to the Additional Recorder and not to the Judge of the Town of Maulmain.

[Ct. Act XI, 1880, s. 4.]

Substitution of Additional Recorder for Judge of Town of Maulmain for purposes of this Chapter.

CHAPTER VI.

ADVOCATES.

In the Court of the Recorder and the Courts subordinate thereto.

73. (1) Subject to the other provisions of this section, no person shall be permitted to appear, plead or act as an advocate in the Court of the Recorder, or in any Court with respect to which the Court of the Recorder is under section 44 or section 48 to be deemed to be a High Court, or in the Court of the Judicial Commissioner when the Judicial Commissioner is disposing of a case transferred to him under section 43 or section 59, unless such person has been licensed thereto by the Recorder, either generally or specially.

[Act XVII, 1875, s. 84.]

(2) The Recorder may from time to time, with the previous sanction of the Local Government, make rules for the qualification and admission of proper persons to appear, plead or act as advocates in such Courts.

In the Court of the Judicial Commissioner and the Courts subordinate thereto.

74. (1) Subject to the other provisions of this section, no person shall be permitted to appear, plead or act as an advocate in the Court of the Judicial Commissioner, or in any Court, whether civil or criminal, subordinate thereto, or in the Court of the Recorder when the Recorder is disposing of a case transferred to his Court under section 15 or section 58, unless such person has been licensed thereto by the Judicial Commissioner, either generally or specially.

[Act XVII, 1875, s. 86.]

(2) The Judicial Commissioner may from time to time, with the previous sanction of the Local Government, make rules for the qualification and admission of proper persons to appear, plead or act as advocates in such Courts.

Provisos.

75. The two last foregoing sections and any rules thereunder shall be subject to the following provisos, namely:—

[Act XVII, 1875, ss. 84 and 87.]

(a) any person having general or special authority from the Local Government

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may, without any license from the Recorder or the Judicial Commissioner, appear, plead or act for the Secretary of State for India in Council;

(b) a party may, without any such license, appear, plead or act on behalf of himself or a co-party;

(c) a person who for the time being is an advocate, vakil or attorney-at-law of any of the High Courts of Judicature in India may, without any such license, appear, plead or act as an advocate; and

(d) nothing in the sections or the rules shall be deemed to affect section 340 of the Code of Criminal Procedure, 1882.

X of 1882.

In the Special Court.

[Act XVII, 1875, s. 88.]

76. Any person for the time being authorised by or under the foregoing provisions of this Chapter to appear, plead or act in the Court of the Recorder or in the Court of the Judicial Commissioner may also appear, plead or act, as the case may be, in the Special Court.

Discipline and Fees.

[Act XVII, 1875, s. 86.]

77. Any person appearing, pleading or acting in any Court in contravention of the foregoing provisions of this Chapter or the rules thereunder shall be liable, by order of the Court, to a fine which may extend to five hundred rupees.

[Act XVII, 1875, ss. 85 and 86.]

78. (1) The Recorder or the Judicial Commissioner may, for any sufficient reason, by order suspend or withdraw any license granted by him under section 73 or section 74, as the case may be.

XV of 1877.

(2) Any person aggrieved by such an order may appeal to the High Court, and, for the purposes of the Indian Limitation Act, 1877, his appeal shall be deemed to be an appeal under the Code of Civil Procedure.

XIV of 1882.

[Act XVII, 1875, s. 89.]

79. The fees to be received by any advocate for business done in any Court under this Act shall at all times be subject to the control and taxation of the presiding Judge, and no such fees shall be recoverable unless they have been allowed on taxation by the Judge or such officer as he appoints in this behalf.

[Act XVII, 1875, s. 90.]

80. (1) The Judicial Commissioner may from time to time make rules regulating the fees payable to advocates in his own Court and in Courts subordinate to him; and

(2) The Recorder may from time to time make rules regulating the fees payable to advocates in his own Court and in the Court of Small Causes of Rangoon; and

(3) The Judicial Commissioner and the Recorder may from time to time make rules regulating the fees payable to advocates in the Special Court.

Legal Practitioners Act, 1879.

81. If the Local Government extends all or any of the provisions of sections 3 to 42 of the Legal Practitioners Act, 1879, to the whole or any part of Lower Burma, the Governor General in Council may, by order notified in the Gazette of India, suspend, within the area to which such provisions have been so extended, the operation of the whole or any part of this Chapter.

CHAPTER VII.

SUPPLEMENTAL PROVISIONS.

Court of Small Causes of Rangoon.

82. (1) The Governor General in Council shall be deemed to have had authority, under section 15 of Act XI of 1865, from time to time to invest any person for an unlimited time with the powers of a Judge of the Court of Small Causes of Rangoon.

[Act XVII, 1875, s. 94.]

(2) The persons who have since the thirtieth day of June, 1887, held, or are at the commencement of this Act or may be thereafter holding, office by the names of First Judge and Second Judge of the Court of Small Causes of Rangoon shall be deemed to have been appointed to the offices of Judge and Additional Judge, respectively, under section 6, sub-section (1), and section 8, sub-section (1), of the Provincial Small Cause Courts Act, 1887.

IX of 1887.

(3) Notwithstanding anything in section 8, sub-section (2), of that Act, the Local Government may make rules restricting, in such manner as it thinks fit, the functions which the Judge of the Court of Small Causes of Rangoon may assign to the Additional Judge of that Court, and any rules or instructions made or issued before the commencement of this Act for defining the respective functions of the Judges of that Court shall be deemed to have been lawfully made or issued, and shall, until they are varied by the Local Government, be deemed after the commencement of this Act to be rules under this sub-section.

(4) Notwithstanding anything in the Code of Civil Procedure, all or any proceedings, written

[Act X, 1884, s. 12.] XIV of 1882.

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or oral, before the Additional Judge of the Court of Small Causes of Rangoon shall be in such language as the Local Government may prescribe.

[New.]

[Act XV,
1882, s. 18.
IX of 1887.]

83. (1) The Local Government may, by order notified in the Burma Gazette, direct that such suits of a civil nature as are not excepted from the cognizance of a Court of Small Causes by section 15, sub-section (1), of the Provincial Small Cause Courts Act, 1887, and are of value exceeding one thousand and not exceeding two thousand rupees, shall be cognizable by the Judge of the Court of Small Causes of Rangoon as if they were suits cognizable by him under the said Act, and thereupon so much of that Act as relates to—

- the exclusion of the jurisdiction of any other Court in such suits,
 - the practice and procedure of Courts of Small Causes,
 - appeal from certain orders of those Courts and revision of cases decided by them, and
 - the finality of their decrees and orders subject to such appeal and revision as are provided by the said Act,
- shall apply to such suits and to the trial thereof and the decrees and orders thereon.

(2) The Local Government may, by order notified as aforesaid, cancel any order made under sub-section (1), but not so as to affect any proceedings pending at the date of the cancelling order.

[Act XVIII,
1884, s. 71.
VII of 1870.]

Court-fees on applications to Recorder for exercise of revisional jurisdiction over Court of Small Causes of Rangoon.

84. In the first schedule to the Court-fees Act, 1870, after No. 13, the following shall be inserted, namely:—

Number.		Proper fee.
* 14. Application to the Court of the Recorder of Rangoon for the exercise of the revisional jurisdiction of a High Court over the Court of Small Causes of Rangoon under section 622 of the Code of Civil Procedure or section 25 of the Provincial Small Cause Courts Act, 1887.	When the amount or value of the subject-matter in dispute does not exceed twenty-five rupees. When such amount or value exceeds twenty-five rupees.	Two rupees. The fee leviable on a memorandum of appeal.

XIV of 1882.

IX of 1887.

[Act VIII,
1884, s. 72.]

XIV of 1882.

85. If the Recorder, on an application under section 622 of the Code of Civil Procedure or section 25 of the Provincial Small

Cause Courts Act, 1887, on which a fee has been paid under the Court-fees Act, 1870, as amended by the last foregoing section, sets aside or modifies the decree or order of the Court of Small Causes, or remands the case for a fresh decision, he may grant to the applicant a certificate authorising him to receive back from the Collector the full amount of fee paid on the application, or any smaller amount which, with regard to the circumstances of the case, he may think proper to order to be refunded.

IX of 1887.
VII of 1870.*Court of the Judge of the Town of Maulmain.*

86. (1) The Local Government may, by notification in the Burma Gazette, confer, within the local limits of the jurisdiction of the Court of the Judge of the Town of Maulmain,—

- upon any Extra Assistant Commissioner or Assistant Commissioner at Maulmain the jurisdiction of an Additional Judge of a Court of Small Causes, and
- upon the chief ministerial officer of the Court of the Judge of the Town of Maulmain all or any of the powers conferred or conferable by or under the Provincial Small Cause Courts Act, 1887, upon the Registrar of a Court of Small Causes.

[New.]

(2) For purposes connected with the exercise of jurisdiction and powers so conferred, the provisions of the Provincial Small Cause Courts Act, 1887, shall, so far as they can be made applicable, apply as if the Court of the Judge of the Town of Maulmain were a Court of Small Causes, and the Judge of that Town and the Extra Assistant Commissioner or Assistant Commissioner were respectively the Judge and the Additional Judge of the Court, and the chief ministerial officer were the Registrar thereof.

IX of 1887.

(3) The Local Government may withdraw any jurisdiction or powers conferred under this section.

87. The Judge of the Town of Maulmain shall, for the purposes of the Act XVIII, 1884, sections 2 and 8, XIII of 1874, be deemed to be a Deputy Commissioner:

Provided that appeals from his orders under that Act shall lie to the Special Court.

Powers, Holidays and other Matters.

88. (1) The Local Government shall have a power of general control over all appointments and punishments of ministerial officers of Courts under this Act.

(2) Any fine imposed on a ministerial officer of such a Court may, unless the order imposing

[New: Bill
of 1887, s.
38.]

it otherwise directs, be recovered by deduction from such officer's salary.

89. The Local Government may, with the previous sanction of the Governor General in Council, make rules with respect to the establishments to be maintained for the service and execution of processes issued by Civil and Criminal Courts and Revenue Courts and authorities, and may declare rules so made to be in supersession of any rules made under the Court-fees Act, 1870, or under this Act.

VII of 1870.

[Act XVIII,
1884, s. 64.]

90. The Local Government may, when it is empowered by this Act to make any appointment or confer any powers, appoint, or confer the powers on, any person either specially by name or generally by virtue of his office.

[Cl. Act
XVII, 1875,
ss. 67, 68 and
74: Act XIV,
1882, s. 652:
Act XVIII,
1884, s. 14:
and Reg.
VIII, 1886,
s. 88.]

91. (1) The Judicial Commissioner, so far as regards his own Court and the Courts subordinate thereto, may, and on the request of the Local Government shall, with the previous sanction of that Government, make rules as to the fees to be charged in respect of any of the following matters, namely:—

- the making of copies and translations;
- the inspection of records, books and registers; and
- any other matter in respect of which fees are for the time being chargeable by order of the High Court in any part of the Bengal Division of the Presidency of Fort William.

(2) The Recorder may, and on the request of the Local Government shall, with the previous sanction of that Government, make rules,—

- so far as regards his own Court and any Court with respect to which the Court of the Recorder is under section 44 or section 48 to be deemed to be a High Court, as to any of the following matters, namely:—

- the regulation of practice and procedure;
- the service and execution of processes, and the fees to be charged therefor;
- subject to the provisions of section 554 of the Code of Criminal Procedure, 1882, and section 644 of the Code of Civil Procedure, the forms to be used for any proceedings; and
- any matter specified or referred to in clause (a), clause (b) or clause (c) of sub-section (1); and

X of 1882.

XIV of 1882.

*The Lower Burma Courts Bill.**(Chapter VII.—Supplemental Provisions.—Sections 89-93.)*

(b) so far as regards his own Court and the Court of the Judge of the Town of Maulmain, as Courts for the Relief of Insolvent Debtors under this Act, as to the remuneration to be allowed to the official assignees and to the other officers of those Courts.

(3) The Judicial Commissioner and the Recorder, so far as regards the Special Court, may, and on the request of the Local Government shall, with the previous sanction of that Government, make rules as to any of the following matters, namely:—

- the regulation of the times and places for the sitting of the Court;
- the distribution of business among the Judges thereof; and
- any matters specified or referred to in clause (a) of sub-section (2).

92. (1) The Judicial Commissioner and the Recorder for their respective Courts, and the Judicial Commissioner and the Recorder for the Special Court, may also make rules to provide for—

- the recording of judgments, orders and sentences;
- the taking down of the evidence of witnesses; and
- the admission of affidavits as evidence of the matters to which such affidavits relate: and

(2) The Local Government, on being satisfied that such rules provide sufficiently for the matters to which they respectively refer, may exempt the Judicial Commissioner, the Recorder or the Special Court, as the case may be, from the operation of such parts of the Code of Criminal Procedure, 1882, and the Code of Civil Procedure, 1882, as relate to the mode of recording judgments, orders and sentences and of taking down the evidence of witnesses, and may permit the admission of affidavits as evidence of the matters aforesaid.

93. If the Judicial Commissioner and the Recorder differ in opinion as to the appointment, suspension, or dismissal of a ministerial officer of the Special Court under section 63, sub-section (3), or as to any rule for the Special Court under section 91, sub-section (3), or section 92, the difference shall be referred to the Local Government, and the order of that Government thereon shall be final.

[Act XVII,
1875, s. 91.]

Differences of opinion between Judicial Commissioner and Recorder as administrative representatives of Special Court.

The Lower Burma Courts Bill.

(Chapter VII.—Supplemental Provisions.—Sections 94-102.)

[Act XVII, 1875, ss. 44 and 71. Cf. Act XII, 1887, s. 15, Act XVI, 1887, s. 102, and Act XVII, 1887, s. 24.]

94. (r) The Judicial Commissioner and the Recorder, respectively, with the approval of the Local Government, shall publish in the Burma Gazette, before the commencement of each calendar year, a list of days to be observed in that year as holidays in their own Courts and the Courts respectively subject to their authority.

(2) A judicial act done by a Court on a day specified in the list as a day to be observed by the Court as a holiday shall not be invalid by reason only of its having been done on that day.

[Act IX, 1887, s. 35, and Act XII, 1887, s. 17.]

95. (r) Where a Court has from any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to the case which, if that Court had not ceased to have jurisdiction, might have been had therein may be had in the Court to which the business of the former Court has been transferred.

(2) Nothing in this section applies to cases for which provision is made in section 623 or section 649 of the Code of Civil Procedure or in any other enactment for the time being in force.

[Act XVII, 1875, ss. 66, 67, 68, 74 and 86.]

96. No rule made under this Act shall take effect until it has been published in the Burma Gazette.

Laws.

[Cf. Act XVII, 1875, s. 51.]

97. In the enactments mentioned in the second schedule, for the words specified in the third column of that schedule, there shall be substituted the words specified in the fourth column thereof.

[Act XVII, 1875, s. 93.]

98. (r) For the last paragraph of section 7 of the Prisoners Testimony Act, 1869, the following shall be substituted, namely:—

"For the purposes of this Act, every jail in Lower Burma shall be deemed to be situate within the local limits of the appellate jurisdiction of the Judicial Commissioner, and the Recorder of Rangoon may issue orders under this section or section 3 or 4, and may also issue commissions under Part III of this Act, in any jail in Lower Burma."

(2) For the second paragraph of section 8 of the same Act the following shall be substituted, namely:—

"To obtain the removal of a person confined in a jail situate beyond the limits of Lower

Burma for the purpose of giving evidence in any criminal matter in any Court within the local limits of the ordinary civil jurisdiction of the Recorder of Rangoon, the Recorder shall have the power conferred on a Judge of a High Court by the former part of this section, and the other provisions of such part shall, *mutatis mutandis*, apply."

99. (r) Act XL of 1858 is hereby declared to be, and from the fifteenth day of January, 1863, to have been, in force throughout Lower Burma. [Act XVII, 1875, ss. 95 and 98.]

(2) The unrepealed portions of Regulation V of 1799, section 7, and Regulation III of 1818 of the Bengal Code shall, *mutatis mutandis*, be deemed to extend, and on and from the sixteenth day of September, 1875, to have extended, to Lower Burma, and the former of those enactments shall have effect, and, so far as may be necessary to validate anything heretofore done thereunder by the Local Government, shall be deemed to have had effect, as if the Local Government were therein referred to instead of the Governor General in Council. [Act XIX, 1886, s. 1.]

100. The references in section 1 of the Burma District Cesses and Rural Police Act, 1880, and section 2 of the Rangoon Tramways Act, 1883, to the British Burma Municipal Act, 1874, shall be deemed to be, and on and from the third day of January, 1885, to have been, references to the Burma Municipal Act, 1884. [New.]

101. In the tracts of country respectively known as the Salween District and the Hill District of Arakan section 20 of Act V of 1861 shall not apply to any police-officer appointed under section 4 of that Act, and, notwithstanding anything in the Code of Criminal Procedure, 1882, the Local Government shall be deemed to have, and always to have had, power to confer on any such police-officer in either of those tracts all or any of the powers conferred or conferable by or under that Code on any Magistrate in regard to particular cases or to a particular class or particular classes of cases or to cases generally. [New. Cf. Reg. II, 1883, s. 3, and Reg. VII, 1886, Schedule, s. IV.]

102. To the first division (Acts) of the schedule to the Arakan Hill District Laws Regulation, 1874, IX of 1874, the enactments specified in the third schedule shall be added. [New.]

The Lower Burma Courts Bill.

(The First Schedule.—Enactments repealed.)

(The Second Schedule.—Enactments modified.)

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

Number and year.	Title.	Extent of repeal.
1	2	3
<i>Acts of the Governor General in Council.</i>		
XVI of 1872	Burma Spirit Duty Act, 1872.	The whole, in so far as it may not already have been repealed.
XVII of 1875	Burma Courts Act, 1875.	So much as has not been repealed.
XI of 1880	Burma Courts Act, 1880.	The whole.
X of 1884	Burma Courts Act, 1884.	The whole.
XIV of 1885	Burma Courts Act, 1885.	The whole.
XX of 1886	Upper Burma Laws Act, 1886.	So much of the second schedule as relates to Bengal Regulation XI of 1812 (<i>Removal of Foreign Emigrants</i>) and to Acts XV of 1859 (<i>Inventions</i>), XXVII of 1860 (<i>Collection of Debts on Successions</i>), XIII of 1872 (<i>Patterns and Designs</i>) and XI of 1865 (<i>Mufassal Small Cause Courts</i>).

Regulation under the Statute 33 Victoria, chapter 3, section 1.

IX of 1874	Arakan Hill District Laws Regulation, 1874.	The first and second paragraphs of section 4, the whole of sections 6 to 9 (both inclusive) and so much of the schedule as relates to Acts III of 1846 (<i>Boundary marks</i>), XXXIII of 1852 (<i>Enforcement of Judgments</i>), XV of 1859 (<i>Patents</i>), VIII of 1860 (<i>Electric Telegraphs</i>), XXVII of 1860 (<i>Collection of Debts on Successions</i>), III of 1871 (<i>Paper Currency</i>), IX of 1871 (<i>Limitation</i>), XI of 1872 (<i>Foreign Jurisdiction and Extradition</i>) and VII of 1874 (<i>British Burma Municipal Act</i>).
VII of 1886	Upper Burma Criminal Justice Regulation, 1886.	Section 1, sub-section (2), of the schedule.

THE SECOND SCHEDULE.

ENACTMENTS MODIFIED.

(See section 97.)

Number and year.	Title.	Words to be replaced.	Words to be substituted for those replaced.
1	2	3	4
<i>Acts of the Governor General in Council.</i>			
IV of 1869	Indian Divorce Act.	In section 3, clause (1), the words "in British Burma—the High Court of Judicature at Fort William in Bengal".	The words—"in Burma—the Special Court constituted under the Lower Burma Courts Act, 1889;"
		In section 3, clause (2), the words—"in the Non-Regulation Provinces, other than British Burma and Sindh—a Commissioner of a division; in Pegu—the Recorder at Rangoon; in Arakan—the Recorder at Rangoon until a Recorder's Court is established at Akyab, and thenceforward the Recorder at Akyab; in the Tenasserim Provinces—the Recorder at Maulmain; in Sindh—the Judicial Commissioner in that Province;"	The words—"in the Non-Regulation Provinces, other than Sindh and the areas for the time being comprised within the local limits of the ordinary civil jurisdiction of the Recorder of Rangoon and of the civil jurisdiction of the Court of the Judge of the Town of Maulmain—a Commissioner of a division; in Sindh—the Judicial Commissioner of that Province; in the areas aforesaid—the Recorder of Rangoon and the Judge of the Town of Maulmain, respectively;"
X of 1882	Code of Criminal Procedure, 1882.	In section 4, clause (j), the words "the Senior Judge of a Chief Court;"	The words "the Senior Judge of the Chief Court of the Punjab and the Recorder of Rangoon;"
		In section 266, the words "the Chief Court of the Punjab,"	The words "the Chief Court of the Punjab, the Court of the Recorder of Rangoon,"

The Lower Burma Courts Bill.

(The Second Schedule.—Enactments modified. The Third Schedule.—Enactments to be added to Schedule to Regulation IX of 1874.)

THE SECOND SCHEDULE—continued.

Number and year.	Title.	Words to be replaced.	Words to be substituted for those replaced.
IX of 1874.	Arakan Hill District Laws Regulation, 1874.	In section 5, the words from and inclusive of "Act No. XXXI of 1860" down to and inclusive of the word "but".	The words "Notwithstanding anything in the Indian Arms Act, 1878, or in any rule under that Act,".
VII of 1886.	Upper Burma Criminal Justice Regulation, 1886.	In the schedule, section 1, sub-section (i), the figures and words— "(i) in reference to proceedings against European British subjects, the Recorder of Rangoon; and (ii) in reference to proceedings against other persons".	The words "except in reference to proceedings against European British subjects or persons jointly charged with European British subjects—".

Regulation under the Statute 33 Victoria, chapter 3, section 1.

THE THIRD SCHEDULE.

ENACTMENTS TO BE ADDED TO SCHEDULE TO REGULATION IX OF 1874.

(See section 102.)

Number and year.	Subject.	Extent of application.	Modifications.
XIII of 1874.	European British Minors.	The whole Act.	*
XIV of 1874.	Scheduled Districts.	The whole Act, except section 10.	
XV of 1874.	Laws Local Extent.	The whole Act, except sections 4, 5, 6 and 7.	
V of 1875.	Unattested Sepoys.	The whole Act.	
VII of 1875.	Burma Fisheries.	The whole Act.	
IX of 1875.	Majority.	The whole Act.	

S. HARVEY JAMES,

Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JUNE 15, 1889.

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 13th June, 1889:

NO. 4 OF 1889.

A Bill to provide for the Vesting and Administration of Property held in trust for charitable purposes.

WHEREAS it is expedient to provide for the vesting and administration of property held in trust for charitable purposes; It is hereby enacted as follows:—

1. (i) This Act may be called the Charitable Title, extent and commencement. Endowments Act, 1889.

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

(3) It shall come into force on the first day of April, 1890.

2. In this Act "charitable purpose" includes Definition. relief of the poor, education, medical relief and the advancement of any other object of general public utility, but does not include religious teaching as an exclusive purpose.

3. (i) The Governor-General in Council may appoint a servant of the Government by the name of his office to be Treasurer of Charitable Endowments for the territories subject to any Local Government.

(2) Such Treasurer shall, for the purposes of taking, holding and transferring moveable or

immoveable property, be a corporation sole by the name of the Treasurer of Charitable Endowments for the territories subject to the Local Government, and shall have perpetual succession and a corporate seal, and may sue and be sued in his corporate name.

4. (i) Where any property is held or is to be applied in trust for a charitable purpose, the Local Government, if it thinks fit, may, on application made as hereinafter mentioned, and subject to the provisions of sub-section (2), order, by notification in the official Gazette, that the property be vested in the Treasurer of Charitable Endowments on such terms as may be agreed on between the Local Government and the person or persons making the application, and the property shall thereupon so vest accordingly.

(2) The Local Government shall not make an order under sub-section (1) for the vesting in the Treasurer of Charitable Endowments of any securities for money except the following, namely:—

(a) promissory notes, debentures, stock and other securities of the Government of India, or of the United Kingdom of Great Britain and Ireland;

(b) bonds, debentures and annuities charged by the Imperial Parliament on the revenues of India;

(c) stock or debentures of, or shares in, Railway or other Companies, the interest whereon has been guaranteed by the Secretary of State for India in Council;

(d) debentures or other securities for money issued by or on behalf of any local authority in exercise of powers conferred by an Act of a legislature established in British India;

(e) a security expressly authorised by any order which the Governor-General in Council may make in this behalf.

[16 & 17
Vict., c. 137,
ss. 54 et seqq.]
[23 & 24
Vict., c. 136,
s. 2; and 46
& 47 Vict., c.
36, ss. 11 et
seqq.]

5. (1) The Local Government may, if it thinks fit, on application made as hereinafter mentioned, and with the concurrence of the person or persons making the application, settle a scheme for the administration of any property which has been, or is to be, vested in the Treasurer of Charitable Endowments.

(2) A scheme settled under this section shall come into operation on a day to be appointed by the Local Government in this behalf, and shall remain in force so long as the property to which it relates continues to be vested in the Treasurer of Charitable Endowments or until another such scheme has been substituted in its stead.

[32 & 33
Vict., c. 56,
ss. 46 and 47;
and 46 & 47
Vict., c. 36,
ss. 35 and 36.]
[32 & 33
Vict., c. 56,
s. 30.]

(3) Such a scheme shall supersede any instrument or direction relating to the subject-matter thereof and in any way repugnant thereto, and its validity shall not be questioned in any Court.

(4) In the settlement of such a scheme effect shall be given to the wishes of the author of the trust so far as they can be ascertained and, in the opinion of the Local Government, effect can reasonably be given to them.

(5) Where a scheme has been settled under this section for the administration of property not already vested in the Treasurer of Charitable Endowments, it shall not be brought into operation until the property has become so vested.

6. (1) The application referred to in the two last foregoing sections may be made,—

(a) if the property is already held in trust for a charitable purpose, then by the person acting in the administration of the trust or, where there are more persons than one so acting, then by those persons or a majority of them, and

(b) if the property is to be applied in trust for such a purpose, then by the person or persons proposing so to apply it.

(2) For the purposes of this section the executor or administrator of a deceased trustee of property held in trust for a charitable purpose shall be deemed to be a person acting in the administration of the trust.

7. (1) The Governor-General in Council may exercise by Governor-General all or any of the powers conferred on the Local Government by sections 4 and 5.

(2) When the Governor-General in Council has signified to the Local Government his intention of exercising any of those powers with respect to any property, that Government shall not, without his previous sanction, exercise them with respect thereto.

8. (1) Subject to the provisions of this Act, a Treasurer of Charitable Endowments shall not, as such Treasurer, act in the administration of any trust whereof any of the property is for the time being vested in him under this Act.

[16 & 17
Vict., c. 137,
s. 52.]

(2) Such Treasurer shall keep a separate account of each property for the time being so vested which, or in so far as it, consists of

securities for money, and shall dispose of the income of such property in accordance with the provision made in that behalf in the vesting order under section 4 or in the scheme, if any, under section 5 or in both those documents.

[16 & 17
Vict., c. 137,
s. 50.]

(3) In the case of any property so vested other than securities for money, such Treasurer shall, subject to any general or special orders which he may receive from the Local Government, permit the persons acting in the administration of the trust to have the possession, management and control of the property, and the application of the income thereof, as if the property had been vested in them.

9. A Treasurer of Charitable Endowments shall cause to be published annually in the local official Gazette, at such time as the Local Government may direct, a list of all properties for the time being vested in him under this Act and an abstract of all accounts kept by him under sub-section (2) of the last foregoing section.

10. (1) A Treasurer of Charitable Endowments shall always be a sole trustee, and shall not, as such Treasurer, take or hold any property otherwise than under the provisions of this Act, or, subject to those provisions, transfer any property vested in him except in obedience to a decree divesting him of the property, or in compliance with a direction in that behalf issuing from the authority by whose order the property became vested in him.

(2) Such a direction may require the Treasurer to sell or otherwise dispose of any property vested in him and, with the sanction of the authority issuing the direction, to invest the proceeds of the sale or other disposal of the property in any such security for money as is mentioned in section 4, sub-section (2), clause (a), (b), (c), (d) or (e), or in the purchase of immoveable property.

11. If the office held by a servant of the Government who has been appointed to be a Treasurer of Charitable Endowments is abolished or its name is changed, the Governor-General in Council may appoint the same or another servant of the Government by the name of his office to be such Treasurer, and thereupon the holder of the latter office shall be deemed for the purposes of this Act to be the successor in office of the holder of the former office.

12. If by reason of an alteration of the limits of the territories subject to a Local Government, or for any other reason, it appears to the Governor-General in Council that any property vested in a Treasurer of Charitable Endowments should be vested in another such Treasurer, he may direct that the property shall be so vested, and thereupon it shall vest in that other Treasurer and his successors as fully and effectually for the purposes of this Act as if it had been originally vested in him under this Act.

13. The Governor-General in Council may frame forms for any proceedings under this Act for which he considers that forms should be provided, and make such rules consistent with this Act as he may deem expedient for carrying into effect the purposes thereof.

14. No suit shall be instituted against the Government in respect of anything done or purporting to be done under this Act, or against a Treasurer of Charitable Endowments except for divesting him of property on the ground of its not being subject to a trust for a charitable purpose, or for making him chargeable with or accountable for the loss or

misapplication of any property vested in him, or the dividends, interest or income thereof, where the loss or misapplication has been occasioned by or through his wilful neglect or default.

15. Nothing in this Act shall be construed to impair the operation of section 111 of the Statute 53 [4 Moore's L. 190.] Saving with respect to Advocates-General and Official Trustees. George III, Chapter 155, or of any other enactment for the time being in force, respecting the authority of an Advocate-General at a presidency to act with respect to any charity, or of sections 8, 9, 10 and 11 of Act No. XVII of 1864 (*an Act to constitute an Office of Official Trustee*) respecting the vesting of property in trust for a charitable purpose in an Official Trustee.

STATEMENT OF OBJECTS AND REASONS.

On many occasions the want has been felt in India of an official capable of discharging the functions which are discharged in England by the Official Trustee of Charity Lands and the Official Trustees of Charitable Funds. The object of this Bill is to meet that want.

2. Much property has from time to time in different parts of India been vested by founders in public servants, such as the Collector, Director of Public Instruction, Accountant-General and Divisional Commissioner. With respect to a case in which an Accountant-General and a Divisional Commissioner had been named as trustees, the Officiating Advocate-General of Bengal and the Officiating Standing Counsel stated in a joint opinion in 1885 that persons cannot, as holders of certain posts, be appointed trustees "unless these posts are corporate ones." "Neither the office of the Accountant-General nor that of the Commissioner," they observed, "is a corporate office; and even if appointed by the designation of their office only, and not by name, the trust-fund would vest in them as individuals, and they would remain trustees until they themselves appointed others to succeed them or until they died."

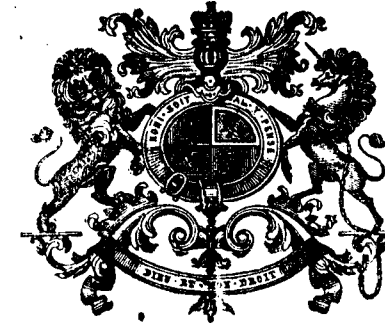
3. There is a difficulty in India in finding any corporation capable of acting as a trustee in such cases as this Bill is designed to meet. The Secretary of State for India in Council and the Governor-General in Council are incapable of being trustees (L. R. 15 Ch. D. 9). It has also been held that Anglican Bishops and Archdeacons in India, who have been constituted by Letters Patent to be perpetual corporations, with power to take and hold property under grant or license from the Crown, are not capable of acting as trustees in some of the cases for which this Bill is intended to provide. To the question whether the Lord Bishop of Calcutta in his corporate capacity might not, under the Letters Patent for the Bishopric of Calcutta, bearing date the 14th May, 1814, hold land upon trust for a Diocesan School so that, upon his ceasing to be Bishop, it would devolve without a deed upon his successor in the Bishopric, an eminent counsel in England, to whom the question was referred, has replied in the negative. "It is quite true," he remarks, "that the Bishop is a corporation sole, and in that capacity can hold the lands belonging to his See. He may, however, only hold such lands as by grant or license from the Company (now Her Majesty) he is authorized to take, hold and enjoy. I think it is clear that the Letters Patent only refer to lands belonging to, or purchased out of moneys belonging to, the Bishopric. * * * On the whole, I am of opinion that, if the land in question was conveyed to the Bishop as a trustee, it would pass on his death not to his successor but to his executors."

4. The Bill, it will be observed, is of a purely permissive character. The Government will be unable to make a vesting order or frame a scheme except on application for that purpose, and may, if it sees fit, refuse to act. The corporation sole in whom as Treasurer of Charitable Endowments property may be vested is, except as regards the disposal of any property by direction of the Government, to have nothing to do with the administration of the property. He is to be a bare trustee, the object of vesting the property in him by his name of office as a corporation sole being to secure the holding of the property by some one always present, and to avoid the difficulty and expense of appointing a new trustee on the retirement or death of any incumbent of the trust.

The 7th June, 1889.

ANDREW R. SCOBLE.

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



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JUNE 29, 1889.

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 June, 1889:

NO. 5 OF 1889.

A Bill to amend the Central Provinces Land-revenue Act, 1881.

XVIII 1881. WHEREAS it is expedient to amend the of Central Provinces Land-revenue Act, 1881; It is hereby enacted as follows:—

1. (1) This Act may be called the Central Provinces Land-revenue Act, 1889; and
Title and commence- ment.

(2) It shall come into force at once.

2. In this Act, unless there is something repugnant in the subject or
Definition. context, the word "sec-

XVIII 1881. tion" means a section of the Central Provinces of Land-revenue Act, 1881.

3. In section 1 the words and figures "except those specified in Part VI of the first schedule of the Scheduled Districts Act, 1874," are hereby repealed.
Amendment of sec- tion 1. XIV of 1874.

4. In section 4, clause (3), after the words "proprietors as such of the village," the words "or to their transferees or assignees as such or to the patél," shall be inserted.
Amendment of sec- tion 4, clause (3).

New clause substi- tuted for section 4, clause (6). 5. For section 4, clause (6), the following shall be substituted, namely:—

"Sir-land." "(6) "Sir-land" means—

(a) land which was recorded as 'sir' in the papers of the last preceding settlement of the local area in which the land is situate;

(b) land which was not so recorded, but which at the commencement of the Central Provinces Land-revenue Act, 1889, was occupied by, and had been cultivated by, the proprietor or one of the proprietors thereof for a period of not less than twelve consecutive years;

(c) waste-land which has been broken up by the proprietor or one of the proprietors thereof, and cultivated by him for a period of not less than six consecutive years; and

includes also in the Sambalpur district 'bhogra' land.

"Explanation I.—Land (other than bhogra) which at the commencement of the Central Provinces Land-revenue Act, 1889, was unoccupied by such proprietor and had been so unoccupied for a period of six consecutive years is not sir-land. Land is not unoccupied by the proprietor when it is leased out by him with an express reservation of his sir-rights.

"Explanation II.—When by any local custom land is liable to exchange or redistribution among the cultivators thereof, land taken in exchange for sir-land becomes sir-land, and the sir-land given in exchange ceases to be sir-land:—"

The Central Provinces Land-revenue Bill.

(Sections 6-17.)

New clause inserted after section 4, clause (6). 6. After section 4, clause (6), the following shall be inserted, namely:—

"(6a) 'Survey-number' means a local area held by a raiyat under a separate assessment of land-revenue in a village or estate which is the property of the Government:—"

7. To section 4, clause (7), the words "but does not include a survey-number" shall be added.

New clause inserted after section 4, clause (8). 8. After section 4, clause (8), the following shall be inserted, namely:—

"(8a) 'Proprietor,' except in sections 61 and 63, includes a gaontia of a Government village in the Sambalpur district:—"

Clause substituted for section 4, clause (10). 9. For section 4, clause (10), the following shall be substituted, namely:—

"(10) 'Málik-makbúza' means any person owning one or more plots of land in a mahál who was before the year 1876 recorded as possessed of the status of málik-makbúza, or of a status equivalent thereto, in respect of such land, and includes also the successors in estate of such person.

"Explanation.—Málik-makbúzas as such are not malguzárs, inferior proprietors or members of the proprietary body of a mahál:—"

Clauses inserted after section 4, clause (13). 10. After section 4, clause (13), the following shall be inserted, namely:—

"(13a) 'Patél' means a person appointed in manner prescribed under this Act to represent a body of Government raiyats in their dealings with the Government:—"

"(13b) 'Landed estate' means the lands allotted to any sharer or body of co-sharers in a mahál by an imperfect partition under this Act:—"

II. For the Explanation to section 4, clause (14), the following shall be substituted, namely:—

"Explanation I.—An inferior proprietor is not, as such, a tenant:—"

"Explanation II.—The holder of a survey-number in a village let in farm by the Government, or held by a gaontia in the Sambalpur district, is a tenant of the farmer or gaontia for the time being.

"Explanation III.—A person holding under a málik-makbúza or under the holder of a survey-number is a sub-tenant."

Section substituted for section 6. 12. For section 6 the following shall be substituted, namely:—

"6. (1) Besides the Chief Commissioner, there shall be the following classes of Revenue-officers, namely:—

Commissioners;
Deputy Commissioners;
Assistant Commissioners;
Tahsildárs;
Naib-tahsildárs.

"(2) All Revenue-officers are subordinate to the Chief Commissioner; all Revenue-officers in a division are subordinate to the Commissioner of the division; and all Revenue-officers in a district are subordinate to the Deputy Commissioner of the district.

"(3) An officer in charge of a village-survey in a district which is not under settlement may be invested by the Chief Commissioner with the powers of a Revenue-officer of any class and, when so invested, shall be subordinate to such officer or officers as the Chief Commissioner may direct."

Section inserted after section 18. 13. After section 18 the following shall be inserted, namely:—

"18A. Any Revenue-officer or class of Revenue-officers and any officer appointed to make a settlement may, if specially empowered in this behalf by the Chief Commissioner, order all persons whose presence may be, in the opinion of the officer making the order, necessary for any of the purposes of this Act to attend at any specified time or place, and may also direct them to produce any written document in their possession, and all such persons shall be legally bound to obey the order."

Power for Revenue and Settlement Officers to require attendance of persons and production of documents.

14. In section 45, after the words "comprised in such area," the words "or who are in possession of the whole or any part of the land as gaontias or as thekadárs of Government land, or as raiyats who have accepted the assessment of a survey-number," shall be inserted.

Amendment of section 46. 15. To section 46 the following shall be added, [cf. Act XVII of 1887, s. 56.] namely:—

"Provided that the Chief Commissioner may in the case of any mahál or part of a mahál direct that the assessment shall be in the form of rates chargeable according to the results of each year or part of a year."

New section inserted after section 52. 16. After section 52 the following shall be inserted, namely:—

"52A. If the assessment offered is in the form of rates chargeable according to the results of each year or part of a year, the Deputy Commissioner shall from year to year or from part of a year to part of a year, as the conditions of the assessment may require, make and publish, on or before such date, or at such intervals, as the Chief Commissioner may prescribe, a record of the amount payable in respect of each mahál or part of a mahál."

Section inserted after section 65. 17. After section 65 the following shall be inserted, namely:—

"65A. (1) The Settlement-officer may inquire into the claim of any person holding from a proprietor a village as thekadár, gaontia or farmer, and may, with the previous sanction of the Chief Commissioner,

Power to inquire into the claims of thekadárs, gaontias or farmers.

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(Section 18.)

provide in the terms of settlement for the protection of such thekadár, gaontia or farmer against arbitrary enhancement or ejectment:—

"Provided that a thekadár, gaontia or farmer shall not be provided for under this section unless he was in possession of the village at the last settlement of the local area in which the village is situate, or unless it is proved to the satisfaction of the Settlement-officer that he has established the village or substantially improved it at his own cost.

"(2) A thekadár, gaontia or farmer of a village who has been ejected from his tenure in the village within three years before the commencement of the Central Provinces Land-revenue Act, 1889, may apply to the Settlement-officer to be reinstated; and, if it is proved that he was in possession at the last preceding settlement or that he has established the village or substantially improved it at his own cost, the Settlement-officer may, with the previous sanction of the Chief Commissioner, restore him to possession of the village as thekadár, gaontia or farmer, as the case may be, and may provide in the terms of settlement for his protection against arbitrary enhancement or ejectment.

"(3) When any thekadár, gaontia or farmer is restored under sub-section (2) to the possession of a village, the proprietor shall not be liable for any claims arising out of any contract made by him with respect to the village, if the contract is set aside or cannot be performed in consequence of the restoration of the thekadár, gaontia or farmer."

New sections inserted after section 67. 18. After section 67 the following shall be inserted, namely:—

"Procedure in Raiyatwári Settlements.

"67A. (1) The Chief Commissioner may make rules for the assessment of land held by raiyats direct from the Government.

"(2) Such rules may provide for the subdivision of occupied and unoccupied land into survey-numbers, on each of which a separate assessment shall be made:—

"Provided that no such survey-number shall include land occupied in separate interests by more raiyats than one at the time of its formation.

"(3) Where the lands of a village have been divided into survey-numbers on each of which a separate assessment has been made, the village may be declared by the Chief Commissioner to be a regularly settled raiyatwári village.

"(4) The assessment made on a survey-number may be either fixed or progressive or in the form of rates chargeable according to the results of each year or harvest.

"67B. (1) The assessment of each survey-number in a regularly settled raiyatwári village shall in the first place be offered to the raiyat (if any) holding it.

"(2) If such raiyat refuses to accept the assessment, he may be ejected as if for non-payment of revenue, and the assessment may be offered—

(a) to any co-partner of the ejected raiyat, and, if he also refuses,

(b) to any other person.

"67C. A survey-number formed from unoccupied land in a regularly settled raiyatwári village may be allotted by the Settlement-officer at the time of settlement or by the Deputy Commissioner during the currency of the term of settlement to any person who accepts the assessment made upon it.

"67D. (1) A raiyat who has accepted the assessment of a survey-number in a regularly settled raiyatwári village, and his representatives and assigns, shall be responsible for the payment of the land-revenue assessed on such survey-number during the term of settlement unless he or they has or have relinquished the survey-number by presenting a notice of relinquishment at the tahsil office.

"(2) Such notice of relinquishment shall take effect from the first day of April next following the date of the presentation thereof.

"67E. (1) The right of a Government raiyat in a survey-number held by him shall devolve as if it were land, but is not transferable except to a person who, if he survived the raiyat, would inherit his right, or to a co-sharer in such right, or, with the permission of the Deputy Commissioner, to a cultivating sub-tenant from year to year.

"(2) The right of a raiyat in a survey-number held by him shall not be sold in execution of a decree.

"(3) A raiyat is not entitled to claim partition of a survey-number, but the Deputy Commissioner may, with the previous sanction of the Chief Commissioner, partition a survey-number and apportion the assessment between the holders thereof.

"(4) Nothing in this section shall affect the rights of raiyats on whom proprietary rights in survey-numbers held by them have been conferred by special orders.

"Power to make rules for survey-numbers. "67F. The Chief Commissioner may make rules—

(a) prescribing the procedure under which unoccupied survey-numbers may be allotted to raiyats during the currency of the term of a settlement;—

(b) providing for the appointment, in the case of survey-numbers held by two or more raiyats in co-partnership, of one of such raiyats to be primarily responsible for the payment of the land-revenue assessed on such survey-numbers;—

(c) providing, in cases in which the assessment is in the form of rates chargeable according to the results of each year or harvest, for the manner and time in and at which the amount chargeable is to be notified to the raiyat."

"67G. The provisions of sections 55 and 56 shall, so far as they can be made applicable, apply to raiyatwári settlements made under this Act.

"67H. The land-revenue payable at the commencement of the Central Provinces Land-revenue Act, 1889, by raiyats holding survey-numbers in

Land-revenue now payable by raiyats to be deemed to be fixed under this Act.

The Central Provinces Land-revenue Bill.

(Sections 19-26.)

villages declared to be regularly settled raiyatwari villages shall be deemed to have been assessed under the provisions of this Act.

"67I. Raiyats who hold Government land not included in a regularly settled raiyatwari village and who are not tenants within the meaning of this Act shall be liable for the payment of such land-revenue as may be assessed in accordance with rules made under this Act on the land held by them:

"Provided that such a raiyat shall not be compelled to pay revenue for land which he has vacated before the first day of April next before the commencement of the agricultural year on account of which the claim for such revenue arises."

19. For section 69 the following shall be substituted, namely:—
New section substituted for section 69.

"69. (1) The Settlement-officer shall ascertain and determine the extent of all the land held as sir-land as defined in section 4, clause (6), in each mahál, and shall also record as sir all land which is at the time of his inquiry cultivated by the proprietor or one of the proprietors thereof and has been so cultivated for a period of not less than twelve consecutive years:

"Provided that land so cultivated shall not be recorded as sir, if it was recorded as raiyati land in the last preceding settlement of the mahál in which it is situate, and if by recording it as sir the total area of sir-land in the mahál will amount to more than a quarter of the cultivated area of the mahál.

"(2) When any part of the land so cultivated has to be excluded under this section from the sir, the proprietor shall have the right to choose the particular fields which are to be excluded."

20. In section 91, after the words "under a settlement or sub-settlement" the words "or otherwise under an assessment made in accordance with this Act", and after the words "with whom such settlement or sub-settlement" the words "or such assessment", shall be inserted.

21. After clause (g) of section 94 the following shall be inserted, namely:—
Amendment of section 94.

"(h) in the case of a raiyat who has accepted the assessment of a survey-number, by ejecting him from his holding."

22. After section 124 the following shall be inserted, namely:—
Insertion of new section after section 124.

"124A. (1) When under any record-of-rights or sanad or any agreement with the Government the proprietor or the superior or inferior proprietor of any forest-land included within, or forming, a mahál is bound to manage such forest-land in accordance with rules or instructions prescribed by any Government officer, the Chief Commissioner may make rules regarding the control and management of such forest-land.

"(2) If the proprietor or the superior or inferior proprietor, as the case may be, fails to observe the rules so made, the Deputy Commissioner may, with the previous sanction of the Chief Commissioner, exclude such proprietor from the possession of the forest-land and assume the direct management thereof for a term to be fixed by the Chief Commissioner.

"(3) The costs of management shall be borne by the proprietor, or by the superior and inferior proprietors in such proportions as the Chief Commissioner may direct with reference to the amount of their respective interests in the forest or mahál, and shall be realizable as land-revenue.

"(4) The profits of such forest-land while under direct management shall be paid to the proprietor, or to the superior and inferior proprietors in the proportions in which the costs of management are borne by them.

"(5) No leases, liens, incumbrances or contracts created or made by the proprietor or by any person through or under whom he claims, of, upon or with respect to the forest-land held under direct management, shall be binding upon the Deputy Commissioner during such management.

"(6) The Deputy Commissioner may confiscate any timber or other forest-produce cut or removed in contravention of the rules made under sub-section (1).

"(7) On the expiration of the period fixed for the direct management the forest-land shall be restored to the proprietor, or superior or inferior proprietor, as the case may be, under a settlement made in accordance with this Act."

23. In section 125, clause (a), for the words "subsequently to the preparation of the record-of-rights" the words "from time to time" shall be substituted.

24. To section 132 the following shall be added, namely:—
Addition to section 132.

"(i) inquiring into the claims of thekadárs, gaontias or farmers and protecting or reinstating them."

25. In section 135, after the words "mortgagees or farmers" the words "or, in the case of regularly settled raiyatwari villages, of the raiyats" shall be inserted.

26. Section 136 is hereby repealed, and after section 135 the following shall be inserted, namely:—
Repeal of section 136 and substitution thereof of new provisions respecting partition.

"CHAPTER XA.**"PARTITION.****"Perfect and Imperfect Partition.**

"136A. (1) Partition is either perfect or imperfect.

"(2) Perfect partition means the division of a mahál into two or more maháls.

"(3) Imperfect partition means the division of a mahál into two or more landed estates jointly responsible for the revenue assessed on the whole mahál.

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"136B. Any recorded co-sharer of a mahál and any person in whose favour a decree has been passed awarding to him a proprietary interest in a mahál, whether such interest consists of a fractional share in the whole mahál or a part of the mahál or of specific lands, is entitled to claim at any time imperfect partition of his share.

"136C. Any recorded co-sharer in a mahál whose share, saving such part of it as may be impartible, has been completely separated from the rest of the mahál and is held by him in severalty, is entitled to claim perfect partition of his share at the time of settlement of such mahál.

"136D. No Civil Court shall entertain any suit or application for the perfect or imperfect partition of a mahál.

Imperfect Partition.

"136E. (1) Applications for imperfect partition shall be made in writing to the Deputy Commissioner of the district in which the mahál is situate.

"(2) If the mahál is situate in two or more districts, the application may be made in any one of those districts, and the partition shall be made by such one of the Deputy Commissioners of those districts as the Chief Commissioner may direct.

"136F. (1) The Deputy Commissioner on receiving an application for imperfect partition shall, if the application be in order, publish a notification of the same at his office and at some conspicuous place on the mahál to which the application relates, and shall serve a notice on all such of the recorded co-sharers in the mahál as have not joined in the application, requiring any co-sharer in possession who may object to the partition to appear before him to state his objection either in person or by a duly authorized agent on a day to be specified in the notice, not being less than thirty or more than sixty days from the date on which such notice was issued.

"(2) Where from any cause notice cannot be personally served on any co-sharer the notification shall be deemed sufficient notice under this section.

"136G. If on or before the day specified any objection is made to the partition by any co-sharer in possession, and the Deputy Commissioner on a consideration of such objection is of opinion that there is good and sufficient reason why the partition should be absolutely disallowed, he may refuse the application, recording the grounds of his refusal.

"136H. (1) If the objection raises any question of title or of proprietary right which has not been already determined by a Court of competent jurisdiction, the Deputy Commissioner may either decline to make the application until the question is decided by a competent Court or may proceed to inquire into the merits of the objection.

or may proceed to inquire into the merits of the objection.

"(2) In the latter case the Deputy Commissioner, after making the necessary inquiry and taking such evidence as may be adduced, shall record a judgment declaring the nature and extent of the interests of the party or parties applying for the partition, and any other party or parties who may be affected thereby.

"(3) The procedure to be observed by the Deputy Commissioner in trying such cases shall be that laid down in the Code of Civil Procedure XIV of 1882, for the trial of original suits, and he may with the consent of the parties refer any question arising in such case to arbitration, and the provisions of Chapter XXXVII of the same Code relative to arbitration shall apply to such references.

"136I. (1) All decrees and orders passed by the Deputy Commissioner under the last foregoing section deciding the rights of parties shall be held to be decrees and orders of a Court of Civil Judicature, and shall be open to appeal as if passed by the Court of the Deputy Commissioner acting as a Court of Civil Judicature of first instance under the Central Provinces Civil Courts Act, XVI of 1885.

"(2) Upon such appeal being made the Court of appeal may issue a precept to the Deputy Commissioner directing him to stay the partition pending the decision of the appeal.

"136J. From any decree or order passed under the last foregoing section by a Commissioner sitting as a Court of appeal a second appeal shall, where a second appeal is by law allowed, lie to the Court of the Judicial Commissioner under the law for the time being in force relating to second appeals to that Court.

"136K. When it has been decided to make a partition under this Chapter the Deputy Commissioner may give the parties the option of making the partition themselves or of appointing arbitrators for the purpose, or he shall make the partition himself.

"136L. Before commencing to make the partition the Deputy Commissioner shall record a proceeding specifying the lands held in severalty, if any, and the land held in common, and laying down the principles to be followed in making the partition with particulars of the method in which such principles are to be applied.

"136M. (1) The landed estate of each sharer shall be made as compact as possible.

"Provided that, so far as may be compatible with fairness of partition, lands held in severalty shall be left in the possession of the parties holding the same.

"(2) No partition shall be disallowed solely on the ground of incompleteness.

*The Central Provinces Land-revenue Bill.**(Section 27.)*

"136N. (1) If in making the partition it be necessary to include in any landed estate the land occupied by a dwelling-house or other building in the possession of another co-sharer, such other co-sharer shall be allowed to retain it, with any buildings thereon, on condition of his paying a reasonable ground-rent for it to the sharer into whose estate it may fall.

"(2) The limits of such land and the rent to be paid for it shall be fixed by the Deputy Commissioner.

"136O. (1) No sfr-land belonging to any co-sharer shall be included in the landed estate assigned on partition to another co-sharer unless with the consent of the co-sharer who cultivates it, or unless the partition cannot otherwise be conveniently carried out.

"(2) If such land be so included and after partition such co-sharer continue to cultivate it, he shall be recorded as an occupancy-tenant in respect of such land and his rent shall be fixed by order of the Deputy Commissioner.

"136P. (1) Tanks, wells, water-courses and embankments shall be treated as attached to the land for the benefit of which they were originally made.

"(2) Where, from the extent, situation or construction of such work, it is found necessary that they should continue the joint property of the proprietors of two or more of the landed estates into which the mahál may be divided, the Deputy Commissioner shall determine the extent to which the proprietors of each estate may make use of the said works, and the proportion of the charges for repairs of such works to be borne by such proprietors respectively, and the manner in which the profits, if any, derived from such works shall be divided.

"136Q. (1) Places of worship and burial-grounds held in common previous to the partition of a mahál shall continue to be so held unless the parties otherwise agree among themselves.

"(2) In such cases they shall state in writing the agreement into which they have entered, and such writing shall be filed with the record.

"136R. (1) If the costs to be paid by the applicant for partition are not paid within a time to be fixed by the Deputy Commissioner, the case may be dismissed.

"(2) If at any stage of the proceedings there appears to be any reason for stopping the partition, the Deputy Commissioner may stay the partition and order the proceedings to be quashed.

"136S. On completion of the partition the Deputy Commissioner shall submit the proceedings to the Commissioner, who may either uphold the partition proposed or modify it or quash the proceedings; and a partition shall not take effect until it has been sanctioned by him.

"136T. (1) On a partition being sanctioned by the Commissioner, the Deputy Commissioner shall publish a notification of the fact at his office and at some conspicuous place in the village or villages of the mahál of which the partitioned landed estates formed part.

"(2) The partition shall take effect from the first day of the agricultural year next after the date of such notification.

"Perfect Partition."

"136U. (1) Applications for perfect partition shall be made, in such form as may be prescribed by the Chief Commissioner, to the Settlement-officer charged with the settlement of the area in which the mahál is situate.

"(2) Such applications must show that the share which it is desired to have formed into a separate mahál is already held in severalty saving such portion of it as may be impartible. An application failing to show this shall be rejected.

"136V. (1) Subject to any rules which may be made by the Chief Commissioner, the Settlement-officer, if he is satisfied of the truth of the matter stated in the application, may declare the share to be a separate mahál and may assess it separately to land-revenue:

"Provided that no share shall be declared to be a separate mahál till the proprietors of other shares in the mahál have been given an opportunity of objecting to its perfect partition.

"(2) Except with the sanction of the Commissioner an incompact estate shall not be declared to be a separate mahál.

"Supplemental Provisions."

"136W. The Chief Commissioner may make rules regarding partition-proceedings—

- the form in which applications for partition shall be made;
- the procedure to be followed in referring matters to arbitrators and in giving effect to the award of arbitrators;
- the costs of partition and the mode in which costs are to be apportioned; and,
- generally, for carrying out the provisions of this Chapter.

"136X. Act XIX of 1863 (*an Act to consolidate and amend the Law relating to the Partition of Estates paying revenue to Government in the North-Western Provinces of the Presidency of Fort William in Bengal*) is hereby repealed with effect from the commencement of the Central Provinces Land-revenue Act, 1889."

27. (1) In the first paragraph of section 137, for the words "and mukaddams" the words "mukaddams and patéls" shall be substituted.

"(2) For the last paragraph of the same section the following shall be substituted, namely:—

"The lambardár of the village shall ordinarily also be the mukaddam. When a lambardár who does not reside in the village is appointed

*The Central Provinces Land-revenue Bill.**(Sections 28-36.)*

mukaddam thereof, he shall, subject to the approval of the Deputy Commissioner, appoint an agent to perform the duties of a mukaddam. If there are resident co-sharers in the village, the non-resident lambardár shall appoint one of them to be his agent unless the Deputy Commissioner for special reasons allows him to appoint some other person. If a mukaddam fails within a reasonable time to appoint an agent with the approval of the Deputy Commissioner, the Deputy Commissioner shall himself appoint an agent and shall fix the amount of his remuneration, which shall be paid to him by the mukaddam.

"Notwithstanding the appointment under this section of an agent, the mukaddam shall be deemed to be responsible for the performance of the duties prescribed with regard to mukaddams by this Act and the rules made hereunder.

"In a raiyatwári village the patél shall ordinarily be the mukaddam."

28. After section 143 the following shall be inserted, namely:—

"143A. It shall be the duty of every patél, in addition to his duties as mukaddam,—

- to collect and pay into the Government treasury the land-revenue assessed on the survey-numbers or holdings of his village;
- in respect of his village to report the abandonment of survey-numbers or holdings, the encroachment of raiyats on waste-land not included in their survey-numbers or holdings, and the non-payment of revenue or any facts which indicate that default will be made in the payment thereof;
- to assist the patwári and village-watchman of his village in the recovery of dues to which they are entitled;
- to prevent the unauthorized cutting of wood in Government forests included in or adjoining his village, and to report any such unauthorised cutting in such forests."

29. (1) In section 144, after the words "may make rules" the following shall be inserted, namely:—

"(a) providing for the appointment of patwáris in tracts where they have not been already appointed;"

(a) In the same section clauses (a), (b) and (c) shall be read as clauses (b), (c) and (d), respectively, and the last paragraph beginning with the words "Provided that" and ending with the words "liable to assessment" is hereby repealed.

30. Section 145 is hereby repealed.

31. The portion of section 146, clause (b), beginning with the words "and may in such rules" and ending with the words "such duties" is hereby repealed.

32. After section 146 the following shall be inserted, namely:—

"146A. (1) The Chief Commissioner shall fix the nature and amount of the contributions to be made by proprietors and tenants in every mahál or raiyatwári village towards the remuneration of patwáris and the defraying of any charges incurred on account of the proper supervision, maintenance and correction of the patwáris' records, and may direct that any or all of such contributions be paid into the Government treasury through the lambardár of the mahál, or the patél:

"Provided that, except with the previous sanction of the Governor General in Council, no proprietor shall be compelled to contribute under this section a sum exceeding six per cent. on the revenue for the time being assessed on his land, or which, when his land is wholly or partially free from revenue, would in the judgment of the Deputy Commissioner be assessable on his land if it were liable to a full assessment.

"(2) The contributions fixed under sub-section (1) may be recovered in the same manner as an arrear of revenue payable directly to the Government, and the provisions of section 116 shall be applicable in the case of a lambardár or patél through whom the contributions are payable."

33. After section 147 the following shall be inserted, namely:—

"147A. The Chief Commissioner may make rules regarding village-watchmen and may in the rules—

- provide for and regulate their appointment, suspension or removal, prescribing the number of village-watchmen who may hold office at one time in a single village and providing for the appointment of a single village-watchman for two or more villages where such villages would be unable to support separate village-watchmen;
- determine the character and amount of the remuneration which village-watchmen shall be entitled to demand from the members of the village-community;
- define the duties and the mode of supervision of village-watchmen."

34. In section 148, for the words "and patwáris" the words "patwáris and village-watchmen" shall be substituted.

35. In section 149, for the words "and patwáris" the words "and village-watchmen" shall be substituted.

36. In section 151 the words "and the right to extract sap from all palmyra and coconut trees" are hereby repealed.

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37. For clause (13) of section 152 the following shall be substituted, namely:—

“(13) questions connected with, or arising out of, the exclusion of a proprietor from forest-land, and the direct management of such land under section 124A;

“(13a) the distribution of the land or allotment of the revenue of a mahál by partition; or the determination of the rent to be paid by a co-sharer for land held by him after the partition in the mahál or the landed estate of another co-sharer.”

38. In clause (14) of section 152, for the words “or mukaddam” the words “mukaddam, patél or village-watchman” shall be substituted.

39. After section 161 the following shall be inserted, namely:—

“161A. Any mukaddam who without reasonable excuse fails to perform any duty imposed on him by this Act or the rules made thereunder, or abuses

any of the powers conferred upon him by this Act or any such rule, shall be punishable with fine which may extend to fifty rupees, and, in the case of a continuing failure, to a fine of ten rupees for each day during which the failure continues.

“161B. Any person who neglects or disobeys a reasonable order made by a mukaddam in pursuance of the duty imposed upon him by section 141, clause (c), shall be punishable with fine which may extend to twenty rupees, and, if the neglect or disobedience is continued, shall also be liable to a fine of five rupees for each day during which the neglect or disobedience is continued.”

40. Notwithstanding anything contained in section 29, the Chief Commissioner shall be deemed to have, and to have had, authority to assign to the Settlement-officer the title “Assistant Settlement-officer” and to the Chief Settlement-officer the title “Settlement-officer”.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to amend the Central Provinces Land-revenue Act, 1881, with regard to matters in which the experience of the revenue-administration during the last eight years and the settlement-operations now in progress have shown the law to be defective. It is also necessary to make provision for giving effect to the orders of the Secretary of State regarding the introduction of the raiyatwári system of settlement in tracts not included within the limits of the existing málguzári settlement.

The matters which call for notice in the Bill are as follows:—

- (1) It is proposed to extend the Land-revenue Act to the scheduled districts. The scheduled districts are zamindáris paying revenue to the Government, and it is found inexpedient and unnecessary to exclude them from the ordinary revenue law of the provinces.
- (2) By section 5 of the Bill the definition of “sír-land” is amended. Under the present law the proprietor has as his sír-land (a) land recorded as “sír” at the last settlement; (b) land which was not so recorded but which has been cultivated by the proprietor for twelve consecutive years; and (c) waste-land which has been broken up by the proprietor and cultivated by him for six consecutive years. To prevent the proprietor obtaining under these provisions an excessive area of sír-land to the detriment of the tenants, it is further provided that land which has, after the date of settlement, or the expiration of the period of twelve years, or six years, as the case may be, been for a period of six years unoccupied by the proprietor, is not sír-land, but that land is not unoccupied by the proprietor when it is leased out by him with an express reservation of his sír-rights. This definition of sír-land has been found to be defective in two material points. In the first place, it does not answer the purpose for which it was intended, namely, to prevent the undue accumulation of sír-land in the hands of the proprietor; and, in the second place, it frequently deprives the proprietor of his old sír-lands, the land which has for years been recorded in the settlement-records as his sír. If the landlord lets out this sír-land to a tenant who holds for six years continuously, the landlord loses his sír-rights. He might save them by expressly reserving them, but among an agricultural people the law is not carefully regarded, the express reservation of sír-rights is forgotten and the sír-rights are lost. It is now proposed to amend the definition of “sír-land” so as to remove this grievance of the landlords, and at the same time to prevent the excessive acquisition of sír-land under the twelve years occupancy rule. The definition in the Bill alters the rule as to the acquisition of sír-land by cultivating land for twelve years. For the future land will not under the definition become sír-land by being cultivated for twelve years by the proprietor; but to preserve existing rights, land which has become sír under the twelve years occupancy rule and is occupied by the proprietor when this Bill becomes law will remain sír-land. It is also provided that for the future a proprietor who has been

sír-rights by not occupying sír-land for a period of six years. It is not intended, however, to interfere with the taking up by a proprietor of raiyati land for direct farming, nor to prevent a proprietor holding a reasonable amount of land as his sír. Section 19 of the Bill accordingly empowers the Settlement-officer to record as sír-land all land which he finds to have been cultivated by the proprietor for not less than twelve consecutive years; but the Settlement-officer will not under this provision declare raiyati land to be sír if the total area of sír-land in the mahál would thereby amount to more than a quarter of the cultivated area of the mahál. It is considered that these amendments will preserve to the proprietors their old sír-lands, will prevent the excessive absorption of raiyati land into the sír, and will at the same time afford the proprietor a full opportunity of holding in his own cultivation as sír a reasonable amount of land.

- (3) Section 6 of the Bill defines, for the purposes of raiyatwári settlements, the expression “survey-number”; section 7 amends the definition of “mahál” for the same purposes; and section 8 adds a definition of the word “proprietor” to meet the requirements of the revenue-system in the Sambalpur district.
- (4) By section 9 of the Bill the definition of málik-makbúza is amended in order to make it clear that the status of málik-makbúza cannot be now created. The status of málik-makbúza or proprietor of a small plot of land in a mahál was created at the last settlement, and it was never intended that a person could become a málik-makbúza by acquiring a plot of land assessed to revenue in a mahál.
- (5) Section 10 of the Bill adds a definition of the word “patél” for the purposes of the raiyatwári settlement and a definition of the expression “landed estate” for the proposed enactments regarding partition.
- (6) By section 11 of the Bill an explanation is added to the definition of “tenant” so as to prevent the acquisition of tenant-right in lands held by málik-makbúzas and tenants of the Government. The majority of persons who were given the status of málik-makbúzas at the settlement and were thus made proprietors were raiyats who had a strong claim to protection. The grant of proprietary rights will prove injurious to them, if it leads to the acquisition of tenant-right by persons to whom the málik-makbúzas sublet their holding. In providing also that the tenant of the holder of a survey-number is a sub-tenant existing facts are maintained. A possible ambiguity is merely guarded against.
- (7) Section 12 of the Bill amends section 6 of the Act, the provisions of which as to the subordination of officers was found to be ambiguous and defective.
- (8) Section 13 of the Bill gives power to Revenue and Settlement Officers to require the attendance of persons whose presence is necessary for the purposes of revenue inquiries and proceedings. This power is not distinctly conferred by the Act and is necessary, especially in proceedings before Settlement-officers.
- (9) Section 14 of the Bill amends section 45 of the Act so as to authorize the Settlement-officer to require gaontias and thekadárs of Government land, or persons who hold survey-numbers, to erect or repair the boundary-marks of their lands.
- (10) Sections 15 and 16 of the Bill make provision for what is known as a fluctuating assessment, or an assessment chargeable according to the results of a year or part of a year. It is thought desirable that the Government should have the power of making such an assessment, if necessary, and the provisions of the Bill are adapted from the Punjab Land-revenue Act, 1887.
- (11) Section 17 of the Bill adds to the Act a provision of considerable importance. It is designed to place some restriction on the ejectment by zamindárs and other large proprietors of old-established gaontias, thekadárs or farmers who hold villages in farm. The position of a considerable number of these gaontias and thekadárs was at the last settlement little, if anything, inferior to that of the persons on whom proprietary rights were conferred. A large number of them founded, or represent the founders of, the villages which they hold, and have spent considerable sums of money on the establishment and improvement of those villages. At the last settlement a certain number of them, holding villages in estates which were more or less regularly settled, were secured by the grant of inferior proprietary rights, but the great majority of them were left unprotected. These held under leases or grants for a term of years, and these leases or grants were customarily renewed on the payment of a premium. The gaontia or thekadár considered that he had a right to such renewal, and on this understanding he expended money and improved the land entrusted to him. At first he was secure from ejectment or arbitrary enhancement, because, if he gave up the village, the zamindár would have had a difficulty in getting anyone else to take it. Recently, however, owing to the opening up of the country and the increase of competition, the zamindárs have been led to demand excessive rents or premia from the gaontias and thekadárs, and on their refusing to agree to pay the

rent demanded the gaontias and thekadárs have been ejected and have lost in many cases the money which they had spent in improving the zamindár's property. It is considered that at the last settlement provision should have been made, when proprietary rights were conferred on the zamindárs and others, to secure also to the gaontias and thekadárs their rights in the villages which they hold. Under the present settlement endeavours have been made to supply this omission. Thekadárs and gaontias of long standing who have improved their villages have been given, with the consent of the zamindárs, a protected status, the principal incidents of which are non-liability to ejectment or enhancement, except under the orders of the Deputy Commissioner, and the commutation to an annual payment of the heavy premia, or fines, commonly levied by zamindárs on the renewal of leases. It is however necessary to provide for cases in which the zamindár refuses at the settlement to grant such a protected status to his gaontias or thekadárs. Power is therefore given by the Bill to the Settlement-officer to make provision in the terms of settlement for the protection of thekadárs, gaontias or farmers against arbitrary enhancement or ejectment. This power can only be exercised with the previous sanction of the Chief Commissioner and in the case of those persons who were in possession at the last settlement or who have established a village or substantially improved it at their own cost. To meet the cases of those persons who may have been ejected merely in order to prevent rights being secured to them in the present settlement, power is also taken to inquire into the claim of a thekadár or gaontia who has been ejected within three years from the date on which the Bill becomes law, and, with the previous sanction of the Chief Commissioner, to reinstate him in possession if he was in possession at the last settlement or if he has established the village or substantially improved it at his own cost.

- (12) Section 18 of the Bill inserts nine sections to provide for raiyatwári settlements. In tracts over which proprietary rights were not conferred at the settlement the cultivators hold direct from the Government. The present Land-revenue Act contains no special provisions for the settlement of lands so held or for realizing the rents from them, and it is necessary to supply this defect. The provisions contained in the Bill follow generally the system of raiyatwári settlement in force in the Bombay Presidency. They also declare the right which the raiyat has in his survey-number or holding separately assessed with land-revenue. The right is heritable, but not transferable except to a person who, if he survived the raiyat, would inherit his right or to a co-sharer in the right or, with the permission of the Deputy Commissioner, to a person who cultivates as a sub-tenant from year to year. It is also provided that the right cannot be transferred by decree of Court. Experience has shown that it is not a benefit to a raiyat to confer a transferable right upon him. The result too frequently is that the raiyat raises money on the security of his holding, spends the money extravagantly for marriage and other purposes and loses his land.
- (13) Section 20 of the Bill contains an amendment so as to make the definitions of "arrear" and "defaulters" in section 91 of the Act applicable to the case of land held under a raiyatwári settlement.
- (14) Section 21 of the Bill provides that, if a raiyat holding a survey-number fails to pay his revenue, he can be ejected.
- (15) Section 22 of the Bill contains a provision intended to preserve the forests which have been settled with proprietors. When, at the last settlement, proprietary right in forest-land was conferred on the persons with whom the settlement was made, the injustice was recognized of permitting this measure to affect the tenants injuriously, and rights in village-forests and waste-lands were expressly reserved for the tenants. The great rise in the value of timber and firewood which has taken place since the last settlement has led the proprietors to cut and sell the wood, so that in some cases the forests have been almost entirely destroyed. The village-population consequently finds it more and more difficult to get material for the annual repairs of their houses and for other purposes. It was to meet this evil that section 123 was inserted in the present Act, but the powers which it gives are too limited to be effectual. For the violation of a rule entered in the record-of-rights a proprietor can under that section be rendered liable to a fine of two hundred rupees, but it is obvious that this fine will not restrain a proprietor who can make ten times the amount by cutting and selling the timber of the village-forest. The section inserted by the Bill provides that, when under any record-of-rights, sanad or agreement with the Government a proprietor is bound to manage forest-land in accordance with rules or instructions prescribed by any Government officer, the Chief Commissioner may make rules regarding the control and management of the forest-land. If the rules are disregarded, power is given to the Deputy Commissioner, with the previous sanction of the Chief Commissioner, to take the forest-land under direct management, and provision is made for the

cost of management and the payment of the profits to the proprietor. The usual provision is made to guard against incumbrances or contracts created on, or made with respect to, the forest-land by the proprietor, and also as to restoring possession to the proprietor after the expiration of the term of direct management. Power is also given to the Deputy Commissioner to confiscate any timber or other forest-produce cut or removed in contravention of the rules made by the Chief Commissioner. It is hoped that these provisions will be sufficient to prevent the injury caused to the public and the village-community by the destruction of village-forests.

- (16) Section 23 of the Bill amends section 125 of the Act with a view to extending to the purchasers of waste-land plots the obligations in regard to the maintenance of village-records. The words "occurring subsequently to the preparation of the record-of-rights" may be taken to exclude the operation of this section in cases where land has been acquired and villages settled since last settlement, and where consequently no formal record-of-rights has been prepared.
- (17) Section 24 of the Bill gives to the Deputy Commissioner the power, when a settlement is not in progress, of inquiring under the new section 65A into the claims of thekadárs or gaontias.
- (18) By section 25 of the Bill section 135 of the Act is amended so as to render the raiyats of raiyatwári villages liable for the repairing of boundary-marks.
- (19) Section 26 of the Bill repeals section 136 of the Act and substitutes a chapter on partition—a matter which was not properly provided for in the Act and which is now regulated by Act XIX of 1863. It is intended, however, to make an important amendment in the law regarding partition. Owing to the physical features of the country it is in many cases impossible to make a partition of an estate into compact shares. It is inconvenient to divide a mahál into several maháls unless they can be made compact, and the result is that it is extremely difficult to make a perfect partition of a mahál, that is to say, to divide it into a number of maháls each of which is separately assessed. In two districts (Chánda and Nimar) it was provided in the record-of-rights that a perfect partition cannot be made without the sanction of the Chief Commissioner, and with respect to the other districts it is considered that, having regard to the fact that proprietary rights, and consequently the right to partition, only came into existence at the last settlement, the Government is entitled to refuse to allow the joint responsibility of the proprietors of an estate to be broken up during the currency of a settlement. The majority of persons, moreover, who ask for partition do not want to be released from the joint liability for the land-revenue. Their object is to obtain a division of the land in the mahál, and especially of the sáf-land, of which perhaps one co-sharer holds more than his fair proportion. If facilities were afforded for making an imperfect partition, it is considered that perfect partition would seldom be asked for. The new sections inserted by the Bill provide that any co-sharer may claim at any time imperfect partition of his share, but that perfect partition can only be claimed at the time of settlement and then only by a sharer who holds his share in severalty. Provisions adapted from the North-Western Provinces Land-revenue Act are made for carrying out an imperfect partition. With regard to perfect partition power is given to the Settlement-officer, subject to rules made by the Chief Commissioner, to declare that a share held in severalty is a separate mahál.
- (20) Section 27 of the Bill amends section 137 of the Act so as to give the Chief Commissioner power to make rules regulating the appointment, remuneration and removal of patéls, the persons who represent the raiyats of raiyatwári villages in their dealings with the Government. The provisions of the same section with regard to mukaddams are also amended. As the section now stands it provides that, where there are resident málguzárs, one of such málguzárs shall be the mukaddam. Experience has, however, shown that it is generally hopeless to look to any one but the lambardár for the authority which the mukaddam requires for the proper performance of his duties. Moreover, the allowance which is given to the mukaddam is generally so small that it is insufficient to induce a person to undertake the duties and responsibilities of the office. The duties which the Act attaches to the office of mukaddam are duties which are properly attached to the ownership of property. The amendment proposed by the Bill, therefore, provides that the lambardár of a village shall also ordinarily be the mukaddam; that if the lambardár does not reside in the village he shall be bound to appoint an agent to perform his duties, and that notwithstanding the appointment of an agent the lambardár-mukaddam shall be responsible for the due performance of duties imposed on a mukaddam by the Act.
- (21) Section 28 of the Bill inserts a new section declaring what the duties of the patél are, namely, to collect and pay into the treasury the land-revenue of his village, to report the abandonment of survey-numbers and other matters

regarding his village, to assist the patwári and village-watchman in recovering their dues, and to prevent the unauthorized cutting of wood in Government forests.

- (22) The amendments made by sections 29, 30, 31 and 32 of the Bill relate to patwáris. They provide, in the first place, for the appointment of patwáris in places where no patwáris previously existed; in the second place, they legalize the collection of the dues payable by tenants in return for the patwári's services through the málguzárs instead of by the patwáris themselves; and, in the third place, they legalize the appropriation of part of the proceeds of the patwári-cess in defraying the expense of a supervising staff and in meeting charges connected with the working of the patwári system, such as those for instruments and forms.

At the last settlement the proprietors in some districts were allowed the option of maintaining patwáris or of making their own arrangements for the performance of the patwári's duties. The result was that in many cases no patwári was maintained and no proper arrangement was made for the performance of his duties. To remedy this section 145 of the Act provided that the Chief Commissioner might make rules empowering the Deputy Commissioner to impose fines on the proprietors and therefrom to make provision for the temporary performance of the duties of the patwári, or to appoint a patwári and to fix his remuneration. No provision was made as to the persons who were bound to pay this remuneration. This enactment has not worked satisfactorily. In many cases proprietors have consented to have a patwári appointed and to pay a patwári-cess, but it is inconvenient to leave it open to proprietors to decide whether they will have a patwári or not. Power is accordingly taken, by amending section 144 of the Act, so as to enable the Chief Commissioner to appoint patwáris in tracts where they have not been heretofore appointed, and section 145 of the Act is repealed, as it will no longer be required.

Section 32 of the Bill adds a new section (146A) giving the Chief Commissioner power to fix the contributions payable by the proprietors and tenants towards the remuneration of patwáris, the cost of supervising their work and maintaining their records. This will enable the Government to enforce the payment of the patwári-cess and will legalize the expenditure of a part of the patwári-fund in paying for a portion of the supervising establishment of revenue-inspectors and for charges connected with the working of the patwári-system. The fees paid by tenants to patwáris constitute in some districts of the Central Provinces a large proportion of the patwári's emoluments. When these fees are payable in cash it is desirable that they should be collected by the málguzár and paid into the Government treasury instead of being collected by the patwáris themselves. Section 146A therefore gives the Chief Commissioner power to direct that the patwári's fees shall be paid into the Government treasury by the lambardár of the mahál or the patél.

The limit now fixed with regard to the amount chargeable as patwári-cess remains unaltered.

- (23) Section 33 of the Bill adds to the Act a section (147A) providing for the appointment and remuneration of the kotwár or village-watchman. Like the mukaddam the kotwár is an administrative officer paid for the most part by a grant of land, but his position and emoluments were not sufficiently provided for at the last settlement in the record-of-rights. It is expedient to give the Government power to control the kotwár, especially as it is important for the police-administration that the kotwár's duties should be efficiently performed.
- (24) Sections 34 and 35 of the Bill amend sections 148 and 149 of the Act so as to save the appointments of existing kotwárs and to provide for the realization of the fees to which they are entitled.
- (25) In section 151 of the Act it was intended to preserve to the Government the right to extract sap from all trees yielding the sap which is known as "tári". The tree from which "tári" is made in the Central Provinces is the date-palm, but by an oversight in the drafting of the Act the sap of the palmyra and cocoanut trees was mentioned, and consequently the right of the Government to extract "tári" has not been preserved. It is, however, considered expedient to repeal the words reserving the right and not to amend them. To withdraw from proprietors the right to extract "tári" would rouse great opposition, and the profits which they derive from the date-palms can be taken into account in assessing the revenue on their estates. Section 36 of the Bill accordingly repeals the words "and the right to extract sap from all palmyra and cocoanut trees".
- (26) Sections 37 and 38 of the Bill add to the matters with regard to which the jurisdiction of the Civil Courts is barred by section 152 of the Act. The jurisdiction of the Courts is excluded with regard to questions arising out of the direct management under section 124A of forest-land from which a proprietor

has been excluded for contravening the rules for the management of the forest-land, with regard to questions which may arise with respect to the distribution of land and allotment of revenue at a partition, and also with regard to claims to the office of patél or village-watchman.

- (27) Section 39 of the Bill provides for the punishment of mukaddams for neglect of duty or for abuse of authority. In order also to give effect to the rules made for the duties of mukaddams and to support their authority with regard to village-sanitation, a penalty is provided for the neglect or disobedience of a reasonable order made by a mukaddam in pursuance of the duty imposed upon him by section 141, clause (e), of the Act.
- (28) The object of section 40 of the Bill is to legalize the practice of designating the Chief Settlement-officer as the Settlement-officer and the Settlement-officer as the Assistant Settlement-officer. Section 29 of the Act uses the expressions Chief Settlement-officer and Settlement-officer, but it has been found more convenient in practice to use the titles Settlement-officer and Assistant Settlement-officer.

The 27th June, 1889.

R. J. CROSTHWAITE.

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



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JULY 6, 1889.

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 3rd July, 1889:

NO. 6 OF 1889.

A Bill to amend Acts VI and VII of 1884.

VI of 1884. WHEREAS it is expedient to amend the Inland
VII of 1884. Steam-vessels Act, 1884, and the Indian Steam-
ships Act, 1884; It is hereby enacted as
follows:—

Inland Steam-vessels Act, 1884.

VI of 1884. 1. To section 11 of the Inland Steam-vessels
Addition to section Act, 1884, the following
11, Act VI, 1884. sub-section shall be added,
namely:—

- "(4) The Local Government may delegate,—
- (a) with the previous sanction of the Governor General in Council, to any person the function, assigned to it by sub-section (1), of granting a certificate of survey under that sub-section;
- (b) of its own authority, to any person the function, assigned to it by sub-section (3), of causing notice to be given of a certificate of survey being ready for delivery:

Provided, with respect to clause (a) of this sub-section, that no delegation of the function mentioned in that clause shall be construed to authorise the grant of a certificate of survey by the surveyor who gave the declaration of survey under section 9."

2. In section 12 of the said Act the words
Amendment of sec- "by the Local Govern-
tion 12, Act VI, 1884. ment" are hereby repealed.

3. In section 17 of the said Act, between the
Amendment of sec- word "which" and the
tion 17, Act VI, 1884. word "granted", in both
places where the expres-
sion "which granted" occurs, the words "or
whose delegate" shall be inserted.

4. After section 54 of
Insertion of new sec- the said Act the following
tion after section 54, section shall be inserted,
Act VI, 1884. namely:—

"54A. If an inland steam-vessel has on
Penalty for having board thereof or on or in
excessive number of any part thereof a number
passengers on board. of passengers which is
greater than the number of passengers set forth
in the certificate of survey as the number which
the vessel or the part thereof is, in the judgment
of the surveyor, fit to carry, the owner and master
shall, for every passenger over and above that
number, be each liable to a fine which may
extend to ten rupees."

Indian Steamships Act, 1884.

5. To section 13 of the Indian Steamships
Act, 1884, the following
Addition to section sub-section shall be added, VII of 1884.
13, Act VII, 1884. namely:—

- "(4) The Local Government may delegate,—
- (a) with the previous sanction of the Governor General in Council, to any person the function, assigned to it by sub-section (1), of granting a certificate of survey under that sub-section;
- (b) of its own authority, to any person the function, assigned to it by sub-section (3), of causing notice to be given of a

certificate of survey being ready for delivery :

Provided, with respect to clause (a) of this sub-section, that no delegation of the function mentioned in that clause shall be construed to authorise the grant of a certificate of survey by the surveyor who gave the declaration of survey under section 11."

6. In section 14 of the said Act, the words "by the Local Government" are hereby repealed.

7. In section 19 of the said Act, between the word "which" and the word "granted" in both the places where the expression "which granted" occurs, the words "or whose delegate" shall be inserted.

STATEMENT OF OBJECTS AND REASONS.

SECTION 11 of the Inland Steam-vessels Act, VI of 1884, and section 13 of the Indian Steamships Act, VII of 1884, provide that, if, on receipt of the declaration of a surveyor, the Local Government is satisfied that the law has been complied with, it shall cause a certificate of survey to be furnished to the owner or master. The performance by the Local Government of the duty of considering the declaration and granting the certificate has been found in some Provinces to be attended with delay and inconvenience, and one of the objects of this Bill is to authorise the Local Government to delegate the duty.

The other object of the Bill is to prevent the overcrowding of an inland steam-vessel by limiting the number of passengers to be carried by her to the number which the surveyor has in his declaration adjudged her to be fit to carry.

The approval of the Board of Trade has been obtained to the proposed amendment of the Indian Steamships Act.

The 4th July, 1889.

D. BARBOUR.

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 3rd July, 1889:

NO. 7 OF 1889.

A Bill to amend the Central Provinces Tenancy Act, 1883, and the Central Provinces Local Self-government Act, 1883.

WHEREAS it is expedient to amend the Central Provinces Tenancy Act, 1883; It is hereby enacted as follows:—

1. (1) This Act may be called the Central Provinces Tenancy Act, 1889; and

(2) It shall come into force at once.

2. In this Act, unless there is something repugnant in the subject or context, the word "section" means a section of the Central Provinces Tenancy Act, 1883.

3. In section 1, sub-section (2), the words and figures "except those specified in the Scheduled Districts Act, 1874, Schedule I, Part VI," are hereby repealed.

4. For the *Explanation* to section 3, clause (2), the following shall be substituted, namely:—

"*Explanation I.*—An inferior proprietor is not, as such, a tenant.

"*Explanation II.*—The holder of a survey-number in a village let in farm by the Government, or held by a gaontia in the Sambalpur district, is a tenant of the farmer or gaontia for the time being."

5. For section 3, clause (11), the following shall be substituted, namely:—

"(11) "sfr-land" means—

(a) land which was recorded as 'sfr' in the papers of the last preceding settlement of the local area in which the land is situate;

- (b) land which was not so recorded, but which at the commencement of the Central Provinces Land-revenue Act, 1889, was occupied by, and had been cultivated by, the proprietor or one of the proprietors thereof for a period of not less than twelve consecutive years;
- (c) waste-land which has been broken up by the proprietor or one of the proprietors thereof, and cultivated by him for a period of not less than six consecutive years;

and includes also in the Sambalpur district 'bhogra' land:

"*Explanation I.*—Land (other than bhogra) which at the commencement of the Central Provinces Land-revenue Act, 1889, was unoccupied by such proprietor and had been so unoccupied for a period of six consecutive years is not sfr-land. Land is not unoccupied by the proprietor when it is leased out by him with an express reservation of his sfr-rights.

"*Explanation II.*—When by any local custom land is liable to exchange or re-distribution among the cultivators thereof, land taken in exchange for sfr-land becomes sfr-land, and the sfr-land given in exchange ceases to be sfr-land."

6. For section 4 the following shall be substituted, namely:—

"4. There shall be five classes of tenants, namely:—

- (1) Absolute occupancy-tenants;
- (2) Occupancy-tenants;
- (3) Village-service tenants;
- (4) Sub-tenants;
- (5) Ordinary tenants."

7. To section 33 the following sub-section shall be added, namely:—

"(4) A tenant of a survey-number in a village let in farm by the Government, or held by a gaontia in the Sambalpur district, shall be deemed to have surrendered his holding if he refuses to agree to the rent fixed under this Act for the holding, but shall not continue liable under sub-section (2) for the rent of his holding."

New section inserted after section 35.

"35A. Nothing in this Act regarding the rights of an absolute occupancy, an occupancy or ordinary tenant shall be deemed to apply to the tenant of any land situated within the limits of any forest-land or waste-land which has been declared to be a reserved forest under the Indian Forest Act, 1878.

VII of 1878.

9. In section 38, sub-section (7), for the words "shall be void" the words "shall be voidable at the option of the landlord" shall be substituted.

New section inserted after section 42.

"42A. A thekadār, gaontia or farmer who is ejected by the proprietor under whom he holds shall become the occupancy-tenant of all land which was waste-land comprised in the area held by him and which he has himself or by hired labour broken up and cultivated for a period of twelve years, and the rent payable by him for the land as occupancy-tenant shall be fixed by a Revenue-officer on application made by him or his landlord."

11. For the portion of section 43, sub-section (2), beginning with the words "shall be void" and ending with the words "with his landlord's consent" the following shall be substituted, namely:—

"shall be voidable at the option of his landlord, unless—
(a) it is entered into with the landlord's consent,"

New sections inserted after section 50.

12. After section 50 the following shall be inserted, namely:—

"CHAPTER IVA.

"OF VILLAGE-SERVICE TENANTS.

"50A. A tenant of a holding who has been recorded at the last preceding settlement of the area in which the holding is comprised as holding his land rent-free on condition of rendering village-service is a village-service tenant.

"50B. (1) When a village-service tenant dies, his right in his village-service holding shall pass to his successor in office.

"(2) A transaction by which a village-service tenant attempts to effect a transfer of property in respect of his village-service holding by sale, gift, mortgage, sub-lease or otherwise shall be void, and the village-service tenant shall be liable to be ejected for such attempt.

"(3) The right of a village-service tenant shall not be sold in execution of a decree.

"50C. If a village-service tenant is unable to render the service which he is bound to render, he shall provide a person to render it for him.

"50D. A village-service tenant shall not be ejected from his holding except in execution of an order for ejectment passed by a Revenue-officer on one of the following grounds, namely:—

(a) that the tenant has attempted to effect a transfer of his holding in contravention of section fifty B, sub-section (2);

(b) that the tenant has ceased to render the service which he is bound to render, or has failed to render it properly, or, being unable to render it himself, has failed to provide a person to render it as required by section fifty C;

(c) that the tenant has diverted his land to non-agricultural purposes or is chargeable with some other act or omission which by local custom or the provisions of the village wajib-ul-arz renders him liable to be dismissed from office."

New section substituted for section 51.

13. For section 51 the following shall be substituted, namely:—

"51. (1) A tenant who holds land from another tenant or from a mālik-makbūza or from the holder of a survey-number is a sub-tenant.

(2) In sub-section (1) the expressions 'mālik-makbūza' and 'survey-number' have the meanings respectively assigned to them in section 4, clauses (6a) and (10), of the Central Provinces Land-revenue Act, 1881, as amended by the Central Provinces Land-revenue Act, 1889."

XVIII of 1881.

New section substituted for section 53.

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

"53. (1) Every tenant who is not an absolute occupancy-tenant, or an occupancy-tenant, or a village-service tenant, or a sub-tenant, is an ordinary tenant.

"(2) Where a person cultivates land under an agreement made with the proprietor of the land and purporting to be an agreement for the cultivation of the land by such person and such proprietor in partnership, such person is an ordinary tenant of the land so cultivated by him, and, notwithstanding any contract to the contrary, the rent payable by him for the land shall be fixed by a Revenue-officer on application made by him or his landlord."

Amendment of section 54.

15. In section 54, after the word "sections" the word "thirteen" shall be inserted.

New section inserted after section 54.

16. After section 54 the following shall be inserted, namely:—

"54A. (1) A Settlement-officer may for the purposes of the land-revenue assessment determine the rents payable by the ordinary tenants of a māhāl,

and, when he has based the assessment on those rents, the landlord shall be entitled to recover the same on and from the date on which the assessment takes effect.

"(2) The rents determined under sub-section (1) shall be recorded in the proceedings of the Settlement-officer, and a copy of the record shall be granted free of expense to the landlord."

17. In section 61, sub-section (2), for the words "shall be void, unless it is entered into with his landlord's consent" the words "shall be voidable at the option of his landlord, unless it is entered into with the landlord's consent" shall be substituted.

New clause inserted after section 63, clause (f).

18. After section 63, clause (f), the following shall be inserted, namely:—

"(ff) applications for an order to eject a village-service tenant (section fifty D) ".

And whereas it is also expedient to amend the Central Provinces Local Self-government Act, 1883; It is hereby further enacted as follows:—

19. In section 41, sub-section (1), of the said Act, for the words "has been made in any settlement-record previous to the passing of this Act" the words "is made in any settlement-record" shall be substituted.

STATEMENT OF OBJECTS AND REASONS.

THE changes which it is proposed to make in the Central Provinces Land-revenue Act, 1881, render it necessary to amend the Central Provinces Tenancy Act, 1883, so as to make the definitions of "sīr-land" and "tenant" the same in both Acts. At the same time the opportunity is taken to add to the Tenancy Act a few provisions which experience has shown to be required.

2. Section 3 of the Bill amends section 1, sub-section (2), of the Act, and extends the Act to the scheduled districts. At present the Rent Act, X of 1859, is in force in the scheduled districts. The Central Provinces Tenancy Act, 1883, is better adapted to the requirements of those districts, and there is no reason why they should have a rent-law differing from that in force in other districts which are not scheduled.

3. By section 7 of the Bill it is provided that a tenant of a survey-number holding under a thekadār or gaontia shall be deemed to have surrendered his holding if he refuses to pay the rent assessed on the holding by the Settlement-officer. The Settlement-officer fixes the rents of the tenant, and on those rents determines the amount which the thekadār or gaontia has to pay to the Government. It is necessary therefore that a tenant should relinquish his holding if he refuses to pay the rent fixed by the Settlement-officer.

4. By section 8 of the Bill a section is inserted providing that tenants of land in reserved forests shall not acquire any occupancy, or ordinary, tenant-rights under the Tenancy Act. It is doubtful whether the Indian Forest Act, VII of 1878, is sufficient to prevent the acquisition of such rights, and it is expedient that they should not be acquired.

5. Section 10 of the Bill inserts in the Act a provision that thekadārs, gaontias or farmers shall have when ejected an occupancy-right in waste-land which they have broken up and cultivated for twelve years. It is considered that such a provision is in accordance with the feeling of the people, and is equitable in the case of a person who has improved the estate leased to him by breaking up and cultivating waste-land at his own cost.

6. Section 12 of the Bill inserts a Chapter to provide for village-service tenants, or tenants who are recorded in the settlement-records as holding land rent-free in consideration of their discharging some public duty in a village. The Chapter contains a few simple provisions declaring the nature of their rights in their holdings, and the circumstances under which they can be ejected.

7. Section 14 of the Bill amends the definition of ordinary tenant contained in section 53 of the Act so as to provide for what are generally known as "batai" holdings, that is, where the landlord and the raiyat nominally cultivate in partnership, the landlord supplying the land or advancing money for seed and labour, and the raiyat actually cultivating the land. It is considered that a raiyat who cultivates under an agreement of this description should have a tenant-right.

8. By section 16 of the Bill a section is inserted to make it clear that, when a Settlement-officer for the purposes of his assessment determines the rents of ordinary tenants and bases his assessment on the rents so determined, the landlord is entitled to recover those rents from the tenant. The Tenancy Act provides that the rents of absolute occupancy and occupancy tenants shall be fixed at the settlement; but there is no corresponding provision regarding ordinary tenants. It is doubtful whether section 15 of the Act will in all cases enable the landlord to enhance the rent of an ordinary tenant when the revenue payable by the landlord on account of the tenant's holding is increased. When the revenue is enhanced on the ground that the rents paid by ordinary tenants are below the rents which a Settlement-officer considers to be fair and reasonable for the purposes of assessment, the landlord should be able to realize enhanced rents from his ordinary tenants without having to go through the process of enhancement provided by the Act.

9. The amendment made by sections 9, 11 and 17 of the Bill in sections 38, 43 and 61 of the Act are intended to remove doubts as to the meaning of the words "shall be void". The object of making the transfer of a tenant-right void was primarily to protect the landlord. It is thought, therefore, that such transfers should not be absolutely void but voidable at the option of the landlord.

10. By section 19 of the Bill section 41 of the Central Provinces Local Self-government Act is amended so as to confirm and authorize the recovery of cesses which are being provided for in the settlement now in progress.

11. The other amendments do not call for remark.

The 1st July, 1889.

R. J. CROSTHWAITE.

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



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PART V.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 10th July, 1889:

NO. 8 OF 1889.

THE CENTRAL PROVINCES MUNICIPAL BILL.

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A Bill to make better provision for the Organization and Administration of Municipalities in the Central Provinces.

WHEREAS it is expedient to make better provision for the organization and administration of municipalities in the Central Provinces; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Central Title, extent and commencement. Provinces Municipal Act, 1889.

(2) It extends to the territories for the time being administered by the Chief Commissioner of the Central Provinces; and

(3) It shall come into force on the first day of January, 1890.

2. (1) The Central Provinces Municipal Act, 1873, is hereby repealed: XI of 1873.

(2) But all municipalities constituted, committees established, limits defined, appointments, rules, orders and byelaws made, notifications and notices issued, taxes and rates imposed, contracts entered into and suits instituted under the said Act, or under any enactment thereby repealed, shall, so far as may be, be deemed to have been respectively constituted, established, defined, made, issued, imposed, entered into and instituted under this Act.

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

(1) "municipality" means a local area declared by or under this Act to be a municipality:

(2) "committee" means a municipal committee established by or under this Act:

(3) "street" includes any way, road, lane, square, court, alley, passage or open space, whether a thoroughfare or not, over which the public have a right of way, and also the roadway and footway over any public bridge or causeway:

(4) "owner," used with reference to any building or land, includes the person who is receiving the rent of the 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:

*The Central Provinces Municipal Bill.**(Chapter I.—Preliminary.—Sections 4-5. Chapter II.—Organization of Committees.—Sections 6-10.)*

(5) "prescribed" means prescribed by rules made under this Act by the Local Government.

[Act XV, 1883, s. 3.] 4. (1) The Local Government may, by notification to constitute a municipality, declare its intention to constitute as a municipality under this Act any town or any group of towns in the immediate neighbourhood of one another.

(2) Every notification under this section shall define the limits of the town or group of towns to which it refers, and may include within those limits any railway-station, village, building or land in the vicinity of any such town.

Provided that it shall not, without the previous sanction of the Governor General in Council, so include any part of a military cantonment.

[Act XV, 1883, s. 4.] 5. (1) Any inhabitant of a local area in respect of which a notification has been published under the last foregoing section may, if he objects to the constitution of the proposed municipality, submit his objection in writing to the Local Government within three months from the date of the publication of the notification in the Gazette, and the Local Government shall take his objection into consideration.

(2) When three months from such date have expired, and the Local Government has considered the objections, if any, which have been submitted under sub-section (1), the Local Government may, by a notification in the official Gazette, declare the local area to be a municipality.

CHAPTER II.

ORGANIZATION OF COMMITTEES.

Constitution of Committees.

[Act XI, 1873, s. 6.] 6. (1) There shall be established for each municipality a committee having authority over that municipality and consisting of such number of members, not less than five, as may be prescribed.

(2) Such members may be appointed, in the prescribed manner, by virtue of their office, or by nomination, or by election, or some by one and some by any other of such methods.

(3) Not less than two-fifths of the members of a committee shall be persons other than salaried officers of the Government.

(4) Every appointment of a member shall be notified in the official Gazette.

[Act XI, 1873, s. 6; and Act XV, 1883, ss. 9 and 10.] 7. (1) The Local Government may make rules regarding—

- the term of office of members of committees;
- the division of any municipality into wards;
- the number of representatives to be appointed for each ward;
- the provision, if any, to be made for the special representation of any classes of the community;

- the qualifications of electors and of candidates for election;
- the registration of electors;
- the nomination of candidates, the time of election and the mode of recording votes; and
- any other matters regarding the system of representation and election.

(2) The Local Government may, in making such rules, direct that the breach of any provision thereof shall be punished with fine which may extend to fifty rupees.

8. Every committee shall be a body corporate by the name of the municipal committee of its municipality, shall have perpetual succession and a common seal, with power to acquire and hold property, both moveable and immoveable, and, subject to the rules under section 113, to transfer any property held by it, and to contract and to do all other things necessary for the purposes of its constitution, and may sue and be sued in its corporate name.

[Act XV, 1883, s. 15.] 9. (1) There shall be a president and vice-president of every committee.

[Act XI, 1873, s. 6.] Appointment of president and vice-president.

(2) The Local Government may appoint the president or vice-president, or both of them, or may authorize any committee to elect its president or vice-president, or both of them, subject to such rules as may be prescribed in this behalf.

(3) The election of a president or vice-president shall not be valid until it has been confirmed by the Local Government and has been notified in the official Gazette.

(4) A president and vice-president shall hold office for such term as may be prescribed.

[Act XV, 1883, s. 24.] (5) When a person not already a member of the committee is appointed or elected president or vice-president, he shall, notwithstanding anything in the foregoing sections, become a member of the committee by virtue of his appointment or election, and shall continue to be a member so long as he holds office as president or vice-president.

[Act XV, 1883, s. 13.] 10. The Local Government may, at any time, remove the president or vice-president or any other member of a committee—

- if he refuses to act or becomes incapable of acting, or is declared insolvent, or is convicted of any such offence, or subjected by a Criminal Court to any such order, as implies, in the opinion of the Local Government a defect of character which unfits him to be the president or vice-president or a member of the committee;
- if he, without an excuse sufficient in the opinion of the Local Government, absents himself for more than three consecutive months from the meetings of the committee;
- if his continuance in office is, in the opinion of the Local Government, undesirable in the interests of the public or the municipality.

*The Central Provinces Municipal Bill.**(Chapter II.—Organization of Committees.—Sections 11-19.)**Conduct of Business.*

[Act XIII, 1884, s. 49.] Ordinary and special meetings. II. (1) A meeting of a committee shall be either ordinary or special.

(2) Any business may be transacted at an ordinary meeting unless it is required by this Act or the rules thereunder to be transacted at a special meeting.

[Act XIII, 1884, s. 18.] 12. (1) A committee shall meet for the transaction of business at least once in every month at such time as may, from time to time, be fixed by bye-laws under section 17.

(2) The president or, in his absence, the vice-president may, whenever he thinks fit, and shall, on a requisition made in writing by not less than one-fifth of the members of the committee, convene either an ordinary or a special meeting at any other time.

[Act XIII, 1884, s. 21.] 13. (1) At every meeting of a committee the president, if present, shall preside as chairman.

(2) If, when any meeting is held, the office of president is vacant, or the president is absent from the meeting, and the vice-president is present, the vice-president shall preside as chairman.

(3) In any case not provided for in the foregoing portion of this section, the members present shall elect one of their number to be chairman of the meeting.

[Act XIII, 1884, s. 20.] 14. (1) The quorum necessary for the transaction of business at a special meeting of a committee shall be one-half of the committee.

(2) The quorum necessary for the transaction of business at an ordinary meeting of a committee shall be such number or proportion of the members of the committee, as may, from time to time, be fixed by bye-laws under section 17, but shall be not less than three.

Provided that, if at any ordinary or special meeting of the committee a quorum is not present, the chairman shall adjourn the meeting to such other day as he thinks fit, and the business which would have been brought before the original meeting if there had been a quorum present shall be brought before, and transacted at, the adjourned meeting, whether there is a quorum present thereat or not.

[Act XIII, 1884, s. 22.] 15. Except as otherwise provided by this Act or by rules or bye-laws thereunder, all questions which come before any meeting of a committee shall be decided by a majority of the votes of the members present, and, in case of an equality of votes, the chairman of the meeting shall have a second or casting vote.

[Act XIII, 1884, s. 23.] 16. (1) Minutes of the proceedings at each meeting of a committee shall be recorded in a book to be kept for the purpose, shall be signed by the chairman of the meeting or of the next ensuing meeting, shall be published in manner prescribed, and shall, at all reasonable times and without charge, be open to the inspection of any inhabitant of the municipality.

(2) A copy of every resolution passed by a committee at a meeting shall, within three days from the date of the meeting, be forwarded to the Deputy Commissioner of the district.

17. Every committee may, from time to time, at a special meeting, with the previous sanction of the Local Government, make bye-laws consistent with this Act and the rules thereunder for regulating—

- the time and place of its meetings;
- the conduct of its business;
- the quorum necessary for the transaction of business at ordinary meetings;
- the division of duties among the members of the committee;
- the duties, salaries, appointment, suspension, fining and removal of the officers and servants of the committee;
- the persons by whom receipts may be granted on behalf of the committee for money received under this Act; and
- all other similar matters.

Joint Committees.

[Act XV, 1883, s. 26.] 18. (1) A committee may, from time to time, concur with any other committee, or with a district council, or with an independent local board, or with a cantonment-authority, or with more than one such committee, council, board or authority, in appointing, out of their respective bodies, a joint committee for any purpose in which they are jointly interested, and in appointing a chairman of the joint committee, and in delegating to any such joint committee any power which might be exercised by either or any of the committees, councils, boards or authorities, and in framing and modifying regulations as to the proceedings of any such joint committee, and as to the conduct of correspondence relating to the purpose for which the joint committee is appointed.

(2) If any difference of opinion arises between committees, councils, boards or authorities acting under this section, the decision thereon of the Commissioner of the division if the areas under the committees, councils, boards or authorities are in the same division, or of the Local Government if those areas are in different divisions, shall be final.

Secretaries.

[Act XV, 1883, s. 35.] 19. (1) Every committee shall, from time to time, at a special meeting and subject to the approval of the Local Government, appoint one or more of its members, or, with the sanction of the Local Government, any other person or persons to be its secretary or secretaries, and may at a like meeting and subject to the like approval remove any person so appointed.

(2) When a member of the committee is appointed to be secretary he shall receive no remuneration in respect of his services. In other cases the committee may, with the previous sanction of the Local Government, assign to a secretary such salary as the committee thinks fit.

*The Central Provinces Municipal Bill.**(Chapter II.—Organization of Committees.—Sections 20-23. Chapter III.—Taxation and Municipal Fund.—Sections 24-25.)**Contracts.*

[Cf. Act XIII, 1884, s. 33; Act XV, 1883, s. 39.] 20. (1) A committee may delegate to one or more of its members or to a secretary the power of entering on its behalf into any particular contract whereof the value or amount does not exceed two hundred rupees or into any class of such contracts.

(2) A contract whereof the value or amount exceeds two hundred rupees shall not be entered into until it has been sanctioned by the committee at a meeting.

[Act XV, 1883, s. 40.] 21. (1) Every contract made by or on behalf of a committee whereof the value or amount exceeds twenty rupees shall be in writing.

(2) Every such contract shall be signed by the president or vice-president and a secretary:

Provided that the committee may delegate to one or more of its members or to a secretary the power of signing any contracts which he or they is or are empowered to enter into under section 20, sub-section (1).

(3) If a contract to which this section applies is entered into otherwise than in conformity therewith, it shall not be binding on the committee.

Privileges and Liabilities.

[Act XI, 1873, s. 19, modified.] 22. (1) No suit shall be instituted against a committee or any of its officers or any person acting under its direction for anything done or purporting to be done under this Act, until the expiration of two months next after notice in writing has been, in the case of a committee, delivered or left at its office and, in the case of an officer or person, delivered to him or left at his office or usual place of abode, stating the cause of action, the relief which he claims and the name and place of abode of the intended plaintiff.

(2) Unless service of such notice be proved the Court shall dismiss the suit.

(3) Every suit shall be commenced within four months of the accrual of the alleged cause of action.

(4) If it is proved to the satisfaction of the Court that before the suit was brought tender of sufficient amends had been made to the plaintiff, the plaintiff shall not recover his costs or anything beyond the amount of such tender, and shall defray the costs of the defendant in the suit.

[Act XIII, 1884, s. 36.] (5) This section shall not apply to any suit instituted under section 54 of the Specific Relief Act, 1877.

[Act XV, 1883, s. 66.] 23. Every person shall be liable for the loss, waste or misapplication of any money or other property belonging to, or under the control of, the committee, if such loss, waste or misapplication is a direct consequence of his neglect or misconduct while a member of the committee, and a suit for compensation for the same may be instituted against him by the committee with the previous sanction of the Commissioner, or by the Secretary of State for India in Council.

CHAPTER III.

TAXATION AND MUNICIPAL FUND.

Taxation.

24. Subject to any general rules or special orders which the Governor General in Council may impose, Taxes which may be made in this behalf, a committee may, for the purposes of this Act, impose, with the sanction hereinafter specified in each case and in manner prescribed by section 25, any of the following taxes, namely:—

(1) with the previous sanction of the Local Government,—

(a) a tax on houses, buildings or lands situate within the municipality, not exceeding seven and a half per centum of the gross annual letting value of the houses, buildings or lands;

(b) a tax on persons occupying houses, buildings or lands within the municipality according to their circumstances and property within the municipality;

(c) a tax on persons exercising any profession or art, or carrying on any trade or calling, in the municipality;

(d) a tax on all or any vehicles or animals used for riding, driving, draught or burden when such vehicles or animals are kept within the municipality;

(e) a tax on vehicles and animals used as aforesaid entering the municipality, and on boats moored therein;

(f) an octroi on goods or animals brought within the municipality for consumption or use therein;

(g) market-dues on dealers using any building, structure, market, bazar or ganj belonging to or under the control of the committee, or exposing goods for sale in any place belonging to the Government or to the committee or under its control;

(h) fees on the registration of cattle sold within the municipality;

(i) a latrine or conservancy cess upon private latrines, premises or compounds cleansed by municipal servants, or a cess for the use of public latrines; and

(j) a water-rate when water is supplied by the committee;

(2) with the previous sanction of the Local Government and of the Governor General in Council, any other tax.

25. (1) A committee may resolve at a special meeting to propose the imposition of any tax for the purposes of this Act.

(2) When a resolution has been passed under sub-section (1) the committee shall publish in manner prescribed a notice defining the class of persons or description of property proposed to be taxed, the amount or rate of the tax to be imposed, and the system of assessment to be adopted.

(3) Any inhabitant of the municipality objecting to the proposed tax may, within a month from the publication of the notice, submit his objection in writing to the committee, and the committee shall, at a special meeting, take his objection into consideration.

(4) If no objection is submitted within the said period of

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or if the objections so submitted, having been considered as aforesaid, are deemed insufficient, the committee may forward its proposals to the Local Government with the objections, if any, which have been submitted as aforesaid.

(5) The Local Government on receiving proposals under sub-section (4) may sanction the same, or refuse to sanction them, or return them to the committee for further consideration.

(6) When the Local Government sanctions any proposals which, under section 24, clause (2), require the further sanction of the Governor General in Council, it shall submit those proposals to the Governor General in Council, with the objections, if any, received through the committee; and the Governor General in Council may sanction the proposals, or refuse to sanction them, or return them to the Local Government for further consideration.

(7) When the proposals of the committee have been sanctioned by the Local Government or by the Local Government and the Governor General in Council, as the case may be, the committee may, at a special meeting, direct the imposition of the tax in accordance with those proposals from such date as may be sanctioned by the Local Government.

[Act XV, 1883, s. 43; Act XIII, 1884, s. 46.] 26. A tax imposed under this Act shall not be invalid for defect of form, and, when any property is described for the purpose of assessing any such tax, it shall be sufficient to describe it so that it shall be generally known, and it shall not be necessary to name the owner or occupier.

[Act XIII, 1884, s. 47.] 27. Any tax imposed under the foregoing sections and payable periodically shall be payable on such dates and in such instalments, if any, as the committee, with the previous sanction of the Local Government, may, by rule, from time to time direct.

[Act XIII, 1884, s. 43.] 28. A committee, by a resolution passed at a special meeting and confirmed by the Local Government, may abolish or reduce any tax imposed under the foregoing sections or suspend the operation of any tax within any part of the municipality for any specified period.

[Act XIII, 1884, s. 45, modified.] 29. For reasons to be recorded in writing the Local Government may exercise the powers conferred on a committee by the last foregoing section.

[Act XV, 1883, s. 46; Act XIII, 1884, s. 61.] 30. (1) Arrears of any tax imposed under this Act may be recovered, on application to a Magistrate having jurisdiction within the limits of the municipality, by the distress and sale of any moveable property belonging to the defaulter within those limits.

(2) If the arrear is due in respect of immovable property, it shall, subject to any claim on behalf of Her Majesty, be a first charge on the property and shall be recoverable, on application made in this behalf by the committee to the Deputy Commissioner of the district, as if the property were land assessed to land-revenue and the arrear were an arrear of such revenue due thereon.

Provided that nothing in this sub-section shall authorize the arrest of a defaulter.

Municipal Fund and Property.

31. There shall be formed for each municipality a municipal fund, and there shall be placed to the credit thereof—

(a) all sums received by or on behalf of the committee;

(b) all fines recovered from persons convicted of offences committed within the municipality against this Act or the rules thereunder or against section 34 of Act V of 1861 (for the Regulation of Police) or against Act III of 1867 (to provide for the punishment of public gambling and the keeping of common gaming-houses).

32. (1) The committee shall set apart and apply annually out of the municipal fund—

(a) first, such sum as may be required for the payment of any amounts falling due on any loan legally contracted by it;

(b) secondly, such sum as may be required to meet the charges of its own establishment, and such sum as may be required for the maintenance of a police-establishment under Chapter IV;

(c) thirdly, such sum as may be required to pay the expenses of pauper lunatics sent to public asylums from the municipality, the expenses incurred in auditing the accounts of the committee, and such portion of the cost of the Provincial Departments for Education, Sanitation, Vaccination, Medical Relief and Public Works as may be held by the Local Government to be equitably debitable to the committee in return for services rendered to it by these Departments.

(2) Subject to the charges specified in sub-section (1) and to such rules as the Local Government may make with respect to the priority to be given to the several duties of the committee, the municipal fund shall be applicable to the payment, in whole or in part, of the charges and expenses incidental to the following matters within the limits of the municipality, and, with the sanction of the Commissioner of the division, to the payment of the like charges and expenses outside those limits when such application of the fund is for the benefit of the inhabitants of the municipality, namely:—

(a) the construction, maintenance, improvement, cleansing and repair of streets and public bridges, embankments, drains, latrines, tanks and water-courses;

(b) the watering and lighting of the streets or any of them;

(c) the construction, establishment and maintenance of schools, hospitals and dispensaries, and other institutions for the promotion of education or for the benefit of the public health, and of rest-houses, sarais, poor-houses, markets, encamping-grounds, pounds and other works of public utility, and the control and administration of public institutions of any

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- (d) grants-in-aid to schools, hospitals, dispensaries, poor-houses, leper-asylums and other educational or charitable institutions;
- (e) the training of teachers and the establishment of scholarships;
- (f) the giving of relief and the establishment and maintenance of relief-works in time of famine or scarcity;
- (g) the supply, storage and preservation from pollution of water for the use of men or animals;
- (h) the planting and preservation of trees;
- (i) the taking of a census, and the registration of births, marriages and deaths;
- (j) public vaccination and any other sanitary measure;
- (k) the holding of fairs and industrial exhibitions; and
- (l) all acts and things likely to promote the safety, health, welfare or convenience of the inhabitants.

[Act XIII, 1884, s. 69.] 33. (1) In places where there is a Government treasury or sub-treasury, or a bank to which the Government treasury business has been made over, the municipal fund shall be kept in the treasury, sub-treasury or bank.

(2) In places where there is no such treasury or sub-treasury or bank, the municipal fund may be deposited with any banker, or person acting as a banker, who has given such security for the safe custody and repayment on demand of the fund so deposited as the Local Government may in each case think sufficient.

[Act XIII, 1884, s. 70.] (3) A committee may, from time to time, with the previous sanction of the Local Government, invest any portion of its municipal fund in securities of the Government of India or such other securities as the Governor General in Council may approve in this behalf, and vary such investments for others of the like nature. The income resulting from the securities and proceeds of the sale of the same shall be credited to the municipal fund.

[Act XIII, 1884, s. 71.] 34. (1) All streets, roads and bridges over which the public have a right of way, all tanks, wells, ghāts, channels, sewers and drains within the municipality, not being private property or specifically excepted by an order of the Local Government, together with the pavements, stones and other materials thereof, and all erections, materials, implements and other things provided therefor, shall vest in and belong to the committee and shall be held and applied by it for the purposes of this Act.

[Cf. Mad. Act IV, 1884, ss. 22-24.] (2) The Local Government may, by notification in the official Gazette, direct that any property which has vested under sub-section (1) in the committee shall cease to be so vested, and thereupon the property specified in the notification shall cease to be so vested, and the Local Government may pass such orders as it thinks fit regarding the disposal and management of

CHAPTER IV.

MUNICIPAL POLICE.

35. (1) Every committee shall, unless it is relieved of this obligation by the Local Government, maintain a sufficient police-establishment for police requirements within municipal limits and for the performance of the duties imposed on the committee by this Act.

(2) Subject to the provisions of the Cantonments Act, 1880, the establishment maintained under sub-section (1) shall, as the committee with the approval of the Local Government may, from time to time, determine, be either a body of watchmen or a part of the general police-force under the Local Government within the meaning of section 2 of Act V of 1861, or partly one and partly the other; and it shall consist of such number of officers and men, and the officers and men shall receive such pay, leave-allowances, gratuities and pensions, as the committee may, from time to time, after consultation with the District Magistrate and the Inspector General of Police, and subject to the final decision of the Local Government, direct.

36. (1) The Local Government may relieve any committee of the whole or a part of the cost of the police-establishment, and may enter into a contract with the committee, on such terms as may be agreed on, that, in consideration of such relief, the committee shall pay periodically a sum not exceeding the amount thereof, or undertake any services within the municipality to which the municipal fund can properly be applied, and which are estimated to cost not more than the amount of the relief.

(2) When a committee is relieved under this section of the whole or a part of the cost of the police-establishment, the Local Government shall maintain such police-establishment as it considers necessary, and, subject to the provisions of the Cantonments Act, 1880, the establishment so maintained may be either a body of watchmen or a part of the general police-force under the Local Government within the meaning of section 2 of Act V of 1861, or partly one and partly the other.

37. (1) If the establishment maintained under this Chapter is wholly or in part a body of watchmen, the watchmen shall—

- (a) be under the orders of the District Superintendent of Police subject to the general control of the District Magistrate;
- (b) be appointed and promoted, and be liable to dismissal, suspension, reduction or fine, under such rules as the Local Government may make in this behalf;
- (c) perform such duties as the Local Government may, subject to the provisions of this Act, direct; and
- (d) possess the same powers, be entitled to the same assistance, enjoy the same protection, be subject to the same responsibilities and be liable to the same penalties as if they were police-officers.

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(2) Any person obstructing any such watchman in the discharge of his duties may be arrested without warrant by a police-officer or by any such watchman.

[Act XIII, 1884, s. 77.] 38. If the establishment maintained under this Chapter or any portion of such establishment is part of the general police-force, the Local Government may, notwithstanding anything in Act V of 1861 or in any other Act for the time being in force, define, subject to the provisions of this Act, the duties which the officers and men of the establishment or such portion thereof may or may not be required to perform.

[Act XIII, 1884, s. 80.] 39. When special police-protection is, in the opinion of the Local Government, requisite on the occasion of any fair, agricultural show or industrial exhibition managed by a committee, the Local Government may provide such protection, and the committee shall pay the whole charge thereof or such portion of the charge as the Local Government may consider equitably debitable to it.

CHAPTER V.

POWERS FOR SANITARY AND OTHER PURPOSES.

Streets and Buildings.

[Act XIII, 1884, s. 81.] 40. When any land is required for a new street or for the improvement of an existing street, the committee may proceed to acquire, in addition to the land to be occupied by the street, the land necessary for the sites of the buildings to be erected on the sides of the street.

[Act XIII, 1884, s. 82.] 41. The committee may close temporarily any street or any part thereof for the purpose of repairs, or for the purpose of constructing or repairing any sewer, drain, culvert or bridge, or for any other public purpose, and may divert, discontinue or permanently close any street vested in the committee and sell the land or such part thereof as is not required for the purposes of this Act.

[Act XIII, 1884, s. 83.] 42. The committee may grant permission in writing for the temporary occupation of any street or land vested in it for the purpose of depositing any building-materials or making any temporary excavation therein or erection thereon, subject to such conditions as it may prescribe for the safety or convenience of persons passing by or dwelling or working in the neighbourhood, and may charge fees for such permission, and may at its discretion withdraw the permission.

[Act XIII, 1884, s. 84.] 43. The committee may attach to the outside of any building brackets for lamps in such manner as not to occasion any injury thereto or inconvenience.

[Act XIII, 1884, s. 85.] 44. (1) The committee at a meeting may cause a name to be given to any street, and to be affixed on any building in such place as it thinks fit, and may also cause a

number to be affixed to any building; and in like manner may, from time to time, cause such names and numbers to be altered.

(2) Whoever destroys, pulls down or defaces any such name or number, or puts up any different name or number, from that put up by order of the committee, shall be punished with fine which may extend to twenty rupees.

45. The committee at a meeting may direct that, within certain limits, the roofs and external walls of buildings shall not be made or renewed of grass, mats, leaves or other highly inflammable materials unless with the permission of the committee in writing; and the committee may, by written notice, require any person who has disobeyed any such direction to remove or alter as it may think fit the roofs or walls so made or renewed.

[Act XIII, 1884, s. 87.] 46. (1) If any building or part of a building projects beyond the front of the building on either side thereof, or beyond the regular line of a street, either existing or determined on for the future, the committee may, whenever the building or part has been either entirely or in greater part taken down or burnt down or has fallen down, require by notice the building or part, when being re-built, to be set back to or towards the said regular line or the front of the adjoining buildings; and the portion of the land added to the street by such setting back or removal shall become part of the street and shall vest in the committee.

Provided that the committee shall make full compensation to the owner for any damage he may sustain in consequence of his building or any part thereof being set back.

(2) The committee may, on such terms as it thinks fit, allow any building to be set forward for the improvement of the line of the street.

47. (1) Every person intending to erect or re-erect any building shall, if required to do so by rule made by the committee in this behalf, give notice in writing of his intention to the committee, and shall, if required to do so, submit a plan showing the levels at which the foundation and lowest floor are proposed to be laid, and specifications of the works intended to be constructed, and the materials to be used, and shall obey all written directions consistent with this Act, which may be given by the committee within one month after receiving such notice, either prohibiting the erection or re-erection, if deemed likely to be injurious to the inhabitants of the neighbourhood, or in respect of all or any of the matters following, namely:—

- (a) free passage or way in front of the building;
- (b) space to be left about the building to secure free circulation of air and facilitate scavenging;
- (c) ventilation and drainage;
- (d) level and width of foundation, level of lowest floor and stability of structure; and

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(e) the line of frontage with neighbouring buildings, if the building abuts on a street:

Provided that the committee shall make full compensation to the owner for any damage he may sustain in consequence of the prohibition of the re-erection of any building, or of the committee requiring any land belonging to him to be added to the street.

(2) If any such building is re-erected or erected, wholly or in part, without such notice being given, or without the submission of particulars as aforesaid when required, or in contravention of the lawful directions of the committee issued within one month, the committee may by notice require the building to be altered or demolished, as it may deem necessary.

Explanation.—The expression "erect any building" includes erecting any wall and all additions and alterations which involve new foundations or increased superstructure on existing foundations, or the conversion into a dwelling-house of any building not originally constructed for human habitation, or the conversion into more than one dwelling-house of a building originally constructed as one dwelling-house only.

[Act XIII, 1884, s. 89.] 48. (1) It shall not be lawful, unless with the written permission of the committee, for the owner or occupier of any building in a street to add to, or place against or in front of, the building any projection or structure overhanging, projecting into or encroaching on the street or into or on any drain, sewer or aqueduct therein.

(2) The committee may by notice require the owner or occupier of any building to remove or alter any projection, encroachment or obstruction built or placed against or in front thereof, if the same overhangs or projects into or encroaches on any street, or projects into or encroaches on any drain, aqueduct or sewer in the street:

Provided that, in the case of a projection, encroachment or obstruction being lawfully in existence at the time of the passing of this Act, the committee shall make reasonable compensation to any person who suffers damage by the removal or alteration.

(3) The committee may give written permission to the owners or occupiers of buildings in streets to put up open verandahs, balconies or rooms projecting from any upper storey thereof to an extent beyond the line of the plinth or basement-wall, and at a height from the level of the ground or street, to be specified in the written permission.

Bathing and Washing Places.

[Act XIII, 1884, s. 90.] 49. The committee may set apart suitable places for the purpose of bathing, and may specify the times at which, and the sex of the persons by whom, such places may be used, and may also set apart suitable places for washing animals or clothes, or for any other purpose connected with the health, cleanliness or comfort of the inhabitants of the municipality; and may, by public notice, prohibit bathing, or washing animals or clothes, in any public place not so set apart, or at times or by persons

other than those specified, and all other acts not so permitted which may render water in public places foul or unfit for use or may cause inconvenience or annoyance to persons using the bathing or washing places.

Deposit of Offensive Matter and Slaughter-places.

50. The committee may fix places within or without the limits of the municipality for the deposit of refuse, rubbish or offensive matter of any kind or for the disposal of the dead bodies of animals, and may by public notice give directions as to the time, manner and conditions at, in and under which such refuse, rubbish or offensive matter or dead bodies of animals may be removed along any street and deposited at such places.

51. (1) The committee may, with the approval of the Deputy Commissioner of the district, fix and abolish places either within or without the limits of the municipality for the slaughter of animals for sale, or of any specified description of such animals, and may with the like approval grant and withdraw licenses for the use of such places, or, if they belong to, or are under the control of, the committee, charge rent or fees for the use of the same.

(2) When such places are fixed by the committee beyond municipal limits, it shall have the same power to make rules for the inspection and proper regulation of the same as if they were within those limits.

(3) When any such place has been fixed, no person shall slaughter for sale any such animal at any other place within the municipality.

(4) Whoever slaughters for sale any such animal at any other place within the municipality shall be punished with fine which may extend to twenty rupees.

52. (1) Whenever it appears to the Deputy Commissioner of the district to be necessary for the preservation of the public peace or order, he may, with the previous sanction of the Commissioner of the division, prohibit or regulate the slaughter of animals, or of any specified description of animals, for purposes other than sale, and prescribe the mode and route in and by which meat shall be conveyed from the place where such animals are slaughtered.

(2) Whoever slaughters any animal or conveys meat from the place of slaughter contrary to any prohibition, regulation or order under sub-section (1) shall be punished with fine which may extend to fifty rupees.

Burial and Burning Places.

53. (1) The committee may by public notice order any burial or burning ground which is, in its opinion, dangerous to the health of persons living in the neighbourhood to be closed from a date to be specified in the notice, and shall in such case, if no suitable place for burial or burning exists within a reasonable distance, provide a fitting place for the purpose.

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(2) Private burial-places in such burial-grounds may be excepted from the notice, subject to such conditions as the committee may impose in this behalf:

Provided that the limits of such burial-places are sufficiently defined, and that they shall only be used for the burial of members of the family of the owners thereof.

(3) No burial or burning ground, whether public or private, shall be made or formed, after the commencement of this Act, without the permission in writing of the committee.

(4) If any person buries or burns, or causes or permits to be buried or burnt, any corpse in any burial or burning ground made or formed contrary to the provisions of this section, or after the date fixed thereunder for closing the same, he shall be punished with fine which may extend to fifty rupees.

[Act XIII, 1884, s. 94.] 54. The committee may by public notice prescribe routes for the removal of corpses to burial or burning places.

Inflammable Materials.

[Act XIII, 1884, s. 95.] 55. The committee may, where it appears to it to be necessary for the prevention of danger to life or property, by public notice prohibit all persons from stacking or collecting dry grass, straw or other inflammable materials, or placing mats or thatched huts or lighting fires in any place or within any limits specified in the notice.

Powers of Entry and Inspection.

[Act XIII, 1884, s. 96.] 56. (1) The committee, by any person authorized by it in this behalf, may, after giving six hours' notice in writing to the occupier of any building or land in which any drains, privies or cesspools are situate, inspect any such drains, privies or cesspools at any time between sunrise and sunset, and may, if necessary, cause the ground to be opened where the committee or person may think fit for the purpose of preventing or removing any nuisance arising from the privies, drains or cesspools.

(2) If, on such inspection, it appears that the opening of the ground was necessary for the prevention or removal of a nuisance, the expenses thereby incurred shall be paid by the owner or occupier of the building or land; but, if it is found that no nuisance exists, or but for such opening would have arisen, the ground shall be closed and made good as soon as may be, and the expense of opening, closing and making it good shall be borne by the committee.

[Act XIII, 1884, s. 97.] 57. The committee, by any person authorized by it in this behalf, may, after giving twenty-four hours' notice to the occupier or, if there is no occupier, to the owner of any building, at any time between sunrise and sunset enter and inspect the building, and may by notice direct all or any part thereof to be forthwith internally or externally lime-washed, disinfected or otherwise cleansed for sanitary reasons.

[Act XIII, 1884, s. 98.] 58. The committee, by any person authorized by it in this behalf, may, after giving twenty-four hours' notice to the occupier

or, if there is no occupier, to the owner of any building or land, at any time between sunrise and sunset—

(a) enter on and survey and take levels of any land;

(b) enter, inspect and measure any building for the purpose of valuation;

(c) enter into any building or on any land for the purpose of examining works under construction, of ascertaining the course of sewers or drains or of executing or repairing any work which the committee is by this Act empowered to execute or maintain.

59. The committee, by any person authorized by it in this behalf, may, at any time between sunrise and sunset, enter and inspect any stable, coach-house or other place wherein there is reason to believe that there is any animal or vehicle which is liable to taxation under this Act and for which a license has not been duly taken out.

60. (1) The committee, by any person authorized by it in this behalf, may, at all reasonable times, enter into and inspect any market, building, shop, stall or place used for the sale or storage of articles intended for food or drink for man, or as a slaughter-house, or for the sale of drugs, and inspect and examine any food or drink, animal or drug which may be therein; and, if any article of food or drink or any animal therein appears to be intended for the consumption of man and to be unfit therefor, may seize and remove the same, or, if the owner or the person in whose possession the same is found consents, may cause it to be destroyed or to be so disposed of as to prevent its being exposed for sale or used for such consumption;

*and, in case any drug is reasonably suspected to be adulterated in such manner as to lessen its efficacy or to change its operation or to render it noxious, may remove the same, giving a receipt therefor, and may cause it to be brought before a Magistrate for enquiry whether any offence has been committed in respect thereof, and for his orders as to its disposal.

(2) If the owner or the person in whose possession any food or drink or animal which is seized under sub-section (1) does not consent to the destruction or disposal of the same, such owner or person shall, if it is proved that the food or drink or animal was intended for the consumption of man and is unfit therefor, be punished with fine which may extend to one hundred rupees.

(3) A person who is in possession of food or drink or of an animal as a carrier or bailee thereof shall not be liable to a fine under sub-section (2); but the Magistrate, on proof of the facts abovementioned, may order the food or drink or animal to be destroyed or to be so disposed of as to prevent its being exposed for sale or used for the consumption of man.

(4) If the committee, or any person authorized by it in this behalf, applies to purchase any article of food or drink exposed for sale, and tenders the price for a quantity such as may be reasonably requisite for the purpose

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of analysis, the person exposing the same for sale shall be bound to sell such quantity, and, if he refuses to do so, shall be punished with fine which may extend to fifty rupees.

[Act XIII, 1884, s. 101.] 61. (1) The committee may provide for the performance by its agents of the duties usually performed by sweepers in respect of any building or land, or of any privy, drain, cesspool or other receptacle for offensive matter pertaining to any building or land, with the consent of the occupier of the building or land, or without such consent if the occupier fails to make arrangements to the satisfaction of the committee for the performance of such duties.

(2) When the committee has undertaken to provide for the performance by its agents of such duties as aforesaid, the persons employed by it to perform the same may enter on the property at all reasonable times so far as may be necessary for the proper discharge of those duties; and the committee, by any person authorized by it in this behalf, may enter on the property at all reasonable times for the purpose of ascertaining that such duties have been duly performed.

[Act XIII, 1884, s. 102.] 62. When any building used as a human dwelling is entered under this Act, due regard shall be paid to the social and religious sentiments of the occupiers; and before any apartment in the actual occupancy of any woman, who, according to custom, does not appear in public, is entered under this Act, notice shall be given to her that she is at liberty to withdraw, and every reasonable facility shall be afforded to her for withdrawing.

Water-pipes, Privies and Drains.

[Act XIII, 1884, s. 103.] 63. The committee may by notice require the owner of any building in any street to put up and keep in good condition proper troughs and pipes for receiving and carrying the water from the roof and other parts thereof and for discharging the same so as not to inconvenience persons passing along the street.

[Act XIII, 1884, s. 104.] 64. (1) The committee may by notice require the owner of any building to provide, in such manner as the committee directs, any privy or cesspool, or additional privies or cesspools, which should in the opinion of the committee be provided for the building.

(2) The committee may by notice require any persons employing more than twenty workmen or labourers to provide such latrines and urinals as it may think fit and to cause the same to be kept in proper order and to be daily cleaned.

(3) The committee may by notice require the owner or occupier of any building or land to have any privy provided for the same shut out by a sufficient roof and wall or fence from the view of persons passing by or dwelling in the neighbourhood, or to remove or alter, as the committee directs, any door or trapdoor of a privy opening on to any street or drain.

65. (1) The committee may by notice require the owner or occupier of any building or land to repair or alter or put in good order any drain, privy or cesspool, or to close any cesspool belonging thereto. [Act XIII, 1884, s. 105.]

(2) The committee may by notice require any person who constructs any new drain, privy or cesspool without its permission in writing, or contrary to its directions or regulations or to the provisions of this Act, or who constructs, rebuilds or opens any drain, privy or cesspool which the committee has ordered to be removed or stopped up or not to be made, to remove the drain, privy or cesspool, or to make such alteration therein as the committee thinks fit.

66. The committee may by notice require any person who without its permission in writing newly erects or rebuilds any building over any public sewer, drain, culvert, water-course or water-pipe vested in the committee to pull down or otherwise deal with the building as it thinks fit. [Act XIII, 1884, s. 106.]

67. The committee may by notice require any owner or occupier on whose land any drain, latrine, urinal, cesspool or other receptacle for filth or refuse for the time being exists within fifty feet of any spring, well, tank, reservoir or other source from which water is or may be derived for public use to remove or close the same within one week. [Act XIII, 1884, s. 107.]

68. The committee may by notice require the owner or occupier of any building or land to cleanse, repair, cover, fill up or drain off any private tank, well, reservoir, pool or excavation therein which appears to the committee to be injurious to health or offensive to the neighbourhood. [Act XIII, 1884, s. 108.]

Provided that, if for the purpose of effecting under this section any drainage it is necessary to acquire any land not belonging to such owner or occupier or to pay compensation to any other person, the committee shall provide the land or pay the compensation.

Dangerous Buildings and Places.

69. If any building, or any well, tank or other excavation, is for want of sufficient repair, protection or enclosure dangerous to persons passing by or dwelling or working in the neighbourhood, the committee may by notice require the owner or occupier thereof to repair, protect or enclose the same; and, if it appears to the committee to be necessary in order to prevent imminent danger, the committee shall forthwith take such steps as are necessary to avert the danger. [Act XIII, 1884, s. 109.]

70. If any building, wall or structure or any thing affixed thereto is deemed by the committee to be in a ruinous state or in any way dangerous, it may by notice require the owner or occupier thereof forthwith either to remove the same or to cause such repairs to be made to the building, wall or structure or thing affixed thereto as the committee

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considers necessary for the public safety; and, if it appears to the committee to be necessary in order to prevent imminent danger, the committee shall forthwith take such steps as are necessary to avert the danger.

Buildings and Grounds in insanitary Condition.

[Act XIII, 1884, s. 111.] 71. The committee may by notice require the owner or occupier of any land to clear away and remove any thick or noxious vegetation or undergrowth which appears to the committee to be injurious to health or offensive to the neighbourhood.

[Act XIII, 1884, s. 112.] 72. The committee may by notice require the owner or occupier of any land to cut or trim, within three days, the hedges standing on the land and bordering on any street, or the branches of trees growing on the land and overhanging any street and obstructing the same or causing danger thereto, or so overhanging any well, tank or other source from which water is derived for public use as to be likely to pollute the water thereof.

[Act XIII, 1884, s. 113.] 73. If the owner or occupier of any building or land suffers the same to be in a filthy or unwholesome state, the committee may by notice require him to cleanse the same or otherwise put it in a proper state within twenty-four hours.

[Act XIII, 1884, s. 114.] 74. If any building appears to the committee to be unfit for human habitation in consequence of the want of proper means of drainage or ventilation or for other sufficient reason, the committee may by notice prohibit the owner or occupier of the building from using it for human habitation or suffering it to be so used, until the committee is satisfied that it has been rendered fit for such use.

[Act XIII, 1884, s. 115.] 75. The committee may by notice require the owner or person claiming to be the owner of any building or land which, by reason of abandonment or disputed ownership or other cause, remains untenanted and thereby becomes a resort of idle and disorderly persons or otherwise a nuisance, to secure or enclose the same within a reasonable time specified in the notice.

[Act XIII, 1884, s. 116.] 76. (1) If the Sanitary Commissioner reports that the cultivation of any description of crop or the use of any kind of manure or the irrigation of land in any specified manner in any place within the limits of any municipality is injurious to the health of persons dwelling in the neighbourhood, the Local Government may, by notification in the official Gazette, prohibit the cultivation of the crop, the use of the manure or the irrigation so reported to be injurious, or regulate it by imposing such conditions as may prevent the injury.

(2) When on any land to which the notification applies that description of crop has been cultivated, that kind of manure has been used, or irrigation has been practised in that manner, during the five years preceding the

notification with such continuity as the ordinary course of husbandry admits of, compensation shall be paid from the municipal fund to all persons interested in that land for any damage caused to them by the prohibition or regulation.

(3) If any person cultivates, uses manure, or irrigates in disregard of the prohibition or conditions notified under sub-section (1), he shall be punished with fine which may extend to fifty rupees, and with a further fine which may extend to five rupees for every day after the first during which the offence is continued.

Offensive and Dangerous Trades.

77. (1) The owner or occupier of every place situate within the municipality and used for any of the following purposes, namely:— [Act XIII, 1884, s. 117.]

- melting tallow; or
- boiling bones, offal or blood; or
- as a soap-house, oil-boiling house, dyeing-house or tannery; or
- as a brick kiln, pottery or limekiln; or
- as any other manufactory or place of business from which offensive or unwholesome smells arise; or
- as a yard or depot for trade in hay, straw, thatching-grass, wood or coal, or other dangerously inflammable material; or
- as a store-house for kerosine, petroleum, naphtha or any inflammable oil, spirit or explosive substance;

shall register the same in a book to be kept by the committee for the purpose.

(2) No place shall be newly used for any of the said purposes except under a license from the committee, which shall be renewable annually.

(3) The license shall not be withheld unless the committee considers that the business which it is intended to establish or maintain would be offensive or dangerous to persons residing in or frequenting the immediate neighbourhood.

(4) The committee may charge fees for such licenses, and may impose such conditions in respect thereof as it may think necessary.

(5) Whoever, without such registration or without a license, uses any place for any such purpose shall be punished with fine which may extend to fifty rupees, and with further fine which may extend to ten rupees for every day during which the offence is continued after he has been convicted of such offence.

78. (1) If it is shown to the satisfaction of the committee, at a meeting, that any place registered or licensed under the last foregoing section is a nuisance to the neighbourhood or likely to be dangerous to life, health or property, the committee may by notice require the occupier of the place to discontinue the use thereof, or to use the place in such manner as will, in the opinion of the committee, render it no longer a nuisance or dangerous. [Act XIII, 1884, s. 118.]

(2) Whoever, after such notice has been given, uses the place or permits it to be used in such a manner as to be a nuisance to the neighbourhood or dangerous, shall be punished with fine which may extend to two hundred rupees, and with further fine which may extend to forty

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rupees for every day during which the offence is continued after he has been convicted of such offence.

Power to make and enforce Rules.

[Act XIII, 1884, s. 119.]

79. (r) A committee may, from time to time, at a special meeting, make rules consistent with this Act—

(a) for protecting from injury or interference anything within the municipality being the property of Her Majesty or of the committee;

(b) for prohibiting or controlling the establishment or maintenance of markets, sarais and halting-places and controlling the management of the same and of any places of public entertainment and resort;

[New.] (c) for licensing, controlling and regulating the practice of brokers, measurers and weighmen practising their calling in public places within the municipality;

[New.] (d) for prescribing the standard weights and measures to be used within the municipality;

(e) for controlling and regulating the use and management of burial and burning grounds;

[New.] (f) for prescribing the means by which the owner or occupier of any place which is a factory within the meaning of the Indian Factories Act, 1881, is to provide for the consumption of the smoke of any chimney or furnace so as to prevent the smoke from being a nuisance to any person in the neighbourhood;

XV of 1881.

(g) for rendering licenses necessary for the proprietors or drivers of vehicles, boats or animals plying for hire within the limits of the municipality, and fixing the fees payable for such licenses and the conditions on which they are to be granted and may be revoked;

(h) for limiting the rates which may be demanded for the hire of any carriage, cart, boat or other conveyance, or of animals hired to carry loads, or for the services of persons hired to carry loads where those conveyances, animals or persons are hired within the municipality for a period not exceeding twenty-four hours, or for a service which would ordinarily be performed within twenty-four hours;

(i) for securing a proper registration of births, marriages and deaths;

(j) for the proper regulation of buildings let in lodgings or occupied by more than one family;

(k) for the supervision and regulation of public cisterns, water-standards, wells, tanks, springs or other sources of public water-supply; and, when water is supplied from a public source to any private premises, for regulating and controlling such supply;

(l) when the collection of an octroi-tax has been sanctioned, for fixing out-of-limits for the purpose of that tax; and for any other purpose which may be sanctioned by the Local Government.

(2) In making any rule under this section a committee may direct that a breach of it shall be punished with fine which may extend to fifty rupees, and, when the breach is a continuing breach, with further fine which may extend to five rupees for every day after the first during which the breach continues.

(3) A rule under this section shall not come into force until it has been confirmed by the Local Government and published for the prescribed time and in the prescribed manner.

(4) Notwithstanding anything in the foregoing portion of this section, the committee of a municipality in which the Hackney-carriage Act, 1879, is in force shall not make rules under sub-section (r) in respect of any vehicles to which that Act applies.

80. Subject to any orders which the Local Government may make in this behalf, a committee may order any person not to do, or not to omit to do, within the municipality anything the doing of, or the omission to do, which is a public nuisance under the Indian Penal Code.

[Act XV, 1883, s. 56.]

81. (r) The Local Government may invest, within the limits of the municipality, a committee with the powers of a District Magistrate as described in section 133 of the Code of Criminal Procedure, 1882, and with power to make conditional orders of the nature referred to in that section, in respect of all or any acts or omissions punishable under rules made in exercise of the power conferred by section 79, sub-section (r), clauses (a), (b), (c), (d), (e), (f) and (h).

[Act XV, 1883, s. 57.]

Powers as to conditional orders in respect of certain acts and omissions.

X of 1882.

(2) Sections 133 to 142 (both inclusive) of the Code of Criminal Procedure, 1882, shall, so far as they can be made applicable, apply to all proceedings taken in exercise of these powers:

Provided that, for the purposes of such proceedings, section 133 of the Code shall be read as if for the words "before himself or some other Magistrate of the first or second class" the words "before the District Magistrate or some Magistrate of the first or second class appointed by him in this behalf" were substituted.

(3) The Local Government may, whenever it thinks fit, withdraw the powers with which it has under this section invested a committee.

82. A committee may, at a special meeting, delegate to one or more sub-committees of its members any of the powers which are vested in the committee by section 80, or with which the committee may have been invested under section 81.

[Act XV, 1883, s. 58.]

Delegation of powers under sections 80 and 81.

Supplemental.

83. (r) When any notice under this Chapter requires any act to be done for which no time is fixed by this Act, the notice shall fix a reasonable time for doing the same.

[Act XIII, 1884, s. 123.]

Execution of acts required to be done by any notice.

(2) When the owner or occupier of any building or land fails to comply with any notice under this Chapter, the committee may, after giving him a reasonable time for doing the same, cause the same to be done at his expense.

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committee may, after six hours' notice, cause the act to be done by its officers.

[Act XIII, 1884, s. 124.]

84. (r) Where the owner or occupier of property is required under this Act by the committee to execute any work and makes default in complying with the requisition, and the committee executes the work, the committee may recover the cost of the work from the person in default.

(2) If the person in default is the owner, the committee may, by way of additional remedy, recover the whole or any part of the cost from the occupier, and in such case the occupier may deduct any sum paid by him under this subsection from the rent due or from time to time accruing due from him to the owner of the property in respect of which the payment is made, or may otherwise recover such sum from the owner.

(3) An occupier shall not be required to pay under sub-section (2) any greater sum than the amount of rent which is for the time being due from him to the owner, or which, after demand for payment of the money payable by him to the committee and notice not to pay rent without first deducting the amount so demanded, becomes payable by him to the owner, unless he refuses on application to him by the committee truly to disclose the amount of his rent and the name and address of the person to whom it is payable; but the burden of proof that the sum so demanded by the committee from the occupier exceeds the rent which was due at the time of the demand, or which has since accrued due, shall lie on the occupier.

(4) All money recoverable by a committee under this section may be recovered either by suit, or on application to a Magistrate having jurisdiction within the municipality by distress and sale of the moveable property of the person from whom the money is recoverable, and if payable by the owner of property shall, until it is paid, be a charge on the property.

(5) Nothing in this section shall affect any contract between an owner and an occupier.

[Act XIII, 1884, s. 125.]

85. (r) The committee may make compensation out of the municipal fund, out of any person sustaining any damage by reason of the exercise of any power vested in the committee, its officers or servants, under this Act, and shall, subject to the other provisions of this Act, make such compensation where the person sustaining the damage was not himself in default in the matter in respect of which the power was exercised.

(2) If any dispute arises touching the amount of any compensation which the committee is required by this Act to pay for injury to any building or land, it shall be settled in such manner as the parties may agree, or, in default of agreement, in the manner provided by the Land-acquisition Act, 1870, sections 3, 8 to 42, 44 to 46, 48 to 50, so far as they can be made applicable.

(3) Any person aggrieved by any order made by a committee under the powers vested in it by section 84, 85, 86, or 87, may appeal from that order to the Local Government within thirty days from the date thereof.

[Act XIII, 1884, s. 126.]

86. (r) Any person aggrieved by any order made by a committee under the powers vested in it by section 84, 85, 86, or 87, may appeal from that order to the Local Government within thirty days from the date thereof.

no such order shall be liable to be called in question otherwise than by such appeal:

Provided that, if the Deputy Commissioner is himself a member of the committee, the appeal shall lie to the Commissioner of the division or other officer empowered by the Local Government in this behalf.

(2) The appellate authority may, for sufficient cause, extend the period hereby allowed for appeal.

(3) The order of the appellate authority confirming, setting aside or modifying the order appealed against shall be final:

Provided that the order appealed against shall not be confirmed, set aside or modified until the appellant and the committee have had reasonable opportunity of being heard.

CHAPTER VI.

OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY OR CONVENIENCE.

87. Whoever, without the permission of the committee or in disregard of its orders, throws or deposits, or permits his servants or members of his household under his control to throw or deposit, earth or materials of any description, or refuse, rubbish or offensive matter of any kind, upon any public street or place, or into any public sewer or drain or any drain communicating therewith, shall be punished with fine which may extend to twenty rupees.

Penalty for depositing or throwing earth or materials or refuse, rubbish or offensive matter on roads or into drains.

88. Whoever, without the permission of the committee, causes or allows the water of any sink, sewer or cesspool, or any other offensive matter, to flow, drain or be put upon any street or public place or into any sewer or drain not set apart for the purpose, shall be punished with fine which may extend to twenty rupees.

Penalty for causing or allowing sewage to flow upon a public place.

89. Whoever, being the owner or occupier of any building or land, keeps more than twenty-four hours, or otherwise than in some proper receptacle, any dirt, dung, bones, ashes, nightsoil or filth or any noxious or offensive matter in or upon such building or land, or suffers any such receptacle to be in a filthy or noxious state, or neglects to employ proper means to cleanse and purify the same, shall be punished with fine which may extend to fifty rupees.

Penalty for non-receipt of filth.

90. Whoever, without the permission of the committee, makes or causes to be made, or alters or causes to be altered, any drain leading into any of the channels, sewers or drains vested in the committee, shall be punished with fine which may extend to fifty rupees.

Penalty for making or altering drains without authority.

91. Whoever makes, without the permission of the committee, or keeps for a longer time than one week after notice to remove, any filth, rubbish, or other matter in or upon any public street or place, or into any public sewer or drain or any drain communicating therewith, shall be punished with fine which may extend to twenty rupees.

Penalty for making or keeping filth, rubbish, or other matter in or upon any public street or place, or into any public sewer or drain or any drain communicating therewith.

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receptacle for filth or refuse within fifty feet of any spring, well, tank, reservoir or other source from which water is or may be derived for public use, shall be punished with fine which may extend to twenty rupees, and, when a notice has issued, with further fine which may extend to five rupees for each day during which the offence is continued after the lapse of the period allowed for removal.

[Act XIII, 1884, s. 132.] 92. Whoever keeps any swine in disregard of any orders which the committee may give to prevent them from becoming a nuisance, or keeps any other animals so as to be injurious to health or to become a nuisance, shall be punished with fine which may extend to twenty rupees, and, with further fine which may extend to five rupees for every day after the first during which the offence is continued.

[Act XIII, 1884, s. 133.] 93. Whoever feeds or allows to be fed on deleterious substances, filth or refuse of any kind any animal which is kept for dairy purposes or may be used for food shall be punished with fine which may extend to twenty rupees.

[Act XIII, 1884, s. 134.] 94. Whoever drives any vehicle of any kind after dark in any street unless the vehicle is properly supplied with lights or there is sufficient moonlight to render lights unnecessary, shall be punished with fine which may extend to twenty rupees.

[Act XIII, 1884, s. 135.] 95. Whoever discharges fire-arms or lets off fire-works or fire-balloons, or engages in any game, in such a manner as to cause or be likely to cause danger to persons passing by or dwelling or working in the neighbourhood, or risk of injury to property, shall be punished with fine which may extend to twenty rupees.

[Act XIII, 1884, s. 136.] 96. Whoever, being an elephant-driver or camel-driver, omits on being requested to do so to remove his elephant or camel to a safe distance on the approach of a horse, whether ridden or driven, shall be punished with fine which may extend to twenty rupees.

[Act XIII, 1884, s. 137.] 97. Whoever, contrary to any orders of the committee, takes an elephant along a street shall be punished with fine which may extend to twenty rupees.

[N.W. P. & Oudh Model Rules, No. 13.] 98. Whoever, contrary to any orders of the committee made with the sanction of the Deputy Commissioner of the district, beats any drum or sounds any musical instrument so as to cause annoyance to the public shall be punished with fine which may extend to twenty rupees.

[Act XIII, 1884, s. 138.] 99. Whoever, being the owner or person in charge of any dog which is likely to annoy or intimidate passengers, neglects to restrain it so that it shall not be at large with- out a muzzle in any street or public place, shall

be punished with fine which may extend to twenty rupees.

100. Whoever, without the permission of the committee, alters, obstructs or encroaches upon any street, public sewer, drain of water-course, or displaces, takes up or alters the pavement or other materials or the fences or posts of any street or public place, or deposits building-materials or makes any hole or excavation on or in any street, shall be punished with fine which may extend to fifty rupees.

101. Whoever quarries, blasts, cuts timber or carries on building-operations in such a manner as to cause, or be likely to cause, danger to persons passing by or dwelling or working in the neighbourhood, shall be punished with fine which may extend to fifty rupees.

102. Whoever, contrary to the orders of the committee, pickets animals or collects carts on any public ground, or uses any such ground as a halting-place for vehicles or animals of any kind or as a place of encampment, or causes or permits animals to stray, shall be punished with fine which may extend to twenty rupees.

103. Whoever carries a corpse along a route prohibited by the committee or in a manner likely to cause annoyance to the public shall be punished with fine which may extend to ten rupees.

104. Whoever, without being authorised by the committee, defaces or disturbs any direction-post or lamp-post, or extinguishes any light in any street or public place, shall be punished with fine which may extend to ten rupees.

105. (1) Whoever sells to the prejudice of any purchaser any article of food or drink for the consumption of man which is not of the nature, substance or quality of the article demanded by such purchaser shall be punished with fine which may extend to one hundred rupees.

(2) The provisions of sub-section (1) shall not apply in the following cases, namely:—

(a) when any matter or ingredient not injurious to health has been added to the food or drink, in order to make the food or drink fit, as an article of commerce, for carriage or consumption, and not with intent fraudulently to increase the bulk, weight or measure of the food or drink or to conceal the inferior quality thereof;

(b) when the food or drink is unavoidably mixed with some extraneous matter in the process of collection or preparation.

(3) The provisions of this section apply to the purchase under section 60 of any article for the purpose of analysis.

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[Act XIII, 1884, s. 144.] 106. Whoever disobeys any lawful directions given by the committee by public notice under the powers conferred upon the committee by the last foregoing Chapter, or any written notice lawfully issued by the committee under the powers so conferred, or fails to comply with the conditions subject to which any permission was given by the committee to him under those powers, shall, if the disobedience or omission is not an offence punishable under any other section, be punished with fine which may extend to fifty rupees, and, in the case of a continuing breach, with further fine which may extend to five rupees for every day after the first during which the breach continues:

Provided that, when the notice fixes a time within which a certain act is to be done and no time is specified in this Act, it shall rest with the Magistrate to determine whether the time so fixed was a reasonable time within the meaning of this Act.

[Act XIII, 1884, s. 145.] 107. Any prosecution for an offence against section 53, or section 78, or section 106, shall, when the Magistrate learns that an appeal has been instituted from the order which has been disobeyed, be suspended pending the decision of the appeal; and, if the order is set aside on appeal, disobedience thereto shall not be deemed an offence against the section.

CHAPTER VII.

CONTROL.

[Act XIII, 1884, s. 146.] 108. The Commissioner of the division or the Deputy Commissioner of the district (not being a member of the committee) may—

- enter on and inspect, or cause to be entered on and inspected, any immovable property situate within the limits of his division or district and occupied by any committee or joint committee, or any work in progress within those limits under the direction of a committee or joint committee;
- by order in writing call for and inspect any book or document in the possession or under the control of any committee or joint committee having authority within those limits;
- by order in writing require any such committee or joint committee to furnish such statements, accounts, reports and copies of documents relating to the proceedings or duties of the committee or joint committee as he may think fit to call for; and
- record in writing, for the consideration of any such committee or joint committee, any observations which he may think proper in regard to the proceedings or duties of the committee.

[Act XIII, 1884, s. 147.] 109. (1) The Commissioner of the division or the Deputy Commissioner of the district may

pend within the limits of the division or district, as the case may be, the execution of any resolution or order of a committee or joint committee, or prohibit the doing within those limits of any act which is about to be done, or is being done, in pursuance of or under cover of this Act, if, in his opinion, the resolution, order or act is in excess of the powers conferred by law, or the execution of the resolution or order, or the doing of the act, is likely to lead to a breach of the peace, or to cause injury or annoyance to the public or to any class or body of persons.

(2) When a Commissioner or Deputy Commissioner makes any order under this section, he shall forthwith forward a copy thereof, with a statement of his reasons for making it, to the Local Government, which may thereupon rescind the order or direct that it continue in force with or without modification, permanently, or for such period as it thinks fit.

110. (1) In cases of emergency the Deputy Commissioner of the district may provide for the execution of any work or the doing of any act which a committee is empowered to execute or do and the immediate execution or doing of which is in his opinion necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act shall be forthwith paid by the committee.

(2) If the expense is not so paid, the Deputy Commissioner may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or as much thereof as is, from time to time, possible, from the balance, in priority to any or all other charges against the same.

(3) The Deputy Commissioner shall forthwith report to the Commissioner of the division every case in which he uses the powers conferred on him by this section.

111. (1) If at any time it appears to the Local Government that a committee has made default of committee. fault in performing any duty imposed on it by or under this or any other Act, the Local Government may, by order in writing, fix a period for the performance of that duty.

(2) If that duty is not performed within the period so fixed, the Local Government may appoint the Deputy Commissioner of the district to perform it, and may direct that the expense of performing it shall be paid, within such time as the Local Government may fix, to the Deputy Commissioner by the committee.

(3) If the expense is not so paid, the Deputy Commissioner, with the previous sanction of the Local Government, may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or as much thereof as is, from time to time, possible, from the balance, in priority to any or all other

*The Central Provinces Municipal Bill.**(Chapter VII.—Control.—Sections 112-114. Chapter VIII.—Supplemental.—Section 115.)*

[Act XV, 1883, s. 63.] 112. (1) If a committee is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this or any other Act for the time being in force, or exceeds or abuses its powers, the Local Government may, with the previous approval of the Governor General in Council, by an order published, with the reasons for making it, in the official Gazette, declare the committee to be incompetent or in default, or to have exceeded or abused its powers, as the case may be, and supersede it for a period to be specified in the order.

Power of Local Government to supersede committee in case of incompetency, persistent default or abuse of powers.

(2) When a committee is so superseded, the following consequences shall ensue:—

(a) all members of the committee shall, as from the date of the order, vacate their offices as such members;

(b) all powers and duties of the committee may, during the period of supersession, be exercised and performed by such person or persons as the Local Government appoints in that behalf;

(c) all property vested in the committee shall, during the period of supersession, vest in Her Majesty.

(3) On the expiration of the period of supersession specified in the order, the committee shall be re-constituted, and the persons who vacated their offices under sub-section (2), clause (a), shall not be deemed disqualified for being members.

[Act XV, 1883, s. 64.] 113. (1) The Local Government may frame forms for any proceedings of a committee for which it considers that forms should be provided, and may make rules consistent with this Act—

[Act XIII, 1884, s. 154.] Power of Local Government to frame forms and make rules.

(a) for the assessment and collection of taxes imposed under this Act, and for preventing evasion of the same;

(b) as to the authority on which money may be paid from the municipal fund;

(c) as to the conditions on which property vested in the committee or placed under its management by the Local Government may be transferred by sale, mortgage, charge, lease, exchange or otherwise;

(d) as to the qualifications requisite in the case of persons appointed by the committee to offices requiring professional skill;

(e) as to the intermediate office or offices, if any, through which correspondence between committees and the Local Government or its officers, and representations addressed under this Act to the Local Government, are to pass;

(f) as to the preparation of plans and estimates for works which are to be partly of wholly constructed at the expense of committees, and as to the authority by whom, and the conditions subject to which, such plans and estimates may be sanctioned.

and as to the power of the auditors in respect of disallowance and surcharge;

(h) as to the preparation of estimates of income and expenditure of committees, and as to the authority by whom, and the conditions subject to which, such estimates may be sanctioned;

(i) as to the language in which the proceedings and correspondence of the committee are to be conducted and recorded;

(j) as to the returns, statements and reports to be submitted by committees; and,

(k) generally, for the guidance of committees and public officers in all matters connected with carrying out the purposes of this Act.

(2) In making rules under sub-section (1), clause (a), the Local Government may direct that a breach of any provision thereof shall be punished with fine which may extend to fifty rupees.

114. In all matters connected with this Act [Act XIII, 1884, s. 155.] the Local Government shall have and exercise over Commissioners and Deputy Commissioners, and Commissioners shall have and exercise over Deputy Commissioners, the same authority and control as they respectively have and exercise over them in the general and revenue administration.

General powers of Local Government and Commissioners.

CHAPTER VIII.

SUPPLEMENTAL.

Notices.

[Act XIII, 1884, s. 162.] 115. (1) Every notice issued by a committee under this Act or any rule thereunder shall be in writing, and shall be sufficiently authenticated by the signature of the president, vice-president or secretary, and may be served by being delivered to the person to whom it is addressed, or by being left at his usual place of abode or business with some adult male member or servant of his family, or, if it cannot be so served, may be posted on some conspicuous part of his usual place of abode or business.

Authentication, service and validity of notices.

(2) If the usual place of abode or business of the person to whom the notice is addressed is not within the limits of the municipality, the notice may be served by posting it in a registered cover addressed to his usual place of abode.

(3) If the usual place of abode or business of the owner of any property is not known, every such notice addressed to him as such owner may be served on the occupier.

(4) If the usual place of abode or business of the occupier of any property is not known, every such notice addressed to him as such occupier may be served by posting it on some conspicuous part of the property.

(5) No notice issued by the committee under this Act or any rule thereunder shall be in

the liabilities of the committee shall be apportioned between the committee and the Secretary of State for India in Council, and, on the publication of the scheme in the local official Gazette, the property and liabilities shall vest and be apportioned accordingly.

(2) All property vested in Her Majesty under sub-section (1) shall be applied under the orders of the Local Government to discharging the liabilities imposed on the Secretary of State for India in Council under that sub-section, or for the promotion of the health, comfort, convenience or interest of the inhabitants of the local area.

121. When a local area is included under section 119 in a municipality, this Act and all rules, orders, byelaws, directions and powers made, issued or conferred under this Act and in force throughout the whole municipality at the time the local area is so included shall apply to the local area.

Effect of including local area in municipality.

[Act XV, 1883, s. 75.]

122. (1) If any member, officer or servant of a committee is, otherwise than with the permission in writing of the Commissioner of the division, directly or indirectly interested in any contract made with the committee, he shall be deemed to have committed an offence under section 168 of the Indian Penal Code.

[Act XV, 1883, s. 65.]

(2) A person shall not by reason of being a shareholder in, or member of, any incorporated or registered company be held to be interested in any contract entered into between the company and the committee, but he shall not take part in any proceedings of the committee relating to any such contract.

123. A Court shall not take cognizance of an offence punishable only under this Act or a rule thereunder except on the complaint of the committee or of some person authorized either generally or specially by the committee in this behalf.

124. Where any building or land, whether within or without the limits of a municipality, is required for the purposes of this Act, the Local Government may, at the request of the committee, proceed to acquire it under the provisions of the Land-acquisition Act, 1870, and, on payment by the committee of the compensation awarded under that Act, and of the charges incurred by the Government in connection with the proceedings, the land shall vest in the committee.

[Act XV, 1883, s. 69.]

125. The power to make rules under section 7, section 79 or section 113 is subject to the condition of the rules being made after previous publication.

[Act XV, 1883, s. 67.]

126. (1) When the supply of water in a municipality is derived from a reservoir situated beyond the limits of the municipality, the Local Government may make rules—

(a) regulating the

[Act XIII, 1884, s. 159.]

127. (1) When the supply of water in a municipality is derived from a reservoir situated beyond the limits of the municipality, the Local Government may make rules—

(a) regulating the

[Act XIII, 1884, s. 159.]

*The Central Provinces Municipal Bill.**(Chapter VIII.—Supplemental—Sections 116-126.)*

[Act XIII, 1884, s. 163.] 116. When any notice is under the provisions of this Act to be given to, or served on, the owner or occupier of any property and he is unknown, it may be given or served—

(a) by delivering a written notice to some person on the property, or, if there is no person on the property to whom the notice can be delivered, by fixing it on some conspicuous part of the property; or

(b) by putting into the post a prepaid letter containing a written notice, and addressed by the description of the "owner" or "occupier" of the property (naming it) in respect of which the notice is given, without further name or description.

117. Every public notice given by a committee under this Act or any rule thereunder shall be published by proclamation or in the prescribed manner.

[Act XIII, 1884, s. 164.]

Alteration of Limits of Municipality.

[Act XV, 1883, s. 72.] 118. The Local Government may, by notification published in the official Gazette and in the prescribed manner within the local area affected, declare its intention—

(a) to exclude from a municipality any local area comprised therein and defined in the notification, or

(b) to include within a municipality any local area situate in the vicinity thereof and defined in the notification:

Provided that, where the local area is a military cantonment or part of a military cantonment, a notification shall not be published under this section in respect of it without the previous sanction of the Governor General in Council.

[Act XV, 1883, s. 73.] 119. (1) Any inhabitant of a municipality or alteration of limits of local area in respect of which a notification has been published under the last foregoing section may, if he objects to the alteration proposed, submit his objection in writing to the Local Government within three months from the date of the publication of the notification in the Gazette, and the Local Government shall take his objection into consideration.

(2) When three months from such date have expired, and the Local Government has considered the objections, if any, which have been submitted under sub-section (1), the Local Government may, by a notification in the official Gazette, exclude the local area from the municipality or include it therein, as the case may be.

[Act XV, 1883, s. 74.] 120. (1) When a local area is excluded under the last foregoing section from a municipality,—

(a) this Act and all rules, orders, byelaws, directions and powers made, issued or conferred under this Act shall cease to apply thereto; and

(b) the Local Government shall, after consulting the committee, frame a scheme determining what portion of the balance of the municipal fund and other property vested in the committee shall vest in Her Majesty for the benefit of

[Act XV, 1883, s. 74.]

(c) the Local Government shall, after consulting the committee, frame a scheme determining what portion of the balance of the municipal fund and other property vested in the committee shall vest in Her Majesty for the benefit of

[Act XV, 1883, s. 74.]

*The Central Provinces Municipal Bill.**(Chapter VIII.—Supplemental.—Sections 127-130.)*

act by which the purity of the water or the safety of the reservoir may be impaired; and

(6) regulating generally the conservancy of the reservoir and the catchment area.

(2) The Local Government may direct that the breach of any rule under sub-section (1) shall be punished with fine which may extend to two hundred rupees.

[Act XV, 1883, s. 76.] 127. Nothing in this Act shall affect the Local Authorities Loan Act, 1879.

[Act XV, 1883, s. 77.] 128. Every member of a committee constituted under this Act shall be deemed to be a municipal commissioner within the meaning of every enactment for the time being in force; and a Judge or Magistrate shall not be deemed to be a party to or to be personally interested within the meaning of section 555 of the Code of Criminal Procedure, 1882, in any prosecution for an offence punishable under this Act, or any rule thereunder, merely because he is a member of the committee by the order or with the approval of which the prosecution has been instituted.

X of 1882. 129. (1) The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette,

[Act XV, 1883, s. 79.] Power to withdraw municipal area altogether from operation of this Act.

withdraw any municipality from the operation of this Act.

(2) When a notification is issued under sub-section (1) in respect of any municipality, this Act and all rules, byelaws, orders, directions and powers made, issued or conferred under this Act shall cease to apply to the local area comprised in the municipality, the balance of the municipal fund and all other property which at the time of the issue of the notification is vested in the committee shall vest in Her Majesty, and the liabilities of the committee shall be transferred to the Secretary of State for India in Council.

(3) All property vested in Her Majesty under sub-section (2) shall be applied under the orders of the Local Government to discharge the liabilities imposed on the Secretary of State for India in Council by that sub-section, or for the promotion of the health, comfort, convenience or interest of the inhabitants of the local area comprised in the municipality.

130. Anything done or any proceeding taken under this Act shall not be questioned on account of any vacancy in a committee or joint committee, or on account of any defect or irregularity not affecting the merits of the case.

[Act XIII, 1884, s. 27.] Vacancies and irregularities not to invalidate proceedings.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to repeal the Municipal Act at present in force in the Central Provinces, and to provide an Act which is better suited to the requirements of the municipalities.

2. The law regulating municipalities in the Central Provinces is contained in a short Act of the year 1873, and it is found that the provisions of this Act are now inadequate. The power of taxation which municipal committees have under that Act are not sufficiently clear, and doubts have arisen as to whether some of the taxes at present imposed can be legally imposed under it. It is also found that the powers and duties of municipal committees, and the power of control which Government officers may exercise over the committees, should be more fully expressed and defined so as to meet the growing needs of the Province.

3. This Bill therefore has been prepared. It introduces no new principles into the constitution of municipalities in the Central Provinces, but adopts from other enactments, principally from the North-Western Provinces and Oudh Municipalities Act, 1883, and the Punjab Municipal Act, 1884, provisions which appear suitable to the conditions obtaining in the Central Provinces and in harmony with the past policy of the Local Administration in its conduct of municipal affairs.

4. The Bill following the usual arrangement is divided into eight Chapters. They contain the ordinary provisions regarding the organization of municipal committees, the imposition of taxes and the constitution and application of the municipal fund, the powers and duties of municipal committees for general and for sanitary purposes, the power to make and enforce rules, the control to be exercised by Government officers and the usual supplemental matters. Following the Punjab Municipal Act, 1884, the powers for sanitary purposes and the provisions regarding offences affecting the public health, safety or convenience are set out in the Bill instead of being left to be supplied by rules made under the Act by the municipal committee.

5. With a view to preventing disturbances arising in towns owing to the slaughter of animals for sacrifice, power is given by section 52 of the Bill to the Deputy Commissioner to prohibit or regulate such slaughter, and to prescribe the mode and route in and by which meat shall be conveyed from the place of slaughter.

6. In section 60 of the Bill, which relates to the power to inspect places for the sale of food or drink, provisions adapted from Bengal Act III of 1886 have been inserted in order to give the municipal committee additional power to prevent the sale of unwholesome food or drink. In section 105 of the Bill a provision also taken from the same Act has been made to prevent the adulteration of food or drink.

7. A provision (section 126 of the Bill) has been inserted in the Supplemental Chapter so as to enable the Chief Commissioner to make rules for the preservation of reservoirs which supply a town with water but which, being situated outside municipal limits, are not under the control of the committee.

The 10th July, 1889.

R. J. CROSTHWAITE.

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 10th July, 1889:

No. 9 OF 1889.

A Bill to make better provision for Conservancy in Villages in the Central Provinces.

WHEREAS it is expedient to make better provision for conservancy in villages in the Central Provinces; It is hereby enacted as follows:—

1. (1) This Act may be called the Central Provinces Village-conservancy Act, 1889.

Title, extent and commencement.

(2) It extends to the territories for the time being administered by the Chief Commissioner of the Central Provinces; and

(3) It shall come into force at once.

2. (1) When the sanitary condition of a village containing not less than three hundred inhabitants and not being a municipality is, in the opinion of the Deputy Commissioner of the district in which the village is situate, such as to be injurious to the health of the inhabitants, he may by an order in writing, published in such manner as the Local Government may prescribe, declare that the village is in an insanitary state.

(2) After the publication of the order the Local Government may—

(a) on the application of the mukaddam and ten or more other inhabitants of the village, or

(b) if no such application is made within three months after the date of the publication of the order, then on the application of the Deputy Commissioner,

by notification in the official Gazette extend to the village the provisions of this Act from such date as may be specified in the notification.

3. In every village to which this Act is extended a panchayat shall be formed, consisting of the mukaddam and four representatives of the village-community, who shall be chosen by election from among the inhabitants of the village.

4. The panchayat shall, subject to the approval of the Deputy Commissioner, determine the sum which is annually required for the following purposes:—

- (a) the proper cleansing and conservancy of the village-site;
- (b) the provision and maintenance of a supply of wholesome water for the inhabitants of the village and their cattle;
- (c) the maintenance of the village-communications; and,
- (d) if the inhabitants generally so desire, the aiding of the village-school.

5. The sum determined to be necessary under the last foregoing section shall be raised by the panchayat by an assessment on the houses and lands within the village with reference to the circumstances of, and property possessed by, the owners or occupiers of such houses and lands.

6. (1) The Local Government shall make rules—

Powers of Local Government to make rules.

- (a) regulating the mode of election and the proceedings of the panchayats;
- (b) prescribing the manner in which the wishes of the inhabitants of the village are to be ascertained;
- (c) limiting the amount of tax and regulating its assessment, realization, safe custody and application and the auditing of the accounts thereof;
- (d) regulating the village-conservancy and defining and prohibiting public nuisances; and,
- (e) generally, for giving effect to the purposes of this Act.

(2) The Local Government may, in making such rules, direct that the breach of any provision thereof shall be punished with fine which may extend to fifty rupees.

7. The Local Government may direct that the provisions of this Act shall cease to have operation in any village from a date to be fixed by the Local Government, and may make over any moneys in the hands of the panchayat to the district council or local board having authority under the Central Provinces Local Self-government Act, 1883.

8. While the provisions of this Act are in force in any village, the authority of the district council or local board under section 9 of the Central Provinces Local Self-government Act, 1883, shall be suspended in respect of all matters made over to the management of the panchayat.

XV of 1883.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to provide for village-conservancy in rural tracts in the Central Provinces. The importance of improved village-sanitation is so universally admitted, and has been pressed with such urgency on the attention of Local Governments by the Government of India, that the attempt to effect some such reform as that aimed at in the Bill needs no justification. The Central Provinces Land-revenue Act, 1881, contains provisions regarding the duties of the mukaddam of a village, and by means of these provisions efforts have been made to improve the sanitary condition of villages. It has been found, however, that to effect real and substantial improvement larger powers are necessary.

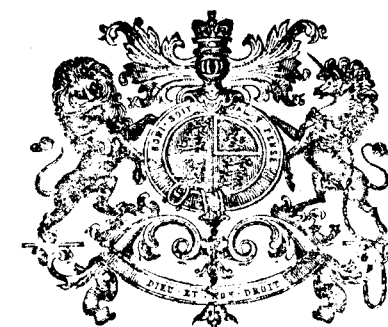
2. The object Mr. Mackenzie, the Chief Commissioner, has in view in this Bill is to secure the co-operation of the more influential members of the village-community and to place the conservancy-arrangements of the village on a popular and permanent basis. The provisions of the Bill can only be applied in a village containing a population of not less than three hundred persons, and when the Deputy Commissioner has declared that the sanitary condition of the village is defective. These conditions being fulfilled the Local Government may, either on the application of the mukaddam and ten or more other inhabitants of the village, or, if they fail to apply, on the application of the Deputy Commissioner, extend to the village the provisions of the Bill. A panchayat will then be elected consisting of the mukaddam and four representatives of the village-community. This panchayat will, subject to the approval of the Deputy Commissioner, determine the sum which will be annually required for the purposes of conservancy, the supply of water, the maintenance of the village-roads, and, if the people of the village so desire, the aiding of the village-school. This sum will be raised by the panchayat by a tax on the houses and lands within the village. Full power is reserved to the Local Government to regulate the mode of election and the proceedings of the panchayat, to limit the amount of taxation and regulate its assessment, and to regulate the village-conservancy and other matters necessary to give effect to the provisions of the Bill.

The 8th July, 1889.

R. J. CROSTHWAITE.

S. HARVEY JAMES,

Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, AUGUST 17, 1889.

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 14th August, 1889:

NO. 10 OF 1889.

A Bill to amend Act XXXVI. of 1858.

WHEREAS it is expedient to extend the authority of the Governor General in Council with respect to the appointment of asylums for the reception and detention of lunatics and with respect to the transfer of any lunatic from any one to any other lunatic asylum in British India; It is hereby enacted as follows:

1. For section 17A of Act XXXVI. of 1858 (an Act relating to Lunatic Asylums), as amended by Act XVIII. of 1886 (an Act to amend Act XXXVI. of 1858), the following shall be substituted, namely:

Provision for provinces having insufficient or no asylums. "17A. In either of the following cases, namely:

(a) when an Executive Government has not established within its limits a public asylum for the reception and detention of lunatics,

(b) when it appears to the Governor-General in Council that a public asylum established within such limits is not conveniently situated with respect to any part of the territories administered by such Government or does not afford sufficient or suitable accommodation,

the Governor-General in Council may from time to time appoint an asylum in any part of British India beyond the limits of such Government to be an asylum to which any Magistrate or Judge exercising jurisdiction within those limits may send lunatics as to an asylum established under this Act for the division in which his jurisdiction is situate."

2. After section 17B of the said Act XXXIV. of 1858, the following section shall be added, namely:

"17C. Any lunatic may, by order of the Governor-General in Council, be removed from any lunatic asylum established or licensed under this Act to any other such asylum in any part of British India."

STATEMENT OF OBJECTS AND REASONS.

SOME four years ago a question which had been raised with respect to the accommodation of lunatics compelled the Governor-General in Council to pass section 3 of Act XVIII. of 1886.

Two further questions touching the same subject have now arisen. One is whether, there being a lunatic asylum at Tezpur in Assam, lunatics from the Surma Valley in Assam can be sent to the Dacca asylum in Bengal. The other is whether a lunatic who is, say, a native of a district in the Madras Presidency can be sent from Bengal, where his language is not understood, to an asylum in his own country.

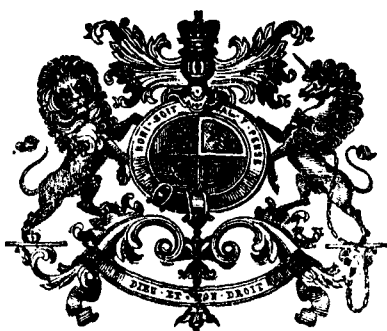
The object of the Bill is to set these further questions at rest.

The 5th August, 1889.

PHIL. P. HUTCHINS.

S. HARVEY JAMES,

Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, AUGUST 31, 1889.

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 Reports of Select Committees presented to the Council.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to consolidate and amend the law relating to Cantonments was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 14th August, 1889:

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

Memorandum from Government of India, Military Department, No. 2257C., dated 12th October, 1888, and enclosures [Papers No. 1].

From Officiating Secretary to Chief Commissioner, Assam, No. 3280, dated 10th November, 1888 [Paper No. 2].

From Officiating Secretary to Chief Commissioner, Burma, No. 579—84M., dated 23rd November, 1888, and enclosures [Papers No. 3].

From Mr. P. R. Desai, Pleader, District Court, Tanna, dated 20th November, 1888 [Paper No. 4].

From Officiating Secretary to Chief Commissioner, Burma, No. 794—84M., dated 30th November, 1888, and enclosures [Papers No. 5].

From President, Landlords Association, Mhow Cantonment, dated 1st December, 1888, and enclosure [Papers No. 6].

From Chief Commissioner, Ajmere-Merwara, No. 54C., dated 3rd December, 1888 [Paper No. 7].

From Secretary to Chief Commissioner, Coorg, No. 2132—2138, dated 6th December, 1888 [Paper No. 9].

From J. MacNeil, Esq., Peshawar, dated 12th December, 1888, and enclosure [Papers No. 10].

From certain House-owners of Sialkot, dated 15th December, 1888 [Paper No. 11].

From Messrs. S. J. Leslie & Son, Attorneys-at-Law, Calcutta, dated 3rd January, 1889, and enclosure [Papers No. 12].

Endorsement by Joint Private Secretary to His Excellency the Viceroy, dated 26th December, 1888, and enclosures [Papers No. 13].

Endorsement by Under-Secretary to Government of India, Home Department, No. 34., dated 11th January, 1889, and enclosures [Papers No. 14].

Endorsement by Assistant Secretary to Government of India, Military Department, No. 2775C., dated 31st December, 1888, and enclosures [Papers No. 15].

Endorsement by Assistant Secretary to Government of India, Military Department, No. 141C., dated 19th January, 1889, and enclosure [Papers No. 16].

From Messrs. Sykes & Co., Calcutta, No. 261, dated 11th January, 1889, and enclosures [Papers No. 17].

Memorial of House-owners of Ferozepore, dated 4th January, 1889 [Paper No. 18].

Office memorandum from Government of India, Military Department, No. 89C., dated 14th January, 1889, and enclosures [Papers No. 19].

From Registrar, High Court, Calcutta, No. 251, dated 31st January, 1889 [Paper No. 20].

Endorsement by Chief Secretary to Government, Madras, No. 81, dated 22nd January, 1889, and enclosures [Papers No. 21].

From Honorary Secretary, House-owners Defence Association, Meerut Cantonment, dated 30th January, 1889, and enclosures [Papers No. 22].

Endorsement by Under-Secretary to Government of India, Foreign Department, No. 891I., dated 26th February, 1889, and enclosures [Papers No. 23].

Memorandum from Government of India, Military Department, No. 413C., dated 22nd February, 1889, and enclosure [Papers No. 24].

ate. and amend the law relating to Cantonments was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

2. The Bill, as originally framed, divided itself naturally into two parts—the first relating to the general administration

From Secretary to Government, North-Western Provinces and Oudh, No. 237—IXI-466B., dated 11th February, 1889, and enclosures [Papers No. 25].

From Secretary, British Indian Association, dated 6th March, 1889 [Paper No. 26].

From Secretary to Government, Bombay, No. 1214, dated 4th March, 1889, and enclosure [Papers No. 27].

From Chief Secretary to Government, Bengal, No. 1128J., dated 8th March, 1889, and enclosures [Papers No. 28].

Endorsement by Assistant Secretary to Government of India, Military Department, No. 815C., dated 29th April, 1889, and enclosure [Papers No. 29].

Endorsement by Assistant Secretary to Government of India, Military Department, No. 816C., dated 29th April, 1889, and enclosures [Papers No. 30].

Endorsement by Assistant Secretary to Government of India, Military Department, No. 817C., dated 29th April, 1889, and enclosures [Papers No. 31].

Endorsement by Assistant Secretary to Government of India, Military Department, No. 642C., dated 27th March, 1889, and enclosures [Papers No. 32].

Endorsement by Assistant Secretary to Government of India, Military Department, No. 848C., dated 2nd May, 1889, and enclosures [Papers No. 33].

Memorial of the House-owners and Residents of the Poona Cantonment, dated 5th February, 1889 [Paper No. 34].

Endorsement by Assistant Secretary to Government of India, Military Department, No. 1156C., dated 18th June, 1889, and enclosures [Papers No. 35].

Endorsement by Assistant Secretary to Government of India, Military Department, No. 982C., dated 23rd May, 1889, and enclosures [Papers No. 36].

From Officiating Secretary to Government, Punjab, No. 36, dated 12th January, 1889, and enclosures; from ditto, No. 174S., dated 2nd July, 1889, and enclosure [Papers No. 37].

of cantonments as regards police, conservancy, taxation and so forth: the second relating to immovable property. There has been a general concurrence of opinion in favour of the provisions of the first part of the Bill, while the second has provoked considerable discussion and opposition. Our present Report relates only to the first part of the Bill, for the speedy enactment of which cogent reasons exist. As regards the second part, we consider that Chapter V of the Bill as introduced in October last should, in such form as may be approved by the Government after consideration of the representations which its proposals have elicited, be treated as a separate measure and be considered by a Select Committee and the Council in Calcutta.

3. In the rest of the Bill as introduced we have made several alterations of which the following only need be mentioned, the sections hereafter cited being those of the Bill as revised by us and annexed to this Report:—

- (1) By section 2 we have proposed to save existing rules for the present and to continue the validity of limits defined under enactments which are now to be, or have long since been, repealed.
- (2) We have inserted a section (section 4) enabling Local Governments, with the previous sanction of the Governor General in Council, to declare any place occupied by troops to be a cantonment for the purposes of the proposed Act and of all other enactments affecting cantonments.
- (3) Sections 7, 8 and 32, relating to Cantonment Magistrates, Cantonment Courts of Small Causes and Cantonment Sub-Registrars, have been modified so as to meet the objections which were taken to the corresponding sections of the original Bill on the ground of their want of elasticity.
- (4) The Assistant Cantonment Magistrate, in the few places where there is such an officer, either is, or, if the exercise of his office is limited to the cantonment, should be appointed to be, a Special Magistrate under section 14 of the Code of Criminal Procedure, 1882. Where he has been invested under a Cantonments Act with any of the powers of a Judge of a Cantonment Court of Small Causes, he will under sections 9 and 10 of the Bill become an Additional Judge of the Court with like powers.
- (5) From section 12 we have omitted the references to section 48 of the Madras Police Act and section 31 of the Bombay Police Act because local legislation now pending will render them inappropriate.
- (6) In sections 17, 18, 20 and 21 we have recognised the practice, which still obtains in some parts of India, of suffering cantonments to be included within the limits of municipalities.
- (7) Under section 25 it will be practicable to apply to cantonments the substance of Chapters VI and VII of the Punjab Municipal Act, 1884, which have already been adopted for all municipalities in Ajmere and Berar and have recently been reproduced in the Central Provinces Municipal Bill.
- (8) By section 31 we have proposed to extend to cantonment authorities acting in good faith such protection as is given by Act XVIII of 1850 and the Indian Penal Code to judicial officers so acting.

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

In English.

Gazette.	Date.
Gazette of India	13th October, 1888.
Fort Saint George Gazette	30th October, 1888.
Bombay Government Gazette	25th October, 1888.
Calcutta Gazette	24th October, 1888.
North-Western Provinces and Oudh Government Gazette	20th October, 1888.
Punjab Government Gazette	18th October, 1888.
Central Provinces Gazette	20th October, 1888.
Burma Gazette	3rd November, 1888.
Assam Gazette	3rd November, 1888.
Coorg District Gazette	1st November, 1888.

In the Vernaculars.

Province.	Language.	Date.
Madras	Kanarese.	15th January, 1889.
	Telugu	12th February, 1889.
	Malayalam	12th February, 1889.
	Tamil	26th February, 1889.
	Hindustani	20th May, 1889.
Bombay	Maráthi	14th February, 1889.
	Gujaráthi	14th February, 1889.
	Kanarese	14th February, 1889.
Bengal	Bengali	4th December, 1888.
	Uriya	20th December, 1888.
	Hindi	26th December, 1888.
North-Western Provinces and Oudh	Urdu	1st December, 1888.
Punjab	Urdu	29th November, 1888.
Central Provinces	Hindi	20th December, 1888.
	Maráthi	20th February, 1889.
Burma	Burmese	15th December, 1888.
Assam	Bengali	2nd December, 1888.
Coorg	Kanarese	1st April, 1889.

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

G. CHESNEY.

ANDREW R. SCOBLE.

PHIL. P. HUTCHINS.

R. J. CROSTHWAITE.

The 6th August, 1889.

No. II.

THE CANTONMENTS BILL.

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THE SCHEDULE.—ENACTMENTS REPEALED.

No. II.

A Bill to amend the law relating to Cantonments.

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

CHAPTER I.

PRELIMINARY.

Title, extent and commencement. 1. (1) This Act may be called the Cantonments Act, 1889.

(2) It extends to the whole of British India, inclusive of Upper Burma; 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 schedule are repealed to the extent mentioned in the third column thereof:

(2) But all orders, declarations, rules and regulations made, directions, licenses and permits given, taxes imposed and notifications published under any enactment repealed by this Act or under any enactment repealed by any enactment repealed by this Act, and all limits defined as the local limits of a cantonment with the approval of the Governor General in Council or a Local Government before the passing of this Act, shall be deemed to have been respectively made, given, imposed and published, and to have been defined, under this Act.

(3) Any enactment or document referring to any enactment repealed by this Act, or to any enactment repealed by any enactment repealed by this Act, or to any Regulation of the Bengal, Madras or Bombay Code respecting the fixing of the local limits of cantonments and military bázars, shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

3. (1) In this Act and in the rules thereunder, unless there is something repugnant in the subject or context,—

(a) "officer" means—

(i) 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

(ii) 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:

(b) "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:

(c) "spirituous liquor" means any fermented liquor, any wine, 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, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, declare to be a spirituous liquor for the purposes of this Act:

(d) "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, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, declare to be an intoxicating drug for the purposes of this Act: and

(e) "owner" includes the person who is receiving or entitled to receive the rent of any building or land, whether on his own account or on behalf of himself and others or as an agent or trustee, or who would so receive the rent or be entitled to receive it if the building or land were let to a tenant.

(2) The provisions of the General Clauses Acts, 1868 and 1887, shall, so far as they can be made applicable, apply to all rules which may be made under this Act by the Governor General in Council.

CHAPTER II.

CANTONMENTS AND CANTONMENT AUTHORITIES, COURTS AND POLICE.

Cantonments.

4. (1) The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, declare any place in which any of Her Majesty's regular forces are quartered within the territories administered by such Government to be a cantonment for the purposes of this Act and of all other enactments for the time being in force, and may withdraw any such declaration.

(2) The Local Government, with the like sanction, may also, by a like notification, define the limits of any cantonment for the like purposes.

*The Cantonments Bill.**(Chapter II.—Cantonments and Cantonment Authorities, Courts and Police.—Sections 5-12. Chapter III.—Spirituous Liquors and Intoxicating Drugs.—Sections 13-14.)**Cantonment Authorities and Magistrates.*

5. For every cantonment beyond the limits of a presidency-town there shall be a cantonment authority and a Cantonment Magistrate.

6. (1) The expression "cantonment authority" as used in 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 quartered, whether or not a cantonment committee is to be constituted.

(3) The cantonment authority shall be deemed to be a local authority as defined in the Local Authorities Loan Act, 1879, Act XVIII of 1883 (to amend the Cattle-trespass Act, 1871), the Indian Telegraph Act, 1885, and the General Clauses Act, 1887.

XI of 1879.

XIII of 1885.
I of 1887.

X of 1882.

7. The Cantonment Magistrate shall be a Magistrate appointed by the Local Government under section 12 of the Code of Criminal Procedure, 1882, and, as such, subordinate to the District Magistrate, or to the District Magistrate and the Sub-divisional Magistrate, as the case may be, under section 17 of that Code.

Cantonment Court of Small Causes.

8. (1) When the Local Government appoints the Cantonment Magistrate to be the Judge of a Court of Small Causes established within a cantonment under the Provincial Small Cause Courts Act, 1887, it shall, in its order appointing him to be such Judge, 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 that Act.

IX of 1887.

(2) The provisions of section 15, sub-section (3), of the said Act shall not apply to a Court of Small Causes of which a Cantonment Magistrate is the Judge.

9. When the Local Government appoints an Additional Judge of a Court of Small Causes of which a Cantonment Magistrate is the Judge, it shall, in its order appointing him to be such Additional Judge, declare, and may by notification in the official Gazette vary, within a limit of fifty rupees, the value of the suits with respect to which the functions of the Judge of the Court may be assigned to, and discharged by, the Additional Judge under section 8 of the Provincial Small Cause Courts Act, 1887.

IX of 1887.

10. Every Cantonment Magistrate presiding over a Court of Small Causes in a cantonment at the commencement of this Act, and every Assistant Cantonment Magistrate then having any of the powers of the Judge of such Court, shall be deemed to have been appointed Judge and Additional Judge, respectively, under section 6 and section 8 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, in the case of a Cantonment Magistrate, five hundred rupees and, in the case of an Assistant Cantonment Magistrate, fifty rupees.

11. A Cantonment Magistrate as Judge of a Court of Small Causes may, whatever may be the value of the suits cognizable by him as such Judge, dispose of any suit which was within the pecuniary limits of the jurisdiction of the Judge presiding over 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.

12. (1) The police-force employed in a cantonment beyond the limits 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) or Act V of 1861 (for the regulation of Police) or the corresponding law for the time being in force in the territories administered by the Governor of Bombay in Council, 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) The area comprised within the limits of a cantonment shall be deemed to be a town for the purposes of section 34 of Act V of 1861.

CHAPTER III.

SPIRITUOUS LIQUORS AND INTOXICATING DRUGS.

13. 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 both.

14. 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,—

(a) any person subject to military law otherwise than as an officer or soldier, or

The Cantonments Bill.

(Chapter III.—*Spirituous Liquors and Intoxicating Drugs.*—Sections 15-16.
Chapter IV.—*Taxation and Cantonment Fund.*—Sections 17-20.)

(b) the wife or servant 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.

15. (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.

(2) Where a person accused of an offence against section 13 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 13, 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 13 or section 14 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 XLIII 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.

16. The foregoing provisions of this Chapter shall not apply to the sale or supply of any article for medicinal purposes by a medical practitioner, chemist or druggist.

CHAPTER IV.

TAXATION AND CANTONMENT FUND.

Taxation.

17. (1) With the previous sanction of the Governor General in Council, the Local Government may, by notification in the official Gazette,—

(a) impose in any cantonment which is not included in a municipality any tax which, under any enactment in force at the date of the notification, can be imposed in any municipality within the territo-

ries administered by such Government, and

(b) abolish or modify 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, with the like sanction, may, 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.

18. (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 Bazaars in the Presidency of Fort William in Bengal) to any cantonment which is not included in a municipality and which is situated 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.

(3) The Local Government may, by notification in the official Gazette, cancel any notification under sub-section (1), and may revoke or vary any order under sub-section (2).

19. 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 under Act XX of 1856 in a cantonment, a tax on persons 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 under section 17 of this Act in the cantonment.

20. (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.

(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.

The Cantonments Bill.

(Chapter IV.—*Taxation and Cantonment Fund.*—Sections 21-24. Chapter V.—*Supplemental Provisions.*—Sections 25-26.)

Cantonment Fund.

21. (1) There shall be formed for every cantonment which is not included in a municipality 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 under any order of the Local Government, all fines recovered from persons convicted of offences committed within the cantonment against this Act or against any enactment extended or rule made thereunder, or against the provisions of section 34 of Act V. of 1861 or the corresponding enactment for the time being in force in the territories administered by the Governor of Fort St. George in Council or by the Governor of Bombay in Council, or against the provisions of Chapter XIII or Chapter XIV of the Indian Penal Code or of section 156 of the Army Act, 1881;

XLV of 1860.
44 & 45 Vict.,
c. 58.

(b) the proceeds of taxes imposed under section 17 or levied under Act XX of 1856 in the cantonment; and

(c) rents and profits accruing from property placed by the Government under the management of the cantonment authority.

(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 objects, 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 quartered therein or of any detachment of any such force.

22. (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.

23. 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.

24. The cantonment fund shall be deemed 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.

CHAPTER V.

SUPPLEMENTAL PROVISIONS.

25. The Governor General in Council may, by notification in the Gazette of India, extend to all cantonments or to any cantonment or to any part of any cantonment any enactment for the time being in force in any municipality in British India, and declare its extension to be subject to such restrictions and modifications, if any, as he thinks fit.

26. The Governor General in Council may make rules consistent with this Act to provide for all or any of the following matters, namely:—

(1) the manner in which, and the authority to which, application for permission to occupy land belonging to the Government in a cantonment is to be made;

(2) the conditions to be annexed to every such permission given in pursuance of such an application;

(3) the preparation and maintenance of registers of immovable property in cantonments;

(4) 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;

(5) 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;

(6) the executive duties of the Cantonment Magistrate and his position in relation to the commanding officer of the cantonment;

(7) the purposes to which the cantonment fund may be applied;

(8) the authority on which money may be paid from the cantonment fund;

(9) the investment of any balance of that fund;

(10) the execution of contracts by, or on behalf of, the cantonment authority;

(11) the accounts to be kept by the cantonment authority, and the manner in which those accounts are to be audited and published;

(12) the definition and abatement of nuisances for which sufficient provision has not, in the opinion of the Governor General in Council, been made under section 25;

*The Cantonments Bill.**(Chapter V.—Supplemental Provisions—Sections 27-28.)*

- (13) the requisitions which may be made on persons having the control of sewers, drains, latrines or other things creating, or likely to create, nuisances, and the mode of enforcing such requisitions;
- (14) the prevention of the overcrowding of buildings and places in a cantonment;
- (15) the construction and maintenance, to the satisfaction of the cantonment authority, of buildings and of boundary-walls, hedges and other fences;
- (16) the regulation of the practice of agriculture and irrigation in a cantonment, the keeping of lands therein in proper order, and the felling, lopping and trimming of trees on such lands;
- (17) the regulation of encamping-grounds, sarais, markets and slaughter-houses, of traffic on roads, and of processions and public assemblies;
- (18) the use and management of burial and burning grounds;
- (19) 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, and of the lands in the vicinity thereof;
- (20) the parts of a cantonment in which persons practising any profession or carrying on any trade, calling or occupation may be required to reside for the purpose of practising the profession or carrying on the trade, calling or occupation, and the conditions, if any, to be observed by such persons;
- (21) the segregation in, or 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;
- (22) the segregation in, or the removal and exclusion from, a cantonment, or the destruction, of animals suffering or suspected to be suffering from any infectious or contagious disease;
- (23) 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 with or without assigning any reason for excluding them therefrom;
- (24) the prevention of cruelty to animals and the care of animals while grazing;
- (25) the prevention and extinction of fires;
- (26) the registration of births and deaths;
- (27) the appointment by owners of buildings and lands in cantonments, who are absent from cantonments, of persons residing within or near cantonments to act as their agents for all or any of the purposes of this Act or any enactment extended or rule made thereunder;
- (28) the powers of inspection, entry and search which may be exercised in carrying out any of those purposes, and the cases in which breaches of enactments extended under section 25 or of rules made under this section are to be cognizable offences;
- (29) the mode in which summonses, notices, requisitions and other documents are to be served on the persons to whom they are addressed;
- (30) the cases, authorities and conditions in, to and on which executive orders passed under this Act or any enactment extended or rule made thereunder may be appealed from; and,
- (31) generally, the carrying out of the purposes of this Act.
27. (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.
- (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.
- (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.
- (4) In making any rule under clause (12) 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.
28. The Local Government may, by notification in the official Gazette, extend to any area beyond the cantonment and in the vicinity thereof any of the rules in force in the cantonment under clause (12) or any of the following clauses of section 26, and 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.

XLV of 1860.
44 & 45 Vict.,
c. 58.
X of 1882.

*The Cantonments Bill.**(Chapter V.—Supplemental Provisions.—Sections 29-33. The Schedule.—Enactments repealed.)*

29. 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 against any enactment extended or rule made thereunder, 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.

30. Where a cantonment is situated within the limits of a presidency-town, the functions assigned to any authority by this Act or any enactment extended or rule made thereunder 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.

31. A suit or prosecution shall not be entertained in any Court against any cantonment authority, authority appointed under the last foregoing section, Cantonment Magistrate or commanding officer for anything in good faith done or purporting to be done in pursuance of the powers conferred by this Act or any rule thereunder on such authority, Magistrate or officer, whether the thing done was or was not authorized by the powers so conferred.

32. (1) Section 54, paragraphs two and three, and sections 59, 107 and 123 of the Transfer of Property Act, 1882, with respect to the transfer of property by registered instrument, shall, on and from the commencement of this Act, extend to every cantonment in British India.

(2) Where a cantonment has not been constituted a sub-district or district for the purposes of the Indian Registration Act, 1877, under section 9 of that Act, the Registrar of the district in which the cantonment is situated shall cause a copy of such entries in Indexes Nos. I and II as relate to immoveable property within the limits of the cantonment to be forwarded to the Cantonment Magistrate annually or at such shorter intervals as the Local Government may prescribe.

33. 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 SCHEDULE.
ENACTMENTS REPEALED.
(See section 2.)

Number and year.	Subject or title.	Extent of repeal.
1	2	3
Acts of the Governor General in Council.		
Act XVIII of 1853.	Sale of spirits in cantonments.	The whole, so far as it has not been repealed.

Number and year.	Subject or title.	Extent of repeal.
1	2	3
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 Explanation 1 to section 193.
Act V of 1869.	Indian Articles of War.	Part III, clause (c): and for the last twenty-seven 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 any 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 XXII of 1827: and so much of the fourth and fifth schedules as relates to Bengal Regulation XX of 1810.
Act XX of 1875.	Central Provinces Laws Act, 1875.	So much as relates to Bengal Regulation XX of 1810.
Act XVIII of 1876.	Oudh Laws Act, 1876.	So much as relates to Bengal Regulation XX of 1810.

*The Cantonments Bill.**(The Schedule.—Enactments repealed.)*

Number and year.	Subject or title.	Extent of repeal.	Number and year.	Subject or title.	Extent of repeal.
1	2	3	1	2	3
Act III of 1877.	Indian Registration Act, 1877.	The second paragraph of section 9, beginning with the word "Whenever" and ending with the word "thereof".	<i>Regulation of the Bengal Code.</i>		
			Regulation XX of 1810.	Military barracks.	So much as has not been repealed.
			<i>Regulation of the Bombay Code.</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".	Regulation XXII of 1827.	Military authority.	So much as has not been repealed, except sections 40, 41, 42 and 43.
			<i>Acts of the Governor of Fort St. George in Council.</i>		
			Act IV of 1865.	Madras Cantonments.	The whole, so far as it has not been repealed.
Act III of 1880.	Cantonments Act, 1880.	So much as has not been repealed.	Act I of 1866.	Madras Cantonments.	So much as has not been repealed.
Act XXII of 1881.	Excise Act, 1881.	The proviso to section 53.	<i>Act of the Governor of Bombay in Council:</i>		
Act X of 1882.	Code of Criminal Procedure, 1882.	Clause (b) of section 1.	Act III of 1867.	Bombay Cantonment Act of 1867.	So much as has not been repealed.
			<i>Act of the Lieutenant-Governor of Bengal in Council.</i>		
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.	Act VII of 1878.	Bengal Excise Act, 1878.	The proviso to section 81.
			<i>Regulation under the Statute 33 Victoria, Chapter 3.</i>		
Act XX of 1886.	Upper Burma Laws Act, 1886.	In the First Part of the Second Schedule the words and figures "III of 1880, Cantonments".	III of 1877.	Ajmere Laws Regulation, 1877.	Section 39 and so much as relates to Bengal Regulation XX of 1810.

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 28th August, 1889:

NO. 11 OF 1889.

A Bill to amend Acts XVII of 1864, X of 1865, II of 1874 and V of 1881.

WHEREAS it is expedient to amend Act XVII of 1864 (an Act to constitute an Office of Official Trustee) the Indian Succession Act, 1865, the Administrator General's Act, 1874, and the Probate and Administration Act, 1881; It is hereby enacted as follows:—

Act XVII of 1864.

1. In section 1 of Act XVII of 1864 the following shall be inserted before the definition of the expression "High Court", namely:—

"The word 'Government' shall mean, in relation to the Presidency of Fort William in Bengal, the Governor General in Council; in relation to the Presidency of Fort St. George, the Governor of Fort St. George in Council; and, in relation to the Presidency of Bombay, the Governor of Bombay in Council:—"

2. For section 5 of the said Act the following shall be substituted, namely:—

"5. Every Official Trustee appointed under this Act shall be appointed and may be suspended or removed from his office by the Government."

3. In section 6 of the said Act, for the words "Chief Justice by whom he is appointed" the word "Government" shall be substituted.

4. For the portion of section 7 of the said Act beginning with the words "It shall be lawful for the Chief Justice of the High Court" and ending with the words "it shall be lawful for the Chief Justice to appoint some

person to officiate as Official Trustee" the following shall be substituted, namely:—

"It shall be lawful for the Government from time to time to grant leave of absence to the Official Trustee, but subject always to such and the like rules as may be for the time being in force as to leave of absence of officers attached to the High Court. Whenever any Official Trustee shall obtain leave of absence, it shall be lawful for the Government to appoint some person to officiate as Official Trustee."

5. Every person holding the office of Official Trustee at the commencement of this Act shall be deemed to have been appointed under Act XVII of 1864 as amended by this Act.

The Indian Succession Act, 1865.

6. After section 326 of the Indian Succession Act, 1865, the following shall be inserted, namely:—

"326A. Where a person not having his domicile in British India has died leaving assets both in British India and in the country in which he had his domicile at the time of his death, and there has been a grant of probate or letters of administration in British India with respect to the assets there and in the country of domicile with respect to the assets in that country, the executor or administrator, as the case may be, in British India, after having given such notices as are mentioned in section 320 and discharged, at the expiration of the time therein named, such lawful claims as he knows of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of British India who are entitled thereto, transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons."

The Administrator-General's Act, 1874.

7. In clause (b) of the definition of the expression "Presidency of Bengal" in section 3 of the Administrator-General's Act, 1874, the words "Burma, British Baluchistan" shall be substituted for the words "British Burma".

IX of 1881. 8. (1) For the first paragraph of section 37 of the said Act, as amended by section 5 of the Administrator General's Act, 1881, beginning with the words "If in cases falling within section 36" and ending with the words "as if such letters had been granted to him", the following shall be substituted, namely:—

"If, in cases falling within section 36, no person claiming otherwise than as a creditor to be entitled to a share of the effects of the deceased obtains, within three months, a certificate from the Administrator General under the same section, or letters of administration to the estate and effects of the deceased, and such deceased was not a Hindu, Muhammadan, Parsi or Buddhist, or exempted under the Indian Succession Act, 1865, section 332, from the operation of that Act, the Administrator General may administer the estate and effects without letters of administration, in the same manner as if such letters had been granted to him;"

IX of 1881. (2) The portion of section 5 of the Administrator General's Act, 1881, beginning with the words "and in section 37 of the same Act" and ending with the words "from the operation of that Act" is hereby repealed.

9. After section 41 of the said Act the following section shall be inserted, namely:—

"41A. Where a person not having his domicile in British India has died leaving assets both in British India and in the country in which he had his domicile at the time of his death, and proceedings for the administration of his estate with respect to assets in British India have been taken under section 36 or section 37, and there has been a grant of probate or letters of administration in the country of domicile with respect to the assets in that country, the holder of the certificate granted under section 36 or section 37, or the Administrator General, as the case may be, after having given such notices as the High Court may by any general rule to be made from time to time prescribe, for creditors and others to send in to him their claims against the estate of the deceased, and having discharged, at the expiration of the time therein named, such lawful claims as he knows of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of British India who are entitled thereto, transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons."

Addition to Act II, 1874, of a Part respecting the division of the Presidency of Bengal into Provinces.

"PART VII.

DIVISION OF THE PRESIDENCY OF BENGAL INTO PROVINCES.

67. (1) Notwithstanding anything in the foregoing provisions of this Act, the Governor-General in Council, upon the occur-

rence of any vacancy in the office of the Administrator General of Bengal, may, by notification in the Gazette of India,—

(a) divide the Presidency of Bengal, as defined in this Act, into so many Provinces as he thinks fit,

(b) define the limits of each of those Provinces, and

(c) appoint an Administrator General for each Province,

and, subject to the provisions of this section, the following consequences shall thereupon ensue, namely:—

(i) the office of Administrator General of Bengal shall cease to exist:

(ii) the Administrator General of a Province shall have the like rights and privileges, and perform the like duties, in the territories and dominions included in the Province as the Administrator General of Bengal had and performed as Administrator General therein:

(iii) the functions of the Government under this Act shall, as regards the territories and dominions included in a Province, be discharged by the Governor-General in Council:

(iv) the functions of whatsoever kind assigned by the foregoing provisions of this Act to the High Court at Calcutta in respect of the territories and dominions included in a Province shall be discharged by such High Court as the Governor-General in Council may, by notification in the Gazette of India, appoint in this behalf, and probate or letters of administration granted to the Administrator General of the Province by the High Court so appointed shall have the same effect throughout the Presidency of Bengal, as defined in this Act, or, if the Court so directs, throughout British India, as, but for the abolition of the office of Administrator General of Bengal, probate or letters of administration granted to the holder of that office by the High Court at Calcutta would have had:

(v) in the foregoing provisions of this Act the word 'Presidency' shall be deemed to include a Province, the expression 'Presidency-town' the place of sitting of a High Court appointed by the Governor-General in Council under clause (iv) of this subsection, and the expression 'Advocate General' a Government Advocate or other officer appointed by the Government to discharge for a Province the functions under this Act of an Advocate General for a Presidency:

(vi) the provisions of this Act with respect to the commission of the Administrator General of Bengal shall regulate the commission payable to the Administrator General of a Province: and,

(vii) generally, the provisions of the foregoing sections of this Act with respect to the High Court at Calcutta, and the provisions of those sections or of any other enactment with respect to the Administrator General of Bengal, shall, in relation to a Province, be construed, so far as may be, to apply to the High Court and Administrator General, respectively, appointed for the Province under this section.

(2) Any proceeding which was commenced before the publication of the notification dividing the Presidency of Bengal into Provinces and to or in which the Administrator General of Bengal in his representative character was a party or was otherwise concerned shall be continued as if the notification had not been published, and the Administrator General of the Province in which the town of Calcutta is comprised shall for the purposes of the proceeding be deemed to be the successor in office of the Administrator General of Bengal.

(3) The Court of the Recorder of Rangoon shall be deemed to be a High Court for the purposes of clause (iv) of sub-section (1).

(4) Notwithstanding any division of the Presidency of Bengal, as defined in this Act, into Provinces under this section, the Administrator General of the Province in which

the town of Calcutta is comprised shall be deemed to be the Administrator General for the whole of the said Presidency for the purposes of the Regimental Debts Act, 1863."

26 & 27 Vict., c. 57.

The Probate and Administration Act, 1881.

II. After section 145 of the Probate and Administration Act, 1881, the following section shall be inserted, namely:—

"145A. Where a person not having his domicile in British India has died leaving assets both in British India and in the country in which he had his domicile at the time of his death, and there has been a grant of probate or letters of administration in British India with respect to the assets there and in the country of domicile with respect to the assets in that country, the executor or administrator, as the case may be, in British India, after having given such notices as are mentioned in section 139 and discharged, at the expiration of the time therein named, such lawful claims as he knows of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of British India who are entitled thereto, transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons."

STATEMENT OF OBJECTS AND REASONS.

THE main object of this Bill (section 10) is to provide for the division, upon the occurrence of a vacancy in the office of Administrator General of Bengal, of the present unwieldy Presidency of Bengal, as defined in the Administrator General's Act, 1874, into Provinces having Calcutta, Allahabad, Lahore and Rangoon as their respective centres.

2. Another object (sections 1 to 5), which has been approved by the Hon'ble the Chief Justices of the Calcutta, Madras and Bombay High Courts, is to enable the Government, as occasion occurs, to combine the office of Official Trustee with that of Administrator General at Calcutta, Madras and Bombay.

3. Another object of the Bill (section 7) is to provide for the administration of estates in Upper Burma and British Baluchistan by an Administrator General.

4. A further object (section 8) is to remove an ambiguity in the expression of section 5 of the Administrator General's Act, 1881.

5. Lastly, it not infrequently happens that a person not having his domicile in British India dies leaving assets both in British India and in the country of his domicile, his estate being administered by one executor or administrator in British India and by another in the country of domicile, and it has been held by very high authority that a receipt given by the executor or administrator in the country of domicile to the executor or administrator in British India for the surplus or residue of the estate in British India is not a valid discharge to the executor or administrator in British India. An object of the Bill (sections 6, 9 and 11) is to declare that such a receipt shall, subject to conditions, be a valid discharge.

The 26th August, 1889.

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 28th August, 1889:

NO. 12 OF 1889.

A Bill to amend the Indian Merchandise Marks Act, 1889.

WHEREAS it is expedient to enable Local Governments to permit piece-goods to be imported at any time before the first day of November, 1889, without having their length stamped thereon in standard yards, or in standard

yards and a fraction of such a yard; It is hereby enacted as follows:—

1. (1) The Local Government may in its discretion, and either absolutely or subject to conditions, declare that the provisions of section 18 of the Sea Customs Act, 1878, as amended by section 10, sub-section (2), of the Indian Merchandise Marks Act, 1889, shall, as regards any piece-goods mentioned in the declaration, be deemed to be in abeyance up to, and inclusive of, the thirty-first day of October, 1889.

(2) The Local Government may delegate to a Chief Customs-officer or other officer appointed by it in this behalf the power conferred upon it by sub-section (1).

STATEMENT OF OBJECTS AND REASONS.

THE Calcutta, Madras, Rangoon and Karachi Chambers of Commerce having represented that the first day of August, 1889, has proved to be an inconveniently early date for the enforcement of the prohibition of the bringing into British India of such piece-goods as are described in clause (f) of section 18 of the Sea Customs Act, 1878, as amended by the Indian Merchandise Marks Act, 1889, the Governor-General in Council proposes to authorise Local Governments to permit the prohibition to remain in abeyance in special cases up to, and inclusive of, the thirty-first day of October, 1889.

The 28th August, 1889.

ANDREW R. SCOBLE.

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



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, SEPTEMBER 7, 1889.

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 Reports of Select Committees presented to the Council.

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 4th September, 1889:

NO. 13 OF 1889.

A Bill to amend the Indian Forest Act, 1878, the Burma Forest Act, 1881, and the Upper Burma Forest Regulation, 1887.

Whereas it is expedient to amend the Indian Forest Act, 1878, the Burma Forest Act, 1881, and the Upper Burma Forest Regulation, 1887; It is hereby enacted as follows:—

1. (1) This Act may be called the Forest Act, Title and commence- 1889; and ment.

(2) It shall come into force at once.

Indian Forest Act, 1878.

2. (1) For the definition of "Tree" in section 2 of the Indian Forest Act, 1878, the following shall be substituted, namely:—

"Tree" includes bamboos, stumps, brushwood and canes:—

(2) For the definition of "Timber" in the same section the following shall be substituted, namely:—

"Timber" includes trees when they have fallen or been felled, and all wood, whether the wood is in log or has been shaped or hollowed, or been converted into charcoal, or been applied to any other use:—

(3) For the definition of "Forest-produce" in the same section the following shall be substituted, namely:—

"Forest-produce" includes—

(a) trees, and timber, caoutchouc, catechu, wood-oil, resin, varnish, bark, leaves, flowers and fruits, and all other parts or produce of trees; and

(b) the following when found in, or brought from, a forest; that is to say:—

(i) plants not being trees, and all parts or produce of such plants,

(ii) animals, and skins, tusks, horns, silk, honey, wax and lac, and all other parts or produce of animals; and

(iii) peat, surface-soil, rock, and minerals (including mineral oils and all products of mines or quarries):—

3. For clause (b) of section 4 of the said Act the following shall be substituted, namely:—

(b) specifying as nearly as possible the situation and limits of such land; and "

4. To section 5 of the said Act the following proviso shall be added, namely:—

"Provided that nothing in this section shall be deemed to prohibit any act done with the permission in writing of the Forest Settlement-officer, or any clearings lawfully made for shifting cultivation by persons in the habit of practising such cultivation on such land."

5. After section 9 of the said Act the following section shall be inserted, namely:—

"9A. (1) In the case of a claim relating to the practice of shifting cultivation, the Forest Settlement-officer shall record any local rule or order under which such practice is allowed or regulated, or, if no such rule or order exists, shall make an order specifying the particulars

of the claim, and permitting, or refusing to permit, such practice wholly or in part.

"(2) If such practice is permitted wholly or in part, the Forest Settlement-officer may—

(a) alter the limits of the land under settlement so as to exclude land of sufficient extent, of a suitable kind, and in a locality reasonably convenient for the purposes of the claimants, or

(b) cause certain portions of the land under settlement to be separately demarcated, and give permission to the claimants to practise shifting cultivation therein under such rules and conditions as he may prescribe.

"(3) No absolute right to practise shifting cultivation shall be deemed to be conferred by any such local rule or order as is referred to in sub-section (1), or by any order made by the Forest Settlement-officer under that sub-section permitting such practice; and, except with the previous sanction of the Local Government, such cultivation shall only be practised by the persons to whom such permission is granted."

[Regulation VI, 1887, Chaps. V and VI.] 6. (1) In the heading of Chapter VII of the said Act, for the words "OF THE DUTY ON TIMBER" the words "OF THE DUTY ON TIMBER AND OTHER FOREST-PRODUCE" shall be substituted.

(2) In section 39, after the word "timber" in both places where the word occurs, the words "or other forest-produce" shall be inserted.

(3) In clause (a) of section 41 of the said Act, for the words "and other" the words "or other" shall be substituted.

7. For the first paragraph of section 67 of the said Act, beginning with the words "The Local Government" and ending with the words "as estimated by such officer," the following shall be substituted, namely:—

"The Local Government may from time to time, by notification in the local official Gazette, empower any Forest-officer by name, or as holding an office,—

(a) to accept from any person against whom a reasonable suspicion exists that he has committed any forest-offence, other than an offence under section 61 or section 62, a sum of money by way of compensation for any damage which may have been committed or for the evasion or attempted evasion of the payment of any money which would, if not paid when due, be recoverable under this Act as if it were an arrear of land-revenue, and

(b) to release any property which has been seized as liable to confiscation on payment of the value thereof as estimated by such officer:

Provided, with respect to clause (a), that the sum of money to be accepted by way of compensation may extend to, but shall not exceed, ten times the value of the forest-produce which has been damaged, or ten times the amount of the money of which the payment has been evaded or attempted to be evaded."

8. After section 83 of the said Act the following section shall be added, namely:—

Addition of new section after section 83, Act VII, 1878.

"84. When any person, in compliance with any rule under this Act, binds himself by any instrument to perform any duty or act, such duty or act shall be deemed to be a public duty or an act in which the public are interested, as the case may be, within the meaning of section 74 of the Indian Contract Act, 1872, and upon breach of the condition of such instrument the whole sum mentioned therein as the amount to be paid in case of such breach may be recovered from him as if it were an arrear of land-revenue."

Burma Forest Act, 1881.

9. (1) For the definition of "tree" in section 3 of the Burma Forest Act, 1881, the following shall be substituted, namely:—

"tree" includes bamboos, stumps, brushwood and canes:—

(2) For the definition of "timber" in the same section the following shall be substituted, namely:—

"timber" includes trees when they have fallen or been felled, and all wood, whether the wood is in log or has been shaped or hollowed, or been converted into charcoal, or been applied to any other use:—

(3) For the definition of "forest-produce" in the same section the following shall be substituted, namely:—

"forest-produce" includes—

(a) trees, and timber, caoutchouc, catechu, wood-oil, resin, varnish, bark, leaves, flowers and fruits, and all other parts or produce of trees; and

(b) the following when found in, or brought from, a forest; that is to say—

(i) plants not being trees, and all parts or produce of such plants,

(ii) animals, and skins, tusks, horns, silk, honey, wax and lac, and all other parts or produce of animals, and

(iii) peat, surface-soil, rock and minerals (including mineral oils and all products of mines or quarries):—

10. (1) In the heading of Chapter V of the said Act, for the words "OF THE DUTY ON TIMBER" the words "OF THE DUTY ON TIMBER AND OTHER FOREST-PRODUCE" shall be substituted.

(2) In sections 39, 41 and 42, after the word "timber", wherever it occurs, the words "or other forest-produce" shall be inserted.

(3) Throughout section 43, after the word "timber", except in the first paragraph where the word first occurs and in clauses (e), (i), (l) and (m), the words "or other forest-produce" shall be inserted.

11. For the first paragraph of section 66 of the said Act, beginning with the words "Any Forest-officer specially empowered in this behalf" and ending with the words

Amendment of section 66, Act XIX, 1881.

"as estimated by such officer", the following shall be substituted, namely:—

"Any Forest-officer specially empowered in this behalf—

(a) may accept from any person reasonably suspected of having committed any forest-offence, other than an offence under section 61 or section 62, a sum of money by way of compensation for any damage which may have been committed or for the evasion or attempted evasion of the payment of any money which would, if not paid when due, be recoverable under this Act as if it were an arrear of land-revenue, and

(b) where any property has been seized as liable to confiscation, may release the same on payment of the value thereof as estimated by such officer:

Provided, with respect to clause (a), that the sum of money to be accepted by way of compensation may extend to, but shall not exceed, ten times the value of the forest-produce which has been damaged, or ten times the amount of the money of which the payment has been evaded or attempted to be evaded."

Addition of new section after section 80, Act XIX, 1881.

12. After section 80 of the said Act the following section shall be added, namely:—

"81. When any person, in compliance with any rule under this Act, binds himself by any instrument to perform any duty or act, such duty or act shall be deemed to be a public duty or an act in which the public are interested, as the case may be, within the meaning of section 74 of the Indian Contract Act, 1872; and upon breach of the condition of such instrument the whole sum mentioned therein as the amount to be paid in case of such breach may be recovered from him as if it were an arrear of land-revenue."

Recovery of penalties due under bond. [Act I, 1878, s. 25.]

13. (1) For the definition of "tree" in clause (2) of section 2 of the Upper Burma Forest Regulation, 1887, the following shall be substituted, namely:—

"(2) 'tree' includes bamboos, stumps, brushwood and canes:—

(a) For the definition of "timber" in clause (3) of the same section the following shall be substituted, namely:—

"(3) 'timber' includes trees when they have fallen or been felled, and all wood, whether the wood is in log or has been shaped or hollowed, or been converted into charcoal, or been applied to any other use:—

(3) For the definition of "forest-produce" in clause (4) of the same section the following shall be substituted, namely:—

"forest-produce" includes—

(a) trees, and timber, caoutchouc, catechu, wood-oil, resin, varnish, bark, leaves, flowers and fruits, and all other parts or produce of trees; and

(b) the following when found in, or brought from, a forest; that is to say—

(i) plants not being trees, and all parts or produce of such plants,

(ii) animals, and skins, tusks, horns, silk, honey, wax and lac, and all other parts or produce of animals, and

(iii) peat, surface-soil, rock and minerals (including mineral oils and all products of mines or quarries):—

14. For sub-section (1) of section 62 of the said Regulation the following shall be substituted, namely:—

"(1) Any Forest-officer specially empowered in this behalf—

(a) may accept from any person reasonably suspected of having committed any forest-offence, other than an offence under section 58 or section 59, a sum of money by way of compensation for any damage which may have been committed or for the evasion or attempted evasion of the payment of any money which would, if not paid when due, be recoverable under this Regulation as if it were an arrear of revenue, and

(b) where any property has been seized as liable to confiscation, may release the same on payment of the value thereof as estimated by such officer:

Provided, with respect to clause (a), that the sum of money to be accepted by way of compensation may extend to, but shall not exceed, ten times the value of the forest-produce which has been damaged, or ten times the amount of the money of which the payment has been evaded or attempted to be evaded."

"(4) 'forest-produce' includes—

(a) trees, and timber, caoutchouc, catechu, wood-oil, resin, varnish, bark, leaves, flowers and fruits, and all other parts or produce of trees; and

(b) the following when found in, or brought from, a forest; that is to say—

(i) plants not being trees, and all parts or produce of such plants,

(ii) animals, and skins, tusks, horns, silk, honey, wax and lac, and all other parts or produce of animals, and

(iii) peat, surface-soil, rock and minerals (including mineral oils and all products of mines or quarries):—

14. For sub-section (1) of section 62 of the said Regulation the following shall be substituted, namely:—

"(1) Any Forest-officer specially empowered in this behalf—

(a) may accept from any person reasonably suspected of having committed any forest-offence, other than an offence under section 58 or section 59, a sum of money by way of compensation for any damage which may have been committed or for the evasion or attempted evasion of the payment of any money which would, if not paid when due, be recoverable under this Regulation as if it were an arrear of revenue, and

(b) where any property has been seized as liable to confiscation, may release the same on payment of the value thereof as estimated by such officer:

Provided, with respect to clause (a), that the sum of money to be accepted by way of compensation may extend to, but shall not exceed, ten times the value of the forest-produce which has been damaged, or ten times the amount of the money of which the payment has been evaded or attempted to be evaded."

15. After section 78 of the said Regulation the following section shall be added, namely:—

"79. When any person, in compliance with any rule under this Regulation, binds himself by any instrument to perform any duty or act, such duty or act shall be deemed to be a public duty or an act in which the public are interested, as the case may be, within the meaning of section 74 of the Indian Contract Act, 1872; and upon breach of the condition of such instrument the whole sum mentioned therein as the amount to be paid in case of such breach may be recovered from him as if it were an arrear of revenue."

Recovery of penalties due under bond. [Act I, 1878, s. 25.]

16. For the definition of "timber" in clause (3) of the same section the following shall be substituted, namely:—

"timber" includes trees when they have fallen or been felled, and all wood, whether the wood is in log or has been shaped or hollowed, or been converted into charcoal, or been applied to any other use:—

(3) For the definition of "forest-produce" in clause (4) of the same section the following shall be substituted, namely:—

"forest-produce" includes—

(a) trees, and timber, caoutchouc, catechu, wood-oil, resin, varnish, bark, leaves, flowers and fruits, and all other parts or produce of trees; and

(b) the following when found in, or brought from, a forest; that is to say—

(i) plants not being trees, and all parts or produce of such plants,

(ii) animals, and skins, tusks, horns, silk, honey, wax and lac, and all other parts or produce of animals, and

(iii) peat, surface-soil, rock and minerals (including mineral oils and all products of mines or quarries):—

17. For the first paragraph of section 66 of the said Act, beginning with the words "Any Forest-officer specially empowered in this behalf" and ending with the words

Amendment of section 66, Act XIX, 1881.

STATEMENT OF OBJECTS AND REASONS.

THE expediency of amending the Indian Forest Act, VII of 1878, has for several years past been constantly brought to the notice of the Government of India. Since the date of its enactment, several other Forest Acts, Laws and Regulations* have been passed for different parts of India. They have all been cast very much on the model of Act VII of 1878, changed only in so far as was necessary to adapt them to the pecu-

* Burma Forest Act, 1881.
Madras Forest Act, 1882.
Baluchistan Forest Law, 1886.
Berar Forest Law, 1886.
Upper Burma Forest Regulation, 1887.

liar circumstances of special localities. At the same time, defects brought out in the enforcement of Act VII of 1878 were recognized and remedied in the more recent enactments.

The present Bill has for its main object the amendment of the Forest Acts and Regulations of the Governor General in Council, so as to place forest legislation as far as possible on the same footing wherever local circumstances permit.

2. It is proposed to add to Chapter II of Act VII of 1878 the additional provisions regarding forest-settlements and shifting cultivation contained in the Burma Forest Act, 1881, and the Upper Burma Forest Regulation, 1887. The necessity for these provisions has been fully made out on previous occasions, and their insertion in Act VII of 1878 calls for no special explanation.

3. The sections which provide for the compounding of offences have been revised and recast. Under Act VII of 1878, only compensation for any damage which might have been committed could be accepted, while, under all Forest Laws passed between 1878 and 1886, compensation could be demanded for the offence; in the Upper Burma Forest Regulation, 1887, the compensation was again restricted to the damage done. It has been urged that most of the offences to which the section should be applied are breaches of river rules, or the evasion of payment of dues; and that, if compensation may only be accepted for damage, the section is ineffective. On the other hand, it is objected that to permit the unlimited acceptance of compensation for an offence is to place too much power in the hands of the Forest-officer. The amendment now put forward suggests the assessment of compensation according to the damage done, or the dues of which payment is evaded, and prescribes that the demand shall in no case exceed ten times the value of the produce or ten times the amount of the dues.

4. In 1884 the Bombay Government brought to notice that section 41 of Act VII of 1878 was defective, and suggested its amendment on the ground that it limited the control of timber in transit to timber found in or brought from a forest, and gave no authority to require the taking out of a pass, under the rules, for trees felled on fields in the occupation of landholders, as was previously the practice. The amendment was again urged in 1887; and the Bombay Government represented that it was absolutely necessary, with a view to prevent the misappropriation of timber from Government forests, that the executive authorities should have power to control while in transit all timber, from whatever source obtained, and that, if timber brought from private holdings were to be exempted from the operation of the rules framed under section 41 of the Act, the control of timber in transit would be rendered to a great extent ineffectual; for, directly any timber was conveyed outside the forest boundaries, it could be passed off as the produce of some private holding with little risk of detection. The Bombay Forest Commission also drew attention to this subject, and strongly recommended that the section should be amended in the interests of the cultivating classes no less than in those of the Government.

The simplest way of meeting the difficulty is to modify the definitions of "timber" and "forest-produce" so as to include all parts and produce of trees, and to subject to control under section 41 all timber whether grown in a forest or not.

This alteration in Act VII of 1878 is in accordance with the provisions of later enactments. The Madras and Burma Forest Acts provide for the control of timber in transit, irrespective of the source whence it comes; while the Upper Burma Forest Regulation gives the same control over forest-produce of all kinds.

5. Passing over mere verbal alterations, the only other amendment requiring notice is the addition to Act VII of 1878, and to the Burma Forest Act and the Upper Burma Forest Regulation, of a section similar to section 25 of the Opium Act, 1858, by which power is taken to recover penalties stipulated in a bond or agreement. For the protection of State property contractors and licensees generally bind themselves to observe certain precautions or abstain from certain dangerous acts, but it has been held that this does not render them criminally liable for any damage caused to the forest by the negligence or wilful act of their agents or workmen employed in carrying out their contract or in extracting the produce covered by their license. The new section will make them responsible up to the amount to which they have agreed, and such sum will be recoverable summarily.

The 4th September, 1889.

P. P. HUTCHINS.

S. HARVEY JAMES,

Secretary to the Government of India.



The Gazette of India.

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SIMLA, SATURDAY, SEPTEMBER 21, 1889.

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 Reports of Select Committees presented to the Council.

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 19th September, 1889:

NO. 14 OF 1889.

A Bill to indemnify certain witnesses.

WHEREAS by an order, dated the sixteenth day of October, 1888, a Commission was appointed by the Governor of Bombay in Council under Act XXXVII of 1850 (for regulating Inquiries into the behaviour of Public Servants) for the purpose of enquiring into certain imputations of misbehaviour by a public servant;

And whereas in the course of the proceedings before the said Commission, and of certain enquiries preliminary to or connected with the said proceedings and undertaken by direction of the said Governor in Council, statements were

made and evidence given by public servants and other persons, by reason of which statements or evidence the said public servants and other persons became or might become liable to suits, prosecutions or penalties under the Statute 49 Geo. III, Chapter 126, or the Indian Penal Code, or otherwise;

XLV of 1860.

And whereas it is expedient to free the said public servants and other persons from all liability to civil or criminal proceedings in respect of any cause of action or charge arising out of any admission of an offence in any statements made or evidence given as aforesaid;

It is hereby enacted as follows:—

1. No suit, prosecution or other proceeding in respect of any cause of action or charge arising out of any admission of an offence in any statement made or evidence given before the said Commission, or in any enquiry undertaken by direction of the said Governor in Council in connection with the proceedings of the said Commission.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to protect certain persons from proceedings which might be taken against them in consequence of admissions made by them in the course of the investigation before the Commission which sat at Poona in October, November, December and January last under Act XXXVII of 1850, or in the course of the connected inquiries which were undertaken by direction of the Governor of Bombay in Council, with respect to imputations of misbehaviour made against Mr. Arthur Crawford, of the Bombay Civil Service.

The 19th September, 1889.

ANDREW R. SCOBLE.

S. HARVEY JAMES,

Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, OCTOBER 12, 1889.

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 Reports of Select Committees presented to the Council.

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 10th October, 1889:

NO. 15 OF 1889.

A Bill to prevent the Disclosure of Official Documents and Information.

WHEREAS it is expedient to prevent the disclosure of official documents and information; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Official Documents and Information Act, 1889; and

(2) It extends to the whole of British India, and applies—

- (a) to all subjects of Her Majesty within the dominions of Princes and States in India in alliance with Her Majesty, and
(b) to all Native Indian subjects of Her Majesty without and beyond British India.

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

- Definitions.
(1) any reference to a place belonging to Her Majesty includes a place belonging to any department of the Government, whether the place is or is not actually vested in Her Majesty:
(2) expressions referring to communications include any communication, whether in whole or in part, and whether the document, sketch, plan, model or information itself or the substance or effect thereof only be communicated:

(3) "document" includes part of a document:

(4) "model" includes design, pattern and specimen:

(5) "sketch" includes any photograph or other mode of representation of any place or thing: and

(6) "office under Her Majesty" includes any office or employment in or under any department of the Government.

3. (1) (a) Where a person for the purpose of disclosure of information wrongfully obtaining information—

(i) enters or is in any part of a place belonging to Her Majesty, being a fortress, arsenal, factory, dockyard, camp, ship, office or other like place, in which part he is not entitled to be, or,

(ii) when lawfully or unlawfully in any such place as aforesaid, either obtains any document, sketch, plan, model or knowledge of anything which he is not entitled to obtain, or takes without lawful authority any sketch or plan, or,

(iii) when outside any fortress, arsenal, factory, dockyard or camp belonging to Her Majesty, takes or attempts to take without authority given by or on behalf of Her Majesty any sketch or plan of that fortress, arsenal, factory, dockyard or camp, or.

(b) where a person knowingly having possession of, or control over, any such document, sketch, plan, model or knowledge as has been obtained or taken by means of any act which constitutes an offence against this Act at any time wilfully

and without lawful authority communicates or attempts to communicate the same to any person to whom the same ought not, in the interest of the State, to be communicated at that time, or

(c) where a person after having been entrusted in confidence by some officer under Her Majesty with any document, sketch, plan, model or information relating to any such place as aforesaid, or to the naval or military affairs of Her Majesty, wilfully and in breach of such confidence communicates the same when, in the interest of the State, it ought not to be communicated,

he shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

(2) Where a person having possession of any document, sketch, plan, model or information relating to any fortress, arsenal, factory, dockyard, camp, ship, office or other like place belonging to Her Majesty, or to the naval or military affairs of Her Majesty, in whatever manner the same has been obtained or taken, at any time wilfully communicates the same to any person to whom he knows the same ought not, in the interest of the State, to be communicated at that time, he shall be liable to the same punishment as if he committed an offence under the foregoing provisions of this section.

(3) Where a person commits any act declared by this section to be an offence, he shall, if he intended to communicate to a foreign State any information, document, sketch, plan, model or knowledge obtained or taken by him, or entrusted to him as aforesaid, or if he communicates the same to any agent of a foreign State, be punished with transportation for life or for any term not less than five years, or with imprisonment for a term which may extend to two years.

4. (1) Where a person, by means of his holding or having held an office under Her Majesty, has lawfully or unlawfully either obtained possession of or control over any document, sketch, plan or model, or acquired any information, and at any time corruptly or contrary to his official duty communicates or attempts to communicate that document, sketch, plan, model or information to any person to whom the same ought not, in the interest of the State, or otherwise in the public interest, to be communicated at that time, he shall be guilty of a breach of official trust.

(2) A person guilty of a breach of official trust shall—

(a) if the communication was made or attempted to be made to a foreign State, be punished with transportation for life or for any term not less than five years, or with imprisonment for a term which may extend to two years, and

(b) in any other case be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

(3) This section shall apply to a person holding a contract with any department of the Government, or with the holder of any office under Her Majesty as such holder, where such contract involves an obligation of secrecy, and to any person employed by any person or body of persons holding such a contract who is under a like obligation of secrecy, as if the person holding the contract and the person so employed were respectively holders of an office under Her Majesty.

5. A prosecution for an offence against this Act shall not be instituted except by or with the consent of the Local Government or of the Governor General in Council.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to re-enact for India, *mutatis mutandis*, the provisions of the Official Secrets Act, 1889 (52 & 53 Vict., c. 52), which has recently been passed by Parliament. That Statute applies (see section 6) to all acts made offences by it when committed in any part of Her Majesty's dominions, or when committed by British officers or subjects elsewhere, but the working in India of criminal law enacted by Parliament has not infrequently, notwithstanding the provisions of 37 & 38 Vict., c. 27, s. 3, been found to be beset with practical difficulty. Under these circumstances it seems desirable to take advantage of the saving for laws of British possessions contained in section 5 of the Statute and re-enact it for India with such adaptations of its language and penalties as the nomenclature of the Indian Statute-book requires.

The 9th October, 1889.

ANDREW R. SCOBLE.

S. HARVEY JAMES,

Secretary to the Government of India.



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SIMLA, SATURDAY, OCTOBER 26, 1889.

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PART V.

Bills introduced into the Council of the Governor General of India for making Laws and Regulations, or Reports of Select Committees presented to the Council.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend Act XXXVI of 1858 was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 24th October, 1889:

We, the undersigned, Members of the Select Committee to which the Bill to amend Act XXXVI of 1858 was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

2. We have introduced certain words in the new section 17A, which the Bill proposes to insert in Act XXXVI of 1858, in order to make it clear that the Governor General in Council will be able under the section to appoint extra-provincial asylums for the reception of particular classes of lunatics when the provincial asylums have not suitable accommodation for those classes.

3. In accordance with a suggestion of the Government of Bengal, the new section 17C proposed by the Bill has been so amended as to confer power on the Local Government to remove lunatics from one asylum to another within a province, and, as the grant of this power to the Local Government seems to make section 11 of the Act, under which an Inspector of Jails may remove lunatics from one public asylum to another within his circle, no longer necessary, we have repealed that section.

From Chief Commissioner, Ajmere-Merwara, No. 949-690, dated 31st August, 1889 [Paper No. 1].
 Telegram from Chief Commissioner, Assam, dated 17th September, 1889 [Paper No. 2].
 From Officiating Secretary to Chief Commissioner, Central Provinces, No. 5484-290, dated 13th September, 1889 [Paper No. 3].
 From Secretary to Chief Commissioner, Coorg, No. 1398-126, dated 11th September, 1889, and enclosure [Papers No. 4].
 From Officiating Secretary to Chief Commissioner, Burma, No. 499-151L.L., dated 16th September, 1889, and enclosures [Papers No. 5].
 From Secretary to Government, Punjab, No. 570S, dated 28th September, 1889, and enclosure [Papers No. 6].
 From Secretary to Government, North-Western Provinces and Oudh, No. 2326-VI-480B, dated 26th September, 1889 [Paper No. 7].
 From Chief Secretary to Government, Bengal, No. 3171P, dated 23rd September, 1889, and enclosures [Papers No. 8].
 From Chief Secretary to Government, Madras, No. 1638, dated 24th September, 1889, and enclosures [Papers No. 9].
 From Officiating Secretary to Government, Punjab, No. 6243, dated 6th October, 1889, and enclosure [Papers No. 10].
 From Secretary for Darar to Resident, Hyderabad, No. 8850, dated 6th October, 1889 [Paper No. 11].
 From Chief Secretary to Government, Bombay, No. 4215, dated 9th October, 1889, and enclosure [Papers No. 12].

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

In English.

<i>Gazette.</i>	<i>Date.</i>
Gazette of India	17th August, 1889.
Fort Saint George Gazette	10th September, 1889.
Bombay Government Gazette	22nd August, 1889.
Calcutta Gazette	28th August, 1889.
North-Western Provinces and Oudh Government Gazette	24th August, 1889.
Punjab Government Gazette	22nd August, 1889.
Central Provinces Gazette	31st August, 1889.
Burma Gazette	7th September, 1889.
Assam Gazette	7th September, 1889.
Coorg District Gazette	2nd September, 1889.

In the Vernaculars.

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Bombay	Maráthi	5th September, 1889.
	Gujaráthi	5th September, 1889.
	Kanarese	5th September, 1889.
Bengal	Bengali	3rd September, 1889.
	Uríya	5th September, 1889.
	Hindi	10th September, 1889.
Central Provinces	Maráthi	18th September, 1889.
Assam	Bengali	28th September, 1889.
Coorg	Kanarese	1st October, 1889.

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

PHIL. P. HUTCHINS.

ANDREW R. SCOBLE.

BÁBÁ KHEM SINGH BEDI.

The 21st October, 1889.

No. II.

A Bill to amend Act XXXVI of 1858.

WHEREAS it is expedient to extend the authority of the Governor General in Council with respect to the appointment of asylums for the reception and detention of lunatics and with respect to the transfer of any lunatic from any one to any other lunatic asylum in British India; It is hereby enacted as follows :—

1. For section 17A of Act XXXVI of 1858 Substitution of new (an Act relating to Lunatic Asylums), as amended Act XXXVI, 1858. by Act XVIII of 1886 (an Act to amend Act XXXVI of 1858), the following shall be substituted, namely :—

Provision for prov. "17A. In either of the inces having insuffi- following cases, namely :— cient or no asylums.

(a) when an Executive Government has not established within its limits a public asylum for the reception and detention of lunatics,

(b) when it appears to the Governor General in Council that a public asylum established within such limits is not conveniently situated with respect to any part of the territories administered by such

Government or does not afford sufficient or, in the case of any class of lunatics, suitable accommodation,

the Governor General in Council may from time to time appoint an asylum in any part of British India beyond the limits of such Government to be an asylum to which any Magistrate or Judge exercising jurisdiction within those limits may send lunatics or any class of lunatics as to an asylum established under this Act for the division in which his jurisdiction is situate."

Addition of new sec- 2. After section 17B of tion after section 17B, the said Act XXXVI of Act XXXVI, 1858. 1858 the following section shall be added, namely :—

"17C. Any lunatic may be removed from Removal of lunatics any lunatic asylum estab- from one asylum to lished or licensed under this another. Act, by order of an Execu- tive Government, to any other such asylum with- in the limits of such Government, and, by order of the Governor General in Council, to any other such asylum in any part of British India."

3. Section 11 of the said Act XXXVI of 1858 Repeal of section 11 is hereby repealed. of Act XXXVI of 1858.

J. M. MACPHERSON,

Offg. Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, NOVEMBER 2, 1889.

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 Reports of Select Committees presented to the Council.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following report of the Select Committee on the Bill to make better provision for the Organization and Administration of Municipalities in the Central Provinces was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 24th October, 1889:

WE, the undersigned, Members of the Select Committee to which the Bill to make bet-

From Officiating Secretary to Chief Commis- sioner, Central Provinces, No. 5912-295, dated 3rd October, 1889, and enclosures [Papers No. 1]: Telegram from Chief Commissioner, Central Provinces, dated 8th October, 1889.

ter provision for the Organization and Adminis- tration of Municipalities in the Central Prov- inces was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

2. Suggestions have been made for amending the constitution of the committee as prescribed by section 6 of the Bill as introduced. It has been said that a larger proportion than two-fifths of the members of the committee should be persons other than salaried officers of the Government, and the provisions contained in the Punjab, the North-Western Provinces and the Burma Municipal Acts have been referred to in support of this view. The Bill gives the Local Government power to raise the proportion, if necessary, and the provisions of the enactments referred to do not appear upon consideration to bear out the argument based on them. In the Punjab Municipal Act the rule that two-thirds of the members of every committee shall be persons other than salaried officers of the Government does not apply when such officers are elected. In the North-Western Provinces and the Burma Municipal Acts the rule is that the Local Government may not appoint more than one-fourth of the committee, but in Burma the Local Government may increase this number if the circumstances of the municipality are such as to require it. Having regard to the existing condition of things in the Central Provinces, we are of opinion that the provisions of sub-section (3), section 6 of the Bill should not be altered.

3. In section 7, sub-section (r), Clause (c), of the Bill as introduced we have inserted words to enable the Local Government, in order to provide for wards which require special treatment, to prescribe the manner in which the representatives of a ward are to be appointed, whether by virtue of their office, or by nomination, or by election.

4. In sub-section (2) of section 16 of the Bill as introduced we have increased the time within which a copy of the resolutions of a committee are to be forwarded to the Deputy Commissioner from three days to six days.

5. To section 17 of the Bill as introduced we have added a sub-section providing that there shall be an appeal from the orders of a committee fining or dismissing an officer or servant of such classes as the Local Government may prescribe.

6. After section 18 of the Bill as introduced we have inserted a section providing for the creation of sub-committees to manage any ward or wards which owing to peculiar circumstances can best be managed by a special sub-committee. This will provide for cases where, like the civil station of Nágpur, the interests of a particular ward cannot be efficiently attended to except by a committee possessing special knowledge or other qualifications.

7. After section 19 of the Bill as introduced we have added four sections taken from the Punjab Municipal Act, 1884, and providing for the employment of officers and servants other than secretaries, the power to prevent extravagance in establishments, and the pensions of Government servants and others serving municipalities. We consider that all these matters should be provided for in the Bill.

8. In section 22 of the Bill as introduced we have changed the period of limitation of suits for wrongs alleged to be done under the Act from four months to six months. The latter period is, we find, that more generally prescribed for such suits.

9. To section 31 of the Bill as introduced we have added a clause to remove doubts which were entertained as to whether the balance of a municipal fund existing before the commencement of the Act would form a part of the municipal fund after the Act comes into force.

10. We have amended clause (b) of section 32 of the Bill as introduced so as to provide for the charge to the municipal fund of subscriptions and contributions towards pensions, and in the same section we have inserted a clause (d) regarding the charge of the cost of the construction and maintenance of buildings for the offices of the committee.

11. In section 39 of the Bill as introduced we have inserted words to make the cost of affording special police-protection on the occasion of a religious ceremony or festival held within the municipality a charge debitable to the committee.

12. In sub-section (1), clause (b), of section 79 of the Bill as introduced we have provided for the making of rules for prohibiting or controlling the establishment or maintenance of slaughter-houses and for inspecting and regulating the same. In the same sub-section we have inserted a clause enabling the committee to prevent meat from being hawked about for sale. We have also, in accordance with the opinion of the Local Government, the Nágpur People's Association and some of the persons consulted, inserted a clause enabling the committee to control sweepers employed by it, and to prescribe the conditions on which they may be allowed to withdraw from employment. This provision we consider to be necessary in the interests of the public, as municipal sweepers have it in their power by suddenly refusing to work to cause the greatest inconvenience and danger to the public health.

13. In Chapter VI of the Bill as introduced we have for the sake of a better arrangement included all offences and penalties dealt with by the Bill. We have added as offences punishable under the Act certain acts which local experience showed to be acts which were of the nature of public nuisances. After section 102 of the Bill as introduced we have inserted a section making it an offence for a person suffering from an infectious or contagious disease to make, or offer for sale, any article of food for man. We have raised the fine for disturbing direction-posts or lamp-posts (section 104 of the Bill as introduced) and for carrying corpses by prohibited routes (section 103 of the Bill as introduced) to twenty rupees, and the penalty for slaughtering an animal contrary to a prohibition or regulation (section 52 of the Bill as introduced) to two hundred rupees. The penalty of fifty rupees fine provided for this last offence in the Bill as introduced is, in our opinion, too light to be effective, and with respect to the two former offences we think that the penalty should be the same as that provided in the Bill for similar petty offences.

14. In section 113 of the Bill as introduced we have inserted a clause giving the Local Government power to make rules when necessary as to the sanction to be required before committees incur any expenditure. This power may be useful in the case of small and newly constituted municipalities.

15. After section 128 of the Bill as introduced we have, at the suggestion of the Local Government, inserted a section taken from section 170 of the Punjab Municipal Act, 1884, and giving the Government power to except municipalities from any of the provisions of the Act. We consider that some of the provisions of the Act are suited only to municipalities managed by experienced and competent committees, and that they are not adapted to small or newly constituted municipalities where the members of the committee have not become accustomed to the management of municipal affairs.

16. We have made also a few minor amendments which do not require notice. In other respects we are of opinion that the provisions of the Bill will meet the requirements of the Central Provinces.

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

In English.		Date.
Gazette.		
Gazette of India		13th July, 1889.
Central Provinces Gazette		27th July, 1889.

In the Vernaculars.

Gazette.	Language.	Date.
Central Provinces Gazette	Maráthi	7th August, 1889.
	Hindi	11th September, 1889.

18. We do not think that the measure has been so altered as to require re-publication and we recommend that it be passed as now amended.

R. J. CROSTHWAITE.
ANDREW R. SCOBLE.
PHIL. P. HUTCHINS.
MUHAMED ALI KHAN.

The 24th October, 1889.

J. M. MACPHERSON,
Offg. Secretary to the Government of India.

No. II.

THE CENTRAL PROVINCES MUNICIPAL BILL.

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No. II.

A Bill to make better provision for the Organization and Administration of Municipalities in the Central Provinces.

WHEREAS it is expedient to make better provision for the organization and administration of municipalities in the Central Provinces; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Central Provinces Municipal Act, 1889.

(2) It extends to the territories for the time being administered by the Chief Commissioner of the Central Provinces; and

(3) It shall come into force on the first day of January, 1890.

2. (1) The Central Provinces Municipal Act, 1873, is hereby repealed:

(2) But all municipalities constituted, committees established, limits defined, appointments, rules, orders and bye-laws made, notifications and notices issued, taxes and rates imposed, contracts entered into and suits instituted under the said Act, or under any enactment thereby repealed, shall, so far as may be, be deemed to have been respectively constituted, established, defined, made, issued, imposed, entered into and instituted under this Act.

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

(1) "municipality" means a local area declared by or under this Act to be a municipality:

(2) "committee" means a municipal committee established by or under this Act:

(3) "street" includes any way, road, lane, square, court, alley, passage or open space, whether a thoroughfare or not, over which the public have a right of way, and also the roadway and footway over any public bridge or causeway:

(4) "owner", used with reference to any building or land, includes the person who is

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receiving the rent of the 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 :

(5) "prescribed" means prescribed by rules made under this Act by the Local Government.

[Act XV, 1883, s. 3.]

4. (1) The Local Government may, by notification published in the official Gazette and in the prescribed manner within the local area affected, declare its intention to constitute as a municipality under this Act any town or any group of towns in the immediate neighbourhood of one another.

(2) Every notification under this section shall define the limits of the town or group of towns to which it refers, and may include within those limits any railway-station, village, building or land in the vicinity of any such town :

Provided that it shall not, without the previous sanction of the Governor General in Council, so include any part of a military cantonment.

[Act XV, 1883, s. 4.]

5. (1) Any inhabitant of a local area in respect of which a notification has been published under the last foregoing section may, if he objects to the constitution of the proposed municipality, submit his objection in writing to the Local Government within three months from the date of the publication of the notification in the Gazette, and the Local Government shall take his objection into consideration.

(2) When three months from such date have expired, and the Local Government has considered the objections, if any, which have been submitted under sub-section (1), the Local Government may, by a notification in the official Gazette, declare the local area to be a municipality.

CHAPTER II.

ORGANIZATION OF COMMITTEES.

Constitution of Committees.

[Act XI, 1873, s. 6.]

6. (1) There shall be established for each municipality a committee having authority over that municipality and consisting of such number of members, not less than five, as may be prescribed.

(2) Such members may be appointed, in the prescribed manner, by virtue of their office, or by nomination, or by election, or some by one and some by any other of such methods.

(3) Not less than two-fifths of the members of a committee shall be persons other than salaried officers of the Government.

(4) Every appointment of a member shall be notified in the official Gazette.

[Act XI, 1873, s. 6: and Act XV, 1883, ss. 9 and 10.]

7. (1) The Local Government may make rules regarding—

- the term of office of members of committees;
- the division of any municipality into wards;
- the number of representatives to be appointed for each ward and the manner

of their appointment, whether by virtue of their office, or by nomination, or by election, or some by one and some by any other of such methods;

(d) the provision, if any, to be made for the special representation of any classes of the community;

(e) the qualifications of electors and of candidates for election;

(f) the registration of electors;

(g) the nomination of candidates, the time of election and the mode of recording votes; and

(h) any other matters regarding the system of representation and election.

(2) The Local Government may, in making such rules, direct that the breach of any provision thereof shall be punished with fine which may extend to fifty rupees.

8. Every committee shall be a body corporate by the name of

the municipal committee of its municipality, shall have perpetual succession and a common seal, with power to acquire and hold property, both moveable and immoveable, and, subject to the rules under section 129, to transfer any property held by it, and to contract and to do all other things necessary for the purposes of its constitution, and may sue and be sued in its corporate name.

9. (1) There shall be a president and vice-president of every committee.

(2) The Local Government may appoint the president or vice-president, or both of them, or may authorize any committee to elect its president or vice-president, or both of them, subject to such rules as may be prescribed in this behalf.

(3) The election of a president or vice-president shall not be valid until it has been confirmed by the Local Government and has been notified in the official Gazette.

(4) A president and vice-president shall hold office for such term as may be prescribed.

(5) When a person not already a member of the committee is appointed or elected president or vice-president, he shall, notwithstanding anything in the foregoing sections, become a member of the committee by virtue of his appointment or election, and shall continue to be a member so long as he holds office as president or vice-president.

10. The Local Government may, at any time, remove the president or vice-president or any other member of a committee—

(a) if he refuses to act or becomes incapable of acting, or is declared insolvent, or is convicted of any such offence, or subjected by a Criminal Court to any such order, as implies, in the opinion of the Local Government, a defect of character which unfits him to be the president or vice-president or a member of the committee;

(b) if he, without an excuse sufficient in the opinion of the Local Government, absents himself for more than three consecutive months from the meetings of the committee.

(c) if his continuance in office is, in the opinion of the Local Government, undesirable in the interests of the public or the municipality.

(d) if he is removed from office by the Local Government, under section 129, for any offence.

(e) if he is removed from office by the Local Government, under section 129, for any offence.

(f) if he is removed from office by the Local Government, under section 129, for any offence.

(g) if he is removed from office by the Local Government, under section 129, for any offence.

(h) if he is removed from office by the Local Government, under section 129, for any offence.

(i) if he is removed from office by the Local Government, under section 129, for any offence.

(j) if he is removed from office by the Local Government, under section 129, for any offence.

(k) if he is removed from office by the Local Government, under section 129, for any offence.

(l) if he is removed from office by the Local Government, under section 129, for any offence.

(m) if he is removed from office by the Local Government, under section 129, for any offence.

(n) if he is removed from office by the Local Government, under section 129, for any offence.

(o) if he is removed from office by the Local Government, under section 129, for any offence.

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[Act XIII, 1884, s. 8 (1) (d), modified.]

(c) if his continuance in office is, in the opinion of the Local Government, undesirable in the interests of the public or the municipality.

Conduct of Business.

[Act XIII, 1884, s. 19.]

11. (1) A meeting of a committee shall be either ordinary or special.

(2) Any business may be transacted at an ordinary meeting unless it is required by this Act or the rules thereunder to be transacted at a special meeting.

[Act XIII, 1884, s. 18.]

12. (1) A committee shall meet for the transaction of business at least once in every month at such time as may, from time to time, be fixed by bye-laws under section 17.

(2) The president or, in his absence, the vice-president may, whenever he thinks fit, and shall, on a requisition made in writing by not less than one-fifth of the members of the committee, convene either an ordinary or a special meeting at any other time.

[Act XIII, 1884, s. 21.]

13. (1) At every meeting of a committee the president, if present, shall preside as chairman.

(2) If, when any meeting is held, the office of president is vacant, or the president is absent from the meeting, and the vice-president is present, the vice-president shall preside as chairman.

(3) In any case not provided for in the foregoing portion of this section, the members present shall elect one of their number to be chairman of the meeting.

[Act XIII, 1884, s. 20.]

14. (1) The quorum necessary for the transaction of business at a special meeting of a committee shall be one-half of the committee.

(2) The quorum necessary for the transaction of business at an ordinary meeting of a committee shall be such number or proportion of the members of the committee as may, from time to time, be fixed by bye-laws under section 17, but shall be not less than three:

Provided that, if at any ordinary or special meeting of the committee a quorum is not present, the chairman shall adjourn the meeting, to such other day as he thinks fit, and the business which would have been brought before the original meeting if there had been a quorum present shall be brought before, and transacted at, the adjourned meeting, whether there is a quorum present thereat or not.

[Act XIII, 1884, s. 22.]

15. Except as otherwise provided by this Act or by rules or bye-laws thereunder, all questions which come before any meeting of a committee shall be decided by a majority of the votes of the members present, and, in case of an equality of votes, the chairman of the meeting shall have a second or casting vote.

[Act XIII, 1884, s. 23.]

16. (1) Minutes of the proceedings at each meeting of a committee shall be recorded in a book to be kept for the purpose, shall be signed by the chairman of the meeting or of the next ensuing meeting.

lished in the manner prescribed, and shall, at all reasonable times and without charge, be open to the inspection of any inhabitant of the municipality.

(2) A copy of every resolution passed by a committee at a meeting shall, within six days from the date of the meeting, be forwarded to the Deputy Commissioner of the district.

17. (1) Every committee may, from time to time, at a special meeting, with the previous sanction of the Local Government, make bye-laws for conduct of business, consistent with this Act and the rules thereunder for regulating—

(a) the time and place of its meetings;

(b) the conduct of its business;

(c) the quorum necessary for the transaction of business at ordinary meetings;

(d) the division of duties among the members of the committee;

(e) the duties, salaries, appointment, suspension, fining and removal of the officers and servants of the committee;

(f) the persons by whom receipts may be granted on behalf of the committee for money received under this Act; and

(g) all other similar matters.

(2) In the case of such officers and servants as may be prescribed, all orders of a committee fining or removing an officer or servant shall be appealable to the Deputy Commissioner.

Joint Committees.

18. (1) A committee may, from time to time, concur with any other committee, or with a district council, or with an independent local board, or with a cantonment-authority, or with more than one such committee, council, board or authority, in appointing, out of their respective bodies, a joint committee for any purpose in which they are jointly interested, and in appointing a chairman of the joint committee, and in delegating to any such joint committee any power which might be exercised by either or any of the committees, councils, boards or authorities, and in framing and modifying regulations as to the proceedings of any such joint committee, and as to the conduct of correspondence relating to the purpose for which the joint committee is appointed.

(2) If any difference of opinion arises between committees, councils, boards or authorities acting under this section, the decision thereon of the Commissioner of the division if the areas under the committees, councils, boards or authorities are in the same division, or of the Local Government if those areas are in different divisions, shall be final.

Sub-committees.

19. (1) With the previous sanction of the Local Government, a committee may, from time to time, appoint the members appointed for any one or more wards to be a sub-committee for the management of the ward or wards, and may delegate to the sub-committee all or any of the powers of the committee to be exercised within the ward or wards subject to such conditions as may be prescribed.

(2) The sub-committee shall, if necessary, be appointed for each ward and the manner

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prescribed one of its members to be chairman of the sub-committee.

Officers and Servants.

[Act XV, 1883, s. 35.] 20. (1) Every committee shall, from time to time, at a special meeting and subject to the approval of the Local Government, appoint one or more of its members, or, with the sanction of the Local Government, any other person or persons, to be its secretary or secretaries, and may at a like meeting and subject to the like approval remove any person so appointed.

(2) When a member of the committee is appointed to be secretary he shall receive no remuneration in respect of his services. In other cases the committee may, with the previous sanction of the Local Government, assign to a secretary such salary as the committee thinks fit.

(3) Every sub-committee may, from time to time, appoint and remove its secretary in the like manner and subject to the like approval and with the like sanction as provided in the case of a committee by sub-section (1), and the provisions of sub-section (2) shall apply to a secretary of a sub-committee.

21. Subject to the other provisions of this Act, and to such rules as officers and servants. the Local Government may make prescribing the qualifications requisite in the case of persons appointed to offices requiring professional skill, a committee may employ, in addition to its secretary, such other officers and servants as may be necessary or proper for the efficient execution of its duties, and may assign to such officers and servants such pay as it thinks fit.

22. If, in the opinion of the Commissioner of the division, the number of persons employed by a committee as officers or servants, or whom the committee propose to employ as such, or the remuneration assigned by the committee to those persons or any of them, is excessive, the committee shall, on the requirement of the Commissioner, reduce the number of those persons or the remuneration, as the case may be:

Provided that the committee may appeal against any such requirement to the Local Government, and the decision of the Local Government on any such appeal shall be final.

Pensions of Government officials serving committees. 23. In the case of a Government official a committee may—

(1) if his services are wholly lent to it, subscribe for his pension or gratuity and leave-allowances in accordance with the rules of the Civil Service Regulations for the time being in force; and

(2) if he devotes only a part of his time to the performance of duties in behalf of the committee, make a contribution on account of his pension or gratuity and leave-allowances in such proportion as may be determined by the Government.

24. In the case of an officer or servant not being a Government official a committee may, with

the previous sanction of the Local Government,—

(1) grant him leave-allowances and, if he is not entitled to pension, or if his monthly pay be less than ten rupees, a gratuity; and

(2) if empowered in this behalf by the Local Government—

(a) subscribe on his behalf for pension or gratuity under the rules of the Civil Service Regulations for the time being in force; or

(b) purchase for him from the Government or otherwise an annuity on his retirement:

Provided that no pension, gratuity, leave-allowance or annuity shall exceed the sum to which, under the Civil Service Regulations for the time being in force, the officer or servant would be entitled if the service had been service under Government.

Contracts.

25. (1) A committee may delegate to one or more of its members or to a secretary the power of entering on its behalf into any particular contract whereof the value or amount does not exceed two hundred rupees or into any class of such contracts.

(2) A contract whereof the value or amount exceeds two hundred rupees shall not be entered into until it has been sanctioned by the committee at a meeting.

26. (1) Every contract made by or on behalf of a committee whereof the value or amount exceeds twenty rupees shall be in writing.

(2) Every such contract shall be signed by the president or vice-president and a secretary:

Provided that the committee may delegate to one or more of its members or to a secretary the power of signing any contracts which he or they is or are empowered to enter into under section 25, sub-section (1).

(3) If a contract to which this section applies is entered into otherwise than in conformity therewith, it shall not be binding on the committee.

Privileges and Liabilities.

27. (1) No suit shall be instituted against a committee or any of its officers or any person acting under its direction for anything done or purporting to be done under this Act, until the expiration of two months next after notice in writing has been, in the case of a committee, delivered or left at its office and, in the case of an officer or person, delivered to him or left at his office or usual place of abode, stating the cause of action, the name and place of abode of the intended plaintiff and the relief which he claims.

(2) Unless service of such notice be proved the Court shall dismiss the suit.

(3) Every such suit shall be dismissed unless it is instituted within six months from the date of the accrual of the alleged cause of action.

(4) If it is proved to the satisfaction of the Court that before the suit was instituted tender of sufficient amends had been made to the plaintiff, the plaintiff shall not recover his costs or anything

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beyond the amount of such tender, and shall defray the costs of the defendant in the suit.

[Act XIII, 1884, s. 36.] 1 of 1877. (5) This section shall not apply to any suit instituted under section 54 of the Specific Relief Act, 1877.

[Act XV, 1883, s. 66.] 28. Every person shall be liable for the loss, waste or misapplication of any money or other property belonging to, or under the control of, the committee, if such loss, waste or misapplication is a direct consequence of his neglect or misconduct while a member of the committee, and a suit for compensation for the same may be instituted against him by the committee with the previous sanction of the Commissioner of the division, or by the Secretary of State for India in Council.

CHAPTER III.

TAXATION AND MUNICIPAL FUND.

Taxation.

[Act XIII, 1884, s. 39.] 29. Subject to any general rules or special orders which the Governor may make in this behalf, a committee may, for the purposes of this Act, impose, with the sanction hereinafter specified in each case and in the manner prescribed by section 30, any of the following taxes, namely:—

(1) with the previous sanction of the Local Government,—

- a tax on houses, buildings or lands situate within the municipality, not exceeding seven and a half per centum of the gross annual letting value of the houses, buildings or lands;
- a tax on persons occupying houses, buildings or lands within the municipality according to their circumstances and property within the municipality;
- a tax on persons exercising any profession or art, or carrying on any trade or calling, in the municipality;
- a tax on all or any vehicles or animals used for riding, driving, draught or burden when such vehicles or animals are kept within the municipality;
- a tax on vehicles and animals used as aforesaid entering the municipality, and on boats moored therein;
- an octroi on goods or animals brought within the municipality for consumption or use therein;
- market-dues on dealers using any building, structure, market, bazar or ganj belonging to or under the control of the committee, or exposing goods for sale in any place belonging to the Government or to the committee or under its control;
- fees on the registration of cattle sold within the municipality;
- a latrine or conservancy cess upon private latrines, premises or compounds cleansed by municipal servants, or a cess for the use of public latrines; and
- a water-rate when water is supplied by the committee:

(2) with the previous sanction of the Local Government and of the Governor General in Council any other tax.

30. (1) A committee may resolve at a special meeting to propose the imposition of any tax for the purposes of this Act.

(2) When a resolution has been passed under sub-section (1) the committee shall publish in the manner prescribed a notice defining the class of persons or description of property proposed to be taxed, the amount or rate of the tax to be imposed, and the system of assessment to be adopted.

(3) Any inhabitant of the municipality objecting to the proposed tax may, within a month from the publication of the notice, submit his objection in writing to the committee, and the committee shall, at a special meeting, take his objection into consideration.

(4) If no objection is submitted within the said period of a month under sub-section (3), or if the objections so submitted, having been considered as aforesaid, are deemed insufficient, the committee may forward its proposals to the Local Government with the objections, if any, which have been submitted as aforesaid.

(5) The Local Government on receiving proposals under sub-section (4) may sanction the same, or refuse to sanction them, or return them to the committee for further consideration.

(6) When the Local Government sanctions any proposals which, under section 29, clause (2), require the further sanction of the Governor General in Council, it shall submit those proposals to the Governor General in Council, with the objections, if any, received through the committee; and the Governor General in Council may sanction the proposals, or refuse to sanction them, or return them to the Local Government for further consideration.

(7) When the proposals of the committee have been sanctioned by the Local Government or by the Local Government and the Governor General in Council, as the case may be, the committee may, at a special meeting, direct the imposition of the tax in accordance with those proposals from such date as may be sanctioned by the Local Government.

31. A tax imposed under this Act shall not be invalid for defect of form, and, when any property is described for the purpose of assessing any such tax, it shall be sufficient to describe it so that it shall be generally known, and it shall not be necessary to name the owner or occupier.

32. Any tax imposed under this Act and payable periodically shall be payable on such dates and in such instalments, if any, as the committee, with the previous sanction of the Local Government, may, by rule, from time to time direct.

33. A committee, by a resolution passed at a special meeting and confirmed by the Local Government, may abolish or reduce any tax imposed under this Act or suspend the operation of any tax within any part of the municipality for any specified period.

34. For reasons to be recorded in writing the Local Government may exercise the powers conferred on a committee by the last foregoing section.

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(Chapter III.—Taxation and Municipal Fund.—Sections 35-38.)

[Act XV, 1883, s. 46.]
[Act XIII, 1884, s. 61.]
35. (1) Arrears of any tax imposed under this Act may be recovered, on application to a Magistrate having jurisdiction within the limits of the municipality, by the distress and sale of any moveable property belonging to the defaulter within those limits.

(2) If the arrear is due in respect of immovable property, it shall, subject to any claim on behalf of Her Majesty, be a first charge on the property and shall be recoverable, on application made in this behalf by the committee to the Deputy Commissioner of the district, as if the property were land assessed to land-revenue and the arrear were an arrear of such revenue due thereon:

Provided that nothing in this sub-section shall authorize the arrest of a defaulter.

Municipal Fund and Property.

[Act XIII, 1884, s. 67.]
36. There shall be formed for each municipality a municipal fund, and there shall be placed to the credit thereof—

- all sums received by or on behalf of the committee;
- all fines recovered from persons convicted of offences committed within the municipality against this Act or the rules thereunder or against section 34 of Act V of 1861 (for the Regulation of Police) or against Act III of 1867 (to provide for the punishment of public gambling and the keeping of common gaming-houses);
- the balance (if any) standing at the commencement of this Act at the credit of the municipal fund under the control of the committee.

[Act XIII, 1884, s. 68.]
37. (1) The committee shall set apart and apply annually out of the municipal fund—

- first, such sum as may be required for the payment of any amounts falling due on any loan legally contracted by it;
- secondly, such sum as may be required to meet the charges of its own establishment, including such subscriptions and contributions as are referred to in sections 23 and 24, and such sum as may be required for the maintenance of a police-establishment under Chapter IV;
- thirdly, such sum as may be required to pay the expenses of pauper lunatics sent to public asylums from the municipality, the expenses incurred in auditing the accounts of the committee, and such portion of the cost of the Provincial Departments for Education, Sanitation, Vaccination, Medical Relief and Public Works as may be held by the Local Government to be equitably debitable to the committee in return for services rendered to it by these Departments;
- fourthly, the cost of the construction and maintenance of buildings for the offices of the committee.

(2) Subject to the charges specified in sub-section (1) and to such rules as the Local Government may make with respect to the priority to be given to the several duties of the

committee, the municipal fund shall be applicable to the payment, in whole or in part, of the charges and expenses incidental to the following matters within the limits of the municipality, and, with the sanction of the Commissioner of the division, to the payment of the like charges and expenses outside those limits when such application of the fund is for the benefit of the inhabitants of the municipality, namely:—

- the construction, maintenance, improvement, cleansing and repair of streets and public bridges, embankments, drains, latrines, tanks and water-courses;
- the watering and lighting of the streets or any of them;
- the construction, establishment and maintenance of schools, hospitals and dispensaries, and other institutions for the promotion of education or for the benefit of the public health, and of rest-houses, sarais, poor-houses, markets, encamping-grounds, recreation-grounds, gardens, parks, pounds and other works of public utility, and the control and administration of public institutions of any of these descriptions;
- grants-in-aid to schools, hospitals, dispensaries, poor-houses, leper-asylums and other educational or charitable institutions;
- the training of teachers and the establishment of scholarships;
- the giving of relief and the establishment and maintenance of relief-works in time of famine or scarcity;
- the supply, storage and preservation from pollution of water for the use of men or animals;
- the planting and preservation of trees;
- the taking of a census, and the registration of births, marriages and deaths;
- public vaccination and any other sanitary measure;
- the holding of fairs and industrial exhibitions; and
- all acts and things likely to promote the safety, health, welfare or convenience of the inhabitants.

38. (1) In places where there is a Government treasury or sub-treasury, or a bank to which the Government treasury business has been made over, the municipal fund shall be kept in the treasury, sub-treasury or bank.

(2) In places where there is no such treasury or sub-treasury or bank, the municipal fund may be deposited with any banker, or person acting as a banker, who has given such security for the safe custody and repayment on demand of the fund so deposited as the Local Government may in each case think sufficient.

(3) A committee may, from time to time, with the previous sanction of the Local Government, invest any portion of its municipal fund in securities of the Government of India or such other securities as the Governor General in Council may approve in this behalf, and vary such investments for others of the like nature. The income resulting from the securities and proceeds of the sale of the same shall be credited to the municipal fund.

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(Chapter III.—Taxation and Municipal Fund.—Section 39. Chapter IV.—Municipal Police.—Sections 40-44. Chapter V.—Powers for Sanitary and other Purposes.—Sections 45-47.)

[Act XIII, 1884, s. 71.]
39. (1) All streets, roads and bridges over which the public have a right of way, all tanks, wells, ghâts, channels, sewers and drains within the municipality, not being private property or specifically excepted by an order of the Local Government, together with the pavements, stones and other materials thereof, and all erections, materials, implements and other things provided therefor, shall vest in and belong to the committee and shall be held and applied by it for the purposes of this Act.

[Cf. Mad. Act IV, 1884, s. 22-24.]
(2) The Local Government may, by notification in the official Gazette, direct that any property which has vested under sub-section (1) in the committee shall cease to be so vested, and thereupon the property specified in the notification shall cease to be so vested, and the Local Government may pass such orders as it thinks fit regarding the disposal and management of such property.

CHAPTER IV.

MUNICIPAL POLICE.

[Act XIII, 1884, s. 74.]
40. (1) Every committee shall, unless it is relieved of this obligation by the Local Government, maintain a sufficient police-establishment for police requirements within municipal limits and for the performance of the duties imposed on the committee by this Act.

(2) Subject to the provisions of the Cantonments Act, 1889, the establishment maintained under sub-section (1) shall, as the committee with the approval of the Local Government may, from time to time, determine, be either a body of watchmen or a part of the general police-force under the Local Government within the meaning of section 2 of Act V of 1861, or partly one and partly the other; and it shall consist of such number of officers and men, and the officers and men shall receive such pay, leave-allowances, gratuities and pensions, as the committee may, from time to time, after consultation with the District Magistrate and the Inspector General of Police, and subject to the final decision of the Local Government, direct.

[Act XIII, 1884, s. 75.]
41. (1) The Local Government may relieve any committee of the whole or a part of the cost of the police-establishment, and may enter into a contract with the committee, on such terms as may be agreed on, that, in consideration of such relief, the committee shall pay periodically a sum not exceeding the amount thereof, or undertake any services within the municipality to which the municipal fund can properly be applied, and which are estimated to cost not more than the amount of the relief.

(2) When a committee is relieved under this section of the whole or a part of the cost of the police-establishment, the Local Government shall maintain such police-establishment as it considers necessary, and, subject to the provisions of the Cantonments Act, 1889, the establishment so maintained may be either a body of watchmen or a part of the general police-force under the Local Government within the meaning of section 2 of Act V of 1861, or partly one and partly the other.

42. (1) If the establishment maintained under this Chapter is wholly or in part a body of watchmen, the watchmen shall—

- be under the orders of the District Superintendent of Police subject to the general control of the District Magistrate;
- be appointed and promoted, and be liable to dismissal, suspension, reduction or fine, under such rules as the Local Government may make in this behalf;
- perform such duties as the Local Government may, subject to the provisions of this Act, direct; and
- possess the same powers, be entitled to the same assistance, enjoy the same protection, be subject to the same responsibilities and be liable to the same penalties as if they were police-officers enrolled under Act V of 1861.

(2) Any person obstructing any such watchman in the discharge of his duties may be arrested without warrant by a police-officer or by any such watchman.

43. If the establishment maintained under this Chapter or any portion of such establishment is part of the general police-force, the Local Government may, notwithstanding anything in Act V of 1861 or in any other Act for the time being in force, define, subject to the provisions of this Act, the duties which the officers and men of the establishment or such portion thereof may or may not be required to perform.

44. When special police-protection is, in the opinion of the Local Government, requisite on the occasion of any fair, agricultural show or industrial exhibition managed by a committee, or any religious ceremony or festival held within the municipality, the Local Government may provide such protection, and the committee shall pay the whole charge thereof or such portion of the charge as the Local Government may consider equitably debitable to it.

CHAPTER V.

POWERS FOR SANITARY AND OTHER PURPOSES.

Streets and Buildings.

45. When any land is required for a new street or for the improvement of an existing street, the committee may proceed to acquire, in addition to the land to be occupied by the street, the land necessary for the sites of the buildings to be erected on the sides of the street.

46. The committee may close temporarily any street or any part thereof for the purpose of repairs, or for the purpose of constructing or repairing any sewer, drain, culvert or bridge, or for any other public purpose, and may divert, discontinue or permanently close any street vested in the committee and sell the land or such part thereof as is not required for the purposes of this Act.

47. The committee may grant permission in writing for the temporary occupation of any street or land vested in it for the

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purpose of depositing any building-materials or making any temporary excavation therein or erection thereon, subject to such conditions as it may prescribe for the safety or convenience of persons passing by or dwelling or working in the neighbourhood, and may charge fees for such permission, and may at its discretion withdraw the permission.

[Act XIII, 1884, s. 84.] 48. The committee may attach to the outside of any building brackets for lamps in such manner as not to occasion any injury thereto or inconvenience.

[Act XIII, 1884, s. 85.] 49. The committee at a meeting may cause a name to be given to any street, and to be affixed on any building in such place as it thinks fit, and may also cause a number to be affixed to any building; and in like manner may, from time to time, cause such names and numbers to be altered.

[Act XIII, 1884, s. 86.] 50. The committee at a meeting may direct that, within certain limits, the roofs and external walls of huts or other buildings shall not be made or renewed of grass, mats, leaves or other highly inflammable materials unless with the permission of the committee in writing; and the committee may, by notice, require any person who has disobeyed any such direction to remove or alter as it may think fit the roofs or walls so made or renewed.

[Act XIII, 1884, s. 87.] 51. (1) If any building or part of a building projects beyond the front of the building on either side thereof, or beyond the regular line of a street, either existing or determined on for the future, the committee may, whenever the building or part has been either entirely or in greater part taken down or burnt down or has fallen down, require by notice the building or part, when being re-built, to be set back to or towards the said regular line or the front of the adjoining buildings; and the portion of the land added to the street by such setting back or removal shall become part of the street and shall vest in the committee.

Provided that the committee shall make full compensation to the owner for any damage he may sustain in consequence of his building or any part thereof being set back.

(2) The committee may, on such terms as it thinks fit, allow any building to be set forward for the improvement of the line of the street.

[Act XIII, 1884, s. 88.] 52. (1) Every person intending to erect or re-erect any building shall, if required to do so by rule made by the committee in this behalf, give notice in writing of his intention to the committee, and shall, if required to do so, submit a plan showing the levels at which the foundation and lowest floor are proposed to be laid, and specifications of the works intended to be constructed, and the materials to be used, and shall obey all written directions consistent with this Act, which may be given by the committee within one month after receiving such notice, either prohibiting the erection or re-erection, if

deemed likely to be injurious to the inhabitants of the neighbourhood, or in respect of all or any of the matters following, namely:—

- (a) free passage or way in front of the building;
- (b) space to be left about the building to secure free circulation of air and facilitate scavenging;
- (c) ventilation and drainage;
- (d) level and width of foundation, level of lowest floor and stability of structure; and
- (e) the line of frontage with neighbouring buildings, if the building abuts on a street.

Provided that the committee shall make full compensation to the owner for any damage he may sustain in consequence of the prohibition of the re-erection of any building, or of the committee requiring any land belonging to him to be added to the street.

(2) If any such building is erected or re-erected, wholly or in part, without such notice being given, or without the submission of particulars as aforesaid when required, or in contravention of the lawful directions of the committee issued within one month, the committee may by notice require the building to be altered or demolished, as it may deem necessary.

Explanation.—The expression "erect any building" includes erecting any wall and all additions and alterations which involve new foundations or increased superstructure on existing foundations, or the conversion into a dwelling-house of any building not originally constructed for human habitation, or the conversion into more than one dwelling-house of a building originally constructed as one dwelling-house only.

[Act XIII, 1884, s. 89.] 53. (1) It shall not be lawful, unless with the written permission of the committee, for the owner or occupier of any building in a street to add to, or place against or in front of, the building any projection or structure overhanging, projecting into or encroaching on the street or into or on any drain, sewer or aqueduct therein.

(2) The committee may by notice require the owner or occupier of any building to remove or alter any projection, encroachment or obstruction built or placed against or in front thereof, if the same overhangs or projects into or encroaches on any street, or projects into or encroaches on any drain, sewer or aqueduct in the street.

Provided that, in the case of a projection, encroachment or obstruction being lawfully in existence at the time of the passing of this Act, the committee shall make reasonable compensation to any person who suffers damage by the removal or alteration.

(3) The committee may give written permission to the owners or occupiers of buildings in streets to put up open verandahs, balconies or rooms projecting from any upper storey thereof to an extent beyond the line of the plinth or basement-wall, and at a height from the level of the ground or street, to be specified in the written permission.

*The Central Provinces Municipal Bill.**(Chapter V.—Powers for Sanitary and other Purposes.—Sections 54-63.)**Bathing and Washing Places.*

[Act XIII, 1884, s. 90.] 54. The committee may set apart suitable places for the purpose of bathing, and may specify the times at which, and the sex of the persons by whom, such places may be used and may also set apart suitable places for washing animals or clothes, or for any other purpose connected with the health, cleanliness or comfort of the inhabitants of the municipality; and may, by public notice, prohibit bathing, or washing animals or clothes, in any public place not so set apart, or at times or by persons other than those specified, and all other acts not so permitted which may render water in public places foul or unfit for use or may cause inconvenience or annoyance to persons using the bathing or washing places.

Deposit of Offensive Matter and Slaughter-places.

[Act XIII, 1884, s. 91.] 55. The committee may fix places within or without the limits of the municipality for the deposit of refuse, rubbish or offensive matter of any kind or for the disposal of the dead bodies of animals, and may by public notice give directions as to the time, manner and conditions at, in and under which such refuse, rubbish or offensive matter or dead bodies of animals may be removed along any street and deposited at such places.

[Act XIII, 1884, s. 92.] 56. (1) The committee may, with the approval of the Deputy Commissioner of the district, fix and abolish places either within or without the limits of the municipality for the slaughter of animals for sale, or of any specified description of such animals, and may with the like approval grant and withdraw licenses for the use of such places, or, if they belong to, or are under the control of, the committee, charge rent or fees for the use of the same.

(2) When such places are fixed by the committee beyond municipal limits, it shall have the same power to make rules for the inspection and proper regulation of the same as if they were within those limits.

(3) When any such place has been fixed, no person shall slaughter for sale any such animal at any other place within the municipality.

[New.] 57. Whenever it appears to the Deputy Commissioner of the district to be necessary for the preservation of the public peace or order, he may, with the previous sanction of the Commissioner of the division, prohibit or regulate, by notification published in the manner prescribed, the slaughter within the limits of a municipality of animals, or of any specified description of animals, for purposes other than sale, and prescribe the mode and route in and by which meat shall be conveyed from the place where such animals are slaughtered.

Burial and Burning Places.

[Act XIII, 1884, s. 93.] 58. (1) The committee may by public notice order any burial or burning ground which is, in its opinion, dangerous to the

notice, and shall in such case, if no suitable place for burial or burning exists within a reasonable distance, provide a fitting place for the purpose.

(2) Private burial-places in such burial-grounds may be excepted from the notice, subject to such conditions as the committee may impose in this behalf.

Provided that the limits of such burial-places are sufficiently defined, and that they shall only be used for the burial of members of the family of the owners thereof.

(3) No burial or burning ground, whether public or private, shall be made or formed, after the commencement of this Act, without the permission in writing of the committee.

[Act XIII, 1884, s. 94.] 59. The committee may by public notice prescribe routes for the removal of corpses to burial or burning places.

Inflammable Materials.

[Act XIII, 1884, s. 95.] 60. The committee may, where it appears to it to be necessary for the prevention of danger to life or property, by public notice prohibit all persons from stacking or collecting dry grass, straw or other inflammable materials, or placing mats or thatched huts or lighting fires in any place or within any limits specified in the notice.

Powers of Entry and Inspection.

[Act XIII, 1884, s. 96.] 61. (1) The committee, by any person authorized by it in this behalf, may, after giving six hours' notice to the occupier or, if there is no occupier, to the owner of any building or land in which any privies, drains or cesspools are situate, inspect any such privies, drains or cesspools at any time between sunrise and sunset, and may, if necessary, cause the ground to be opened where the committee or person may think fit for the purpose of preventing or removing any nuisance arising from the privies, drains or cesspools.

(2) If, on such inspection, it appears that the opening of the ground was necessary for the prevention or removal of a nuisance, the expenses thereby incurred shall be paid by the owner or occupier of the building or land; but, if it is found that no nuisance exists, or but for such opening would have arisen, the ground shall be closed and made good as soon as may be, and the expense of opening, closing and making it good shall be borne by the committee.

[Act XIII, 1884, s. 97.] 62. The committee, by any person authorized by it in this behalf, may, after giving twenty-four hours' notice to the occupier or, if there is no occupier, to the owner of any building, at any time between sunrise and sunset enter and inspect the building, and may by notice direct all or any part thereof to be forthwith internally or externally lime-washed, disinfected or otherwise cleansed for sanitary reasons.

[Act XIII, 1884, s. 98.] 63. The committee, by any person authorized by it in this behalf, may, after giving twenty-four hours' notice to the occupier or, if there is no occupier, to the owner of any building, at any time between sunrise and sunset enter and inspect the building, and may by notice direct all or any part thereof to be forthwith internally or externally lime-washed, disinfected or otherwise cleansed for sanitary reasons.

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building or land, at any time between sunrise and sunset—

- (a) enter on and survey and take levels of any land;
- (b) enter, inspect and measure any building for the purpose of valuation;
- (c) enter into any building or on any land for the purpose of examining works under construction, of ascertaining the course of sewers or drains or of executing or repairing any work which the committee is by this Act empowered to execute or maintain.

[Act XIII, 1884, s. 99.] 64. The committee, by any person authorized by it in this behalf, may,

Power to enter for discovery of animals or vehicles liable to taxation. at any time between sunrise and sunset, enter and inspect any stable, coach-house or other place wherein there is reason to believe that there is any animal or vehicle which is liable to taxation under this Act and for which a license has not been duly taken out.

[Act XIII, 1884, s. 100.] 65. (1) The committee, by any person authorized by it in this behalf, may,

Power to inspect places for sale of food or drink, &c., and to seize unwholesome articles exposed for sale. at all reasonable times, enter into and inspect any market, building, shop, stall or place used for the sale or storage of articles intended for food or drink for man, or as a slaughter-house, or for the sale of drugs, and inspect and examine any food or drink, animal or drug which may be therein; and, if any article of food or drink or any animal therein appears to be intended for the consumption of man and to be unfit therefor, may seize and remove the same, or, if the owner or the person in whose possession the same is found consents, may cause it to be destroyed or to be so disposed of as to prevent its being exposed for sale or used for such consumption;

and, in case any drug is reasonably suspected to be adulterated in such manner as to lessen its efficacy or to change its operation or to render it noxious, may remove the same, giving a receipt therefor, and may cause it to be brought before a Magistrate for enquiry whether any offence has been committed in respect thereof, and for his orders as to its disposal.

(2) If the committee, or any person authorized by it in this behalf, applies to purchase any article of food or drink exposed for sale, and tenders the price for a quantity such as may be reasonably requisite for the purpose of analysis, the person exposing the same for sale shall be bound to sell such quantity.

[Act XIII, 1884, s. 101.] 66. (1) The committee may provide for the

Power of entry for purpose of scavenging. performance by its agents of the duties usually performed by sweepers in respect of any building or land, or of any privy, drain, cesspool or other receptacle for offensive matter pertaining to any building or land, with the consent of the occupier of the building or land, or without such consent if the occupier fails to make arrangements to the satisfaction of the committee for the performance of such duties.

(2) When the committee has undertaken to provide for the performance by its agents of such duties as aforesaid, the persons employed

property at all reasonable times so far as may be necessary for the proper discharge of those duties; and the committee, by any person authorized by it in this behalf, may enter on the property at all reasonable times for the purpose of ascertaining that such duties have been duly performed.

67. When any building used as a human dwelling is entered under this Act, due regard shall be paid to the social and religious sentiments of the occupiers; and before any apartment in the actual occupancy of any woman, who, according to custom, does not appear in public, is entered under this Act, notice shall be given to her that she is at liberty to withdraw, and every reasonable facility shall be afforded to her for withdrawing.

Water-pipes, Privies and Drains.

68. The committee may by notice require the owner of any building in any street to put up and keep in good condition proper troughs and pipes for receiving and carrying the water from the roof and other parts thereof and for discharging the same so as not to cause injury to the street or inconvenience to persons passing along the street.

69. (1) The committee may by notice require the owner of any building to provide, in such manner as the committee directs, any privy or cesspool, or additional privies or cesspools, which should in the opinion of the committee be provided for the building.

(2) The committee may by notice require any persons employing more than twenty workmen or labourers to provide such latrines and urinals as it may think fit and to cause the same to be kept in proper order and to be daily cleaned.

(3) The committee may by notice require the owner or occupier of any building or land to have any privy provided for the same shut out by a sufficient roof and wall or fence from the view of persons passing by or dwelling in the neighbourhood, or to remove or alter, as the committee directs, any door or trapdoor of a privy opening on to any street or drain.

70. (1) The committee may by notice require the owner or occupier of any building or land to repair or alter or put in good order any privy, drain or cesspool, or to close any cesspool belonging thereto.

(2) The committee may by notice require any person who constructs any new privy, drain or cesspool without its permission in writing, or contrary to its directions or regulations or to the provisions of this Act, or who constructs, rebuilds or opens any privy, drain or cesspool which the committee has ordered to be removed or stopped up or not to be made, to remove the privy, drain or cesspool, or to make such alteration therein as the committee thinks fit.

71. The committee may by notice require any person who without its permission in writing, constructs or rebuilds any building or alters any

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committee to pull down or otherwise deal with the buildings as it thinks fit.

[Act XIII, 1884, s. 107.] 72. The committee may by notice require any owner or occupier on whose land any drain, latrine, urinal, cesspool or other receptacle for filth or refuse for the time being exists within fifty feet of any spring, well, tank, reservoir or other source from which water is or may be derived for public use to remove or close the same within one week.

[Act XIII, 1884, s. 108.] 73. The committee may by notice require the owner or occupier of any building or land to cleanse, repair, cover, fill up or drain off any private

Power to require drainage of unwholesome tanks. tank, well, reservoir, pool or excavation therein which appears to the committee to be injurious to health or offensive to the neighbourhood:

Provided that, if for the purpose of effecting under this section any drainage it is necessary to acquire any land not belonging to such owner or occupier or to pay compensation to any other person, the committee shall provide the land or pay the compensation.

Dangerous Buildings and Places.

[Act XIII, 1884, s. 109.] 74. If any building, or any well, tank or other excavation, is found to be in a ruinous state or want of sufficient repair, protection or enclosure dangerous to persons passing by or dwelling or working in the neighbourhood, the committee may by notice require the owner or occupier thereof to repair, protect or enclose the same; and, if it appears to the committee to be necessary in order to prevent imminent danger, the committee shall forthwith take such steps as are necessary to avert the danger.

[Act XIII, 1884, s. 110.] 75. If any building, wall or structure or anything affixed thereto is deemed by the committee to be in a ruinous state or in any way dangerous, it may by notice require the owner or occupier thereof forthwith either to remove the same or to cause such repairs to be made to the building, wall or structure or thing affixed thereto as the committee considers necessary for the public safety; and, if it appears to the committee to be necessary in order to prevent imminent danger, the committee shall forthwith take such steps as are necessary to avert the danger.

Buildings and Grounds in Insanitary Condition.

[Act XIII, 1884, s. 111.] 76. The committee may by notice require the owner or occupier of any land to clear away and remove any thick or noxious vegetation or undergrowth which appears to the committee to be injurious to health or offensive to the neighbourhood.

[Act XIII, 1884, s. 112.] 77. The committee may by notice require the owner or occupier of any land to cut or trim, within three days, the hedges standing on the land and bordering on any street, or the branches of trees growing on the land and overhanging any

danger thereto, or so overhanging any well, tank or other source from which water is derived for public use as to be likely to pollute the water thereof.

78. If the owner or occupier of any building or land suffers the same to be in a filthy or unwholesome state, the committee may by notice require him to cleanse the same or otherwise put it in a proper state within twenty-four hours.

79. If any building appears to the committee to be unfit for human habitation in consequence of the want of proper means of drainage or ventilation or for other sufficient reason, the committee may by notice prohibit the owner or occupier of the building from using it for human habitation or suffering it to be so used, until the committee is satisfied that it has been rendered fit for such use.

80. The committee may by notice require the owner or person claiming to be the owner of any building or land which, by reason of abandonment or disputed ownership or other cause, remains untenanted and thereby becomes a resort of idle and disorderly persons or otherwise a nuisance, to secure or enclose the same within a reasonable time specified in the notice.

81. (1) If the Sanitary Commissioner reports that the cultivation of any description of crop or the use of any kind of manure or the irrigation of land in any specified manner in any place within the limits of any municipality is injurious to the health of persons dwelling in the neighbourhood, the Local Government may, by notification in the official Gazette, prohibit the cultivation of the crop, the use of the manure or the irrigation so reported to be injurious, or regulate it by imposing such conditions as may prevent the injury.

(2) When on any land to which the notification applies that description of crop has been cultivated, that kind of manure has been used or irrigation has been practised in that manner during the five years preceding the notification with such continuity as the ordinary course of husbandry admits of, compensation shall be paid from the municipal fund to all persons interested in that land for any damage caused to them by the prohibition or regulation.

Offensive and Dangerous Trades.

82. (1) The owner or occupier of every place situate within the municipality and used for any of the following purposes, namely:—

melting tallow; or boiling bones, offal or blood; or as a soap-house, oil-boiling house, dyeing-house or tannery; or as a brick-kiln, pottery or lime-kiln; or as any other manufactory or place of business

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as a yard or depôt for trade in hay, straw, thatching-grass, wood or coal, or other dangerously inflammable material; or as a store-house for kerosine, petroleum, naphtha or any inflammable oil, spirit or explosive substance;

shall register the same in a book to be kept by the committee for the purpose.

(2) No place shall be newly used for any of the said purposes except under a license from the committee, which shall be renewable annually.

(3) The license shall not be withheld unless the committee considers that the business which it is intended to establish or maintain would be offensive or dangerous to persons residing in or frequenting the immediate neighbourhood.

(4) The committee may charge fees for such licenses, and may impose such conditions in respect thereof as it may think necessary.

[Act XIII, 1884, s. 118.] 83. If it is shown to the satisfaction of the committee, at a meeting, that any place registered or licensed under the last foregoing section is a nuisance to the neighbourhood or likely to be dangerous to life, health or property, the committee may by notice require the occupier of the place to discontinue the use thereof, or to use the place in such manner as will, in the opinion of the committee, render it no longer a nuisance or dangerous.

Power to make and enforce Rules.

[Act XIII, 1884, s. 119.] 84. (1) A committee may, from time to time, at a special meeting, make rules consistent with this Act—

(a) for protecting from injury or interference anything within the municipality being the property of Her Majesty or of the committee;

(b) for prohibiting or controlling the establishment or maintenance of markets, sarâis, halting-places and slaughter-houses, and inspecting and regulating the same and any places of public entertainment and resort;

[New.] (c) for licensing, controlling and regulating the practice of brokers, measurers and weighmen practising their calling in public places within the municipality;

[New.] (d) for prescribing the standard weights and measures to be used within the municipality;

(e) for controlling and regulating the use and management of burial and burning grounds;

[New.] (f) for prescribing the means by which the owner or occupier of any place which is a factory within the meaning of the Indian Factories Act, 1881, is to provide for the consumption of the smoke of any chimney or furnace so as to prevent the smoke from being a nuisance to any person in the neighbourhood;

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(g) for rendering licenses necessary for the proprietors or drivers of vehicles, boats or animals plying for hire within the limits of the municipality, and fixing the fees payable for such licenses and the conditions on which they are to be

(h) for limiting the rates which may be demanded for the hire of any carriage, cart, boat or other conveyance, or of animals hired to carry loads, or for the services of persons hired to carry loads where those conveyances, animals or persons are hired within the municipality for a period not exceeding twenty-four hours, or for a service which would ordinarily be performed within twenty-four hours;

(i) for securing a proper registration of births, marriages and deaths;

(j) for the proper regulation of buildings let in lodgings or occupied by more than one family;

(k) for the supervision and regulation of public cisterns, water-standards, wells, tanks, springs or other sources of public water-supply; and, when water is supplied from a public source to any private premises, for regulating and controlling such supply;

(l) for prohibiting the offering of meat or any specified description of meat for sale except at a shop or stall or in a market-place;

(m) for controlling and regulating the duties of sweepers employed by the committee and prescribing the conditions on which they may withdraw from employment;

(n) when the collection of an octroi-tax has been sanctioned, for fixing octroi limits for the purposes of that tax; and,

(o) generally, for carrying out the purposes of this Act.

(2) In making any rule under this section a committee may direct that a breach of it shall be punished with fine which may extend to fifty rupees, and, when the breach is a continuing breach, with further fine which may extend to five rupees for every day after the first during which the breach continues.

(3) A rule under this section shall not come into force until it has been confirmed by the Local Government and published for the prescribed time and in the prescribed manner.

(4) Notwithstanding anything in the foregoing portion of this section, the committee of a municipality in which the Hackney-carriage Act, 1879, is in force shall not make rules under sub-section (1) in respect of any vehicles to which that Act applies.

85. Subject to any orders which the Local Government may make in this behalf, a committee may order any person not to do, or not to omit to do, within the municipality, anything the doing of, or the omission to do, which is a public nuisance under the Indian Penal Code.

86. (1) The Local Government may invest, within the limits of the municipality, a committee with the powers of a District Magistrate as described in section 133 of the Code of Criminal Procedure, 1882, and with power to make conditional orders of the nature referred to in that section, in respect of all or any acts or omissions punishable under the Indian Penal Code.

(2) All money recoverable by a committee under this section may be recovered either by

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*(Chapter V.—Powers for Sanitary and other Purposes.—Sections 87-91.
Chapter VI.—Offences and Penalties.—Sections 92-93.)*

(2) Sections 133 to 142 (both inclusive) of the Code of Criminal Procedure, 1882, shall, so far as they can be made applicable, apply to all proceedings taken in exercise of these powers:

Provided that, for the purposes of such proceedings, section 133 of the Code shall be read as if for the words "before himself or some other Magistrate of the first or second class" the words "before the District Magistrate or some Magistrate of the first or second class appointed by him in this behalf" were substituted.

(3) The Local Government may, whenever it thinks fit, withdraw the powers with which it has under this section invested a committee.

[Act XV, 1884, s. 58.] 87. A committee may, at a special meeting, delegate to one or more sub-committees of its members any of the powers which are vested in the committee by section 85, or with which the committee may have been invested under section 86.

Supplemental.

[Act XIII, 1884, s. 123.] 88. (1) When any notice under this Chapter requires any act to be done by which no time is fixed by this Act, the notice shall fix a reasonable time for doing the same.

(2) When the owner or occupier of any building or land fails to comply with the terms of any notice under this Chapter requiring him to do any act in, upon or in respect to that building or land, the committee may, after six hours' notice, cause the act to be done by its officers.

[Act XIII, 1884, s. 124.] 89. (1) Where the owner or occupier of property is required under this Act by the committee to execute any work and makes default in complying with the requisition, and the committee executes the work, the committee may recover the cost of the work from the person in default.

(2) If the person in default is the owner, the committee may, by way of additional remedy, recover the whole or any part of the cost from the occupier, and in such case the occupier may deduct any sum paid by him under this subsection from the rent due or from time to time accruing due from him to the owner of the property in respect of which the payment is made, or may otherwise recover such sum from the owner.

(3) An occupier shall not be required to pay under sub-section (2) any greater sum than the amount of rent which is for the time being due from him to the owner, of which, after demand for payment of the money payable by him to the committee and notice not to pay rent without first deducting the amount so demanded, becomes payable by him to the owner, unless he refuses on application to him by the committee truly to disclose the amount of his rent and the name and address of the person to whom it is payable; but the burden of proof that the sum so demanded by the committee from the occupier exceeds the rent which was due at the time of the demand, or which has since accrued due, shall lie on the occupier.

All money recoverable by a committee under this section may be recovered either by

jurisdiction within the municipality by distress and sale of the moveable property of the person from whom the money is recoverable, and if payable by the owner of property shall, until it is paid, be a charge on the property.

(5) Nothing in this section shall affect any contract between an owner and an occupier.

90. (1) The committee may make compensation out of the municipal fund to any person sustaining any damage by reason of the exercise of any power vested in the committee, its officers or servants, under this Act, and shall, subject to the other provisions of this Act, make such compensation where the person sustaining the damage was not himself in default in the matter in respect of which the power was exercised.

(2) If any dispute arises touching the amount of any compensation which the committee is required by this Act to pay for injury to any building or land, it shall be settled in such manner as the parties may agree, or, in default of agreement, in the manner provided by the Land-acquisition Act, 1870, sections 3, 8 to 42, X of 1870, 51 to 53, and 56 to 59, so far as they can be made applicable.

91. (1) Any person aggrieved by any order made by a committee under the powers vested in it by section 58, 79, or 83 may appeal within thirty days from the date thereof to the Deputy Commissioner of the district; and no such order shall be liable to be called in question otherwise than by such appeal.

Appeals against certain orders of committees. Provided that, if the Deputy Commissioner is himself a member of the committee, the appeal shall lie to the Commissioner of the division or other officer empowered by the Local Government in this behalf.

(2) The appellate authority may, for sufficient cause, extend the period hereby allowed for appeal.

(3) The order of the appellate authority confirming, setting aside or modifying the order appealed against shall be final.

Provided that the order appealed against shall not be confirmed, set aside or modified until the appellant and the committee have had reasonable opportunity of being heard.

CHAPTER VI.

OFFENCES AND PENALTIES.

92. Whoever, without the permission in writing of the committee or in disregard of its orders, throws or deposits, or permits his servants or members of his household under his control to throw or deposit, earth or materials of any description, or refuse, rubbish or offensive matter of any kind, upon any public street or place, or into any public sewer or drain or any drain communicating therewith, shall be punished with fine which may extend to twenty rupees.

93. Whoever, without the permission in writing of the committee, causes or allows the water of any sink, or of any cesspool, or of any

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(Chapter VI.—Offences and Penalties.—Section 123. (Chapter VII.—
Control.—Sections 124-128.)

so fixed was a reasonable time within the meaning of this Act.

[Act XIII,
1884, s. 145.]

123. Any prosecution for an offence punishable under section 114, or section 121, or section 122, when the order which has been disobeyed is appealable, shall, when the Magistrate learns that an appeal has been instituted from the order which has been disobeyed, be suspended pending the decision of the appeal; and, if the order is set aside on appeal, disobedience thereto shall not be deemed an offence against the section.

CHAPTER VII.

CONTROL.

[Act XIII,
1884, s. 146.]

124. The Commissioner of the division or the Deputy Commissioner of the district (not being a member of the committee) may—

- (a) enter on and inspect, or cause to be entered on and inspected, any immovable property situate within the limits of his division or district and occupied by any committee or joint committee, or any work in progress within those limits under the direction of a committee or joint committee;
- (b) by order in writing call for and inspect any book or document in the possession or under the control of any committee or joint committee having authority within those limits;
- (c) by order in writing require any such committee or joint committee to furnish such statements, accounts, reports and copies of documents relating to the proceedings or duties of the committee or joint committee as he may think fit to call for; and
- (d) record in writing, for the consideration of any such committee or joint committee, any observations which he may think proper in regard to the proceedings or duties of the committee.

[Act XIII,
1884, s. 147.]

125. (1) The Commissioner of the division or the Deputy Commissioner of the district may, by order in writing, suspend within the limits of the division or district, as the case may be, the execution of any resolution or order of a committee or joint committee, or prohibit the doing within those limits of any act which is about to be done, or is being done, in pursuance of or under cover of this Act, if, in his opinion, the resolution, order or act is in excess of the powers conferred by law, or the execution of the resolution or order, or the doing of the act, is likely to lead to a breach of the peace, or to cause injury or annoyance to the public or to any class or body of persons.

(2) When a Commissioner or Deputy Commissioner makes any order under this section, he shall forthwith forward a copy thereof, with a statement of his reasons for making it, to the Local Government, which may thereupon rescind the order, or direct that it continue in force with or without modification, permanently or

126. (1) In cases of emergency the Deputy Commissioner of the district may provide for the execution of any work or the doing of any act which a committee is empowered to execute or do, and the immediate execution or doing of which is in his opinion necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act shall be forthwith paid by the committee.

(2) If the expense is not so paid, the Deputy Commissioner may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or as much thereof as is, from time to time, possible, from the balance, in priority to any or all other charges against the same.

(3) The Deputy Commissioner shall forthwith report to the Commissioner of the division every case in which he uses the powers conferred on him by this section.

127. (1) If at any time it appears to the Local Government that a committee has made default in performing any duty imposed on it by or under this or any other Act, the Local Government may, by order in writing, fix a period for the performance of that duty.

(2) If that duty is not performed within the period so fixed, the Local Government may appoint the Deputy Commissioner of the district to perform it, and may direct that the expense of performing it shall be paid, within such time as the Local Government may fix, to the Deputy Commissioner by the committee.

(3) If the expense is not so paid, the Deputy Commissioner, with the previous sanction of the Local Government, may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or so much thereof as is, from time to time, possible, from the balance, in priority to any or all other charges against the same.

128. (1) If at any time it appears to the Local Government that a committee is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this or any other Act for the time being in force, or exceeds or abuses its powers, the Local Government may, with the previous approval of the Governor General in Council, by an order published in the official Gazette, declare the committee to be incompetent or in default, or to have exceeded or abused its powers, as the case may be, and supersede it for a period to be specified in the order.

(2) When a committee is so superseded, the following consequences shall ensue:—

- (a) all members of the committee shall, as from the date of the order, vacate their offices as such members;
- (b) all powers and duties of the committee may, during the period of supersession, be exercised and performed by such person or persons as the Local Government may direct.

*The Central Provinces Municipal Bill.**(Chapter VII.—Control—Sections 129-130. Chapter VIII.—Supplemental.—Sections 131-134.)*

(c) all property vested in the committee shall, during the period of supersession, vest in Her Majesty.

(3) On the expiration of the period of supersession specified in the order, the committee shall be re-constituted, and the persons who vacated their offices under sub-section (2), clause (a), shall not be deemed disqualified for being members.

[Act 1883, s. 64; Act 1884, s. 54.] XV. 129. (1) The Local Government may frame forms for any proceedings of a committee for which it considers that forms should be provided, and may make rules consistent with this Act—

- (a) for the assessment and collection of taxes imposed under this Act, and for preventing evasion of the same;
- (b) as to the authority on which money may be paid from the municipal fund;
- (c) as to the conditions on which property vested in the committee or placed under its management by the Local Government may be transferred by sale, mortgage, charge, lease, exchange or otherwise;
- (d) as to the qualifications requisite in the case of persons appointed by the committee to offices requiring professional skill;
- (e) as to the intermediate office or offices, if any, through which correspondence between committees and the Local Government or its officers, and representations addressed under this Act to the Local Government, are to pass;
- (f) as to the preparation of plans and estimates for works which are to be partly or wholly constructed at the expense of committees, and as to the authority by whom, and the conditions subject to which, such plans and estimates may be sanctioned;
- (g) as to the accounts to be kept by committees, as to the manner in which such accounts are to be audited and published, and as to the power of the auditors in respect of disallowance and surcharge;
- (h) as to the preparation of estimates of income and expenditure of committees, and as to the authority by whom, and the conditions subject to which, such estimates may be sanctioned;
- (i) as to the sanction (if any) to be required before committees incur any expenditure;
- (j) as to the language in which the proceedings and correspondence of the committee are to be conducted and recorded;
- (k) as to the returns, statements and reports to be submitted by committees; and,
- (l) generally, for the guidance of committees and public officers in all matters connected with carrying out the purposes of this Act.

(2) In making rules under sub-section (1), clause (a), the Local Government may direct that a breach of any provision thereof shall be punished with fine which may extend to fifty rupees.

XIII, s. 155.] 130. In all matters connected with this Act the Local Government shall have and exercise over the Local Government and Commissioners.

missioners shall have and exercise over Deputy Commissioners, the same authority and control as they respectively have and exercise over them in the general and revenue administration.

CHAPTER VIII.

SUPPLEMENTAL.

Notices.

131. (1) Every notice issued by a committee under this Act or any rule thereunder shall be in writing, and shall be sufficiently authenticated by the signature of the president, vice-president or secretary, and may be served by being delivered to the person to whom it is addressed, or by being left at his usual place of abode or business with some adult male member or servant of his family or, if it cannot be so served, may be posted on some conspicuous part of his usual place of abode or business.

(2) If the usual place of abode or business of the person to whom the notice is addressed is not within the limits of the municipality, the notice may be served by posting it in a registered cover addressed to his usual place of abode.

(3) If the usual place of abode or business of the owner of any property is not known, every such notice addressed to him as such owner may be served on the occupier.

(4) If the usual place of abode or business of the occupier of any property is not known, every such notice addressed to him as such occupier may be served by posting it on some conspicuous part of the property.

(5) No notice issued by the committee under this Act or any rule thereunder shall be invalid for defect of form.

132. When any notice is under the provisions of this Act to be given to, or served on, the owner or occupier of any property and he is unknown, it may be given or served—

- (a) by delivering a written notice to some person on the property, or, if there is no person on the property to whom the notice can be delivered, by fixing it on some conspicuous part of the property; or
- (b) by putting into the post a prepaid letter containing a written notice, and addressed by the description of the "owner" or "occupier" of the property (naming it) in respect of which the notice is given, without further name or description.

133. Every public notice given by a committee under this Act or any rule thereunder shall be published by proclamation or in the prescribed manner.

Alteration of Limits of Municipality.

134. The Local Government may, by notification published in the official Gazette and in the prescribed manner within the local area affected, declare its intention—

- (a) to exclude from a municipality any local area comprised therein and defined in the notification or

*The Central Provinces Municipal Bill.**(Chapter VIII.—Supplemental.—Sections 135-144.)*

(b) to include within a municipality any local area situate in the vicinity thereof and defined in the notification:

Provided that, where the local area is a military cantonment or part of a military cantonment, a notification shall not be published under this section in respect of it without the previous sanction of the Governor General in Council.

[Act XV, 1883, s. 73.] 135. (1) Any inhabitant of a municipality or alteration of limits of local area in respect of which a notification has been published under the last foregoing section may, if he objects to the alteration proposed, submit his objection in writing to the Local Government within three months from the date of the publication of the notification in the Gazette, and the Local Government shall take his objection into consideration.

(2) When three months from such date have expired, and the Local Government has considered the objections, if any, which have been submitted under sub-section (1), the Local Government may, by a notification in the official Gazette, exclude the local area from the municipality or include it therein, as the case may be.

[Act XV, 1883, s. 74.] 136. (1) When a local area is excluded under the last foregoing section from a municipality,—

- (a) this Act and all rules, orders, bye-laws, directions and powers made, issued or conferred under this Act shall cease to apply thereto; and
- (b) the Local Government shall, after consulting the committee, frame a scheme determining what portion of the balance of the municipal fund and other property vested in Her Majesty for the benefit of the local area, and in what manner the liabilities of the committee shall be apportioned between the committee and the Secretary of State for India in Council, and, on the publication of the scheme in the local official Gazette, the property and liabilities shall vest and be apportioned accordingly.

(2) All property vested in Her Majesty under sub-section (1) shall be applied under the orders of the Local Government to discharging the liabilities imposed on the Secretary of State for India in Council under that sub-section, or for the promotion of the health, comfort, convenience or interest of the inhabitants of the local area.

[Act XV, 1883, s. 75.] 137. When a local area is included under section 135 in a municipality, this Act and all rules, orders, bye-laws, directions and powers made, issued or conferred under this Act and in force throughout the whole municipality at the time the local area is so included shall apply to the local area.

Miscellaneous.

[Act XV, 1883, s. 65.] 138. (1) If any member, officer or servant of a committee is, otherwise than with the permission in writing of the Commissioner of the division, directly or indirectly interested in

the committee, he shall be deemed to have committed an offence under section 168 of the Indian Penal Code.

(2) A person shall not by reason of being a shareholder in, or member of, any incorporated or registered company be held to be interested in any contract entered into between the company and the committee, but he shall not take part in any proceedings of the committee relating to any such contract.

139. A Court shall not take cognizance of an offence punishable only under this Act or a rule thereunder except on the complaint of the Deputy Commissioner or of the committee or of some person authorized either generally or specially by the Deputy Commissioner or the committee in this behalf.

140. Where any building or land, whether within or without the limits of a municipality, is required for the purposes of this Act, the Local Government may, at the request of the committee, proceed to acquire it under the provisions of the Land-acquisition Act, 1870, and, on payment by the committee of the compensation awarded under that Act, and of the charges incurred by the Government in connection with the proceedings, the land shall vest in the committee.

141. The power to make rules under section 7, section 84 or section 129 is subject to the condition of the rules being made after previous publication.

142. (1) When the supply of water in a municipality is derived from a reservoir situate beyond the limits of the municipality, the Local Government may make rules—

- (a) prohibiting the doing in the reservoir, or in or upon the catchment area thereof, any act by which the purity of the water or the safety of the reservoir may be impaired; and
- (b) regulating generally the conservancy of the reservoir and the catchment area.

(2) The Local Government may direct that the breach of any rule under sub-section (1) shall be punished with fine which may extend to two hundred rupees.

143. Nothing in this Act shall affect the Local Authorities Loan Act, 1879.

144. Every member of a committee constituted under this Act shall be deemed to be a municipal commissioner within the meaning of every enactment for the time being in force; and a Judge or Magistrate shall not be deemed to be a party to or to be personally interested within the meaning of section 555 of the Code of Criminal Procedure, 1882, in any prosecution for an offence punishable under this Act, or any rule thereunder, merely because he is a member of the committee by the order or with the approval of which the prosecution has

*The Central Provinces Municipal Bill.**(Chapter VIII.—Supplemental.—Sections 145-147.)*

[Act XIII, 1884, s. 170.] 145. (1) If the circumstances of any municipality are such that, in the opinion of the Local Government, any of the provisions of this Act are unsuited thereto, the Local Government may, by notification in the official Gazette, except the municipality from the operation of those provisions; and thereupon those provisions shall not apply to the municipality until again applied thereto by notification.

(2) While the exception remains in force, the Local Government may make rules for the guidance of the committee and public officers in respect of the matters excepted from the operation of the said provisions.

[Act XV, 1883, s. 79.] 146. (1) The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, withdraw any municipality from the operation of this Act.

(2) When a notification is issued under sub-section (1) in respect of any municipality, this Act and all rules, bye-laws, orders, directions and

powers made, issued or conferred under this Act shall cease to apply to the local area comprised in the municipality, the balance of the municipal fund and all other property which at the time of the issue of the notification is vested in the committee shall vest in Her Majesty, and the liabilities of the committee shall be transferred to the Secretary of State for India in Council.

(3) All property vested in Her Majesty under sub-section (2) shall be applied under the orders of the Local Government to discharge the liabilities imposed on the Secretary of State for India in Council by that sub-section, or for the promotion of the health, comfort, convenience or interest of the inhabitants of the local area comprised in the municipality.

147. Anything done or any proceedings taken under this Act shall not be questioned on account of any vacancy in a committee or joint committee, or on account of any defect or irregularity not affecting the merits of the case.

J. M. MACPHERSON,

Offg. Secretary to the Government of India.

The following Report of the Select Committee on the Bill to make better provision for Conservancy in villages in the Central Provinces was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 24th October, 1889:

We, the undersigned, Members of the Select Committee to which the Bill to make better provision for Conservancy in Villages in the Central Provinces was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

2. We have changed the title of the Act to the Central Provinces Village-sanitation Act.

3. In section 2 of the Bill we have substituted the words "a village containing not less than one hundred inhabited houses" for the words "a village containing not less than three hundred inhabitants." We think that the number of inhabited houses is a better condition for the application of the Act than the number of inhabitants.

4. At the suggestion of the Local Government we have in section 3 of the Bill given the Government power to constitute a panchayat consisting, where necessary, of more than five members.

5. In section 4 of the Bill we have substituted in clause (c) the words "roads in the village" for the words "village-communications", and we have struck out clause (d) as we consider that the aiding of village-schools does not fall properly within the scope of the measure, and that the money raised by taxation under the Act should be spent on the sanitation and improvement of the village.

6. To section 5 of the Bill we have added a sub-section providing that an assessment shall not be valid until it is confirmed by the Local Government.

7. In section 6 of the Bill we have inserted a clause giving the Local Government power to define the limits of villages for the purposes of the Act. We have also amended clause (a) of the section, as introduced, so as to enable the Government to fix the term of office of members of a panchayat and to provide for their removal from office when necessary. We have struck out clause (b) of the section as introduced as it is no longer required, and we have added a sub-section making arrears of taxes imposed under the Act realizable as arrears of land-revenue. In sub-section (2) of the same section we have reduced the maximum fine which may be imposed for a breach of a rule to ten rupees, which we consider will be a sufficient penalty.

8. We have made a few other amendments which it is unnecessary to specify. We are of opinion that the provisions of the Bill are calculated to effect an improvement in the sanitation of villages, but that caution and discretion will be required in choosing the villages to which the Act is to be extended and in supervising the working of its provisions.

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

In English.

<i>Gazette.</i>	<i>Date.</i>
Gazette of India	13th July, 1889.
Central Provinces Gazette	27th July, 1889.

In the Vernaculars.

<i>Gazette.</i>	<i>Language.</i>	<i>Date.</i>
Central Provinces Gazette	Maráthi	7th August, 1889.
	Hindi	11th September, 1889.

10. We think that the measure has not been so altered as to require re-publication, and we recommend that it be passed as now amended.

The 24th October, 1889.

R. J. CROSTHWAITE.

ANDREW R. SCOBLE.

PHIL. P. HUTCHINS.

MUHAMED ALI KHAN.

J. M. MACPHERSON.

Offg. Secretary to the Government of India.

No. II.

A Bill to make better provision for Sanitation in Villages in the Central Provinces.

WHEREAS it is expedient to make better provision for sanitation in villages in the Central Provinces; It is hereby enacted as follows:—

1. (1) This Act may be called the Central Provinces Village-sanitation Act, 1889.
Title, extent and commencement.

(2) It extends to the territories for the time being administered by the Chief Commissioner of the Central Provinces; and

(3) It shall come into force at once.

2. (1) When the sanitary condition of a village containing not less than one hundred inhabited houses and not being a municipality is, in the opinion of the Deputy Commissioner of the district in which the village is situate, such as to be injurious to the health of the inhabitants, he may by an order in writing, published in such manner as the Local Government may by rule prescribe, declare that the village is in an insanitary state.

(2) After the publication of the order the Local Government may—

(a) on the application of the mukaddam and ten or more other inhabitants of the village, or,

(b) if no such application is made within three months after the date of the publication of the order, on the application of the Deputy Commissioner,

by notification in the official Gazette extend to the village the provisions of this Act from such date as may be specified in the notification.

3. In every village to which this Act is extended a panchayat shall be formed, consisting of the mukaddam and such number of representatives of the village-community, not being less than four, as the Local Government may by rule prescribe, who shall be chosen by election from among the inhabitants of the village.

4. The panchayat shall, subject to the approval of the Deputy Commissioner, determine the sum which is annually required for the following purposes:—

(a) the proper cleansing and conservancy of the village;

(b) the provision and maintenance of a supply of wholesome water for the inhabitants of the village and their cattle;

(c) the maintenance of the roads in the village.

5. (1) The sum determined to be necessary under the last foregoing section shall be raised by the panchayat by an assessment on the houses and lands within the village with reference to the circumstances of, and property possessed by, the owners or occupiers of such houses and lands.

(2) An assessment shall not be valid until it has been sanctioned by the Local Government.

6. (1) The Local Government may make rules—
Powers of Local Government to make rules.

(a) defining the limits of villages for the purposes of the Act;

(b) regulating the mode of election and the proceedings of the panchayats, the term of office of members of a panchayat and the circumstances under which, and the authority by whom, they may be removed;

(c) limiting the amount of tax and regulating its assessment, realization, safe custody and application and the auditing of the accounts thereof;

(d) regulating the village-conservancy and defining and prohibiting public nuisances; and,

(e) generally, for giving effect to the purposes of this Act.

(2) The Local Government may, in making such rules, direct that the breach of any provision thereof shall be punished with fine which may extend to ten rupees.

(3) Arrears of taxes imposed under this Act may, subject to the rules, if any, made under this section, be realized by the Deputy Commissioner as arrears of land-revenue.

7. The Local Government may direct that the provisions of this Act shall cease to have operation in any village from a date to be fixed by the Local Government, and may make over any moneys in the hands of the panchayat to the district council or local board having authority under the Central Provinces Local Self-government Act, 1883.

8. While the provisions of this Act are in force in any village, the authority of the district council or local board under section 9 of the Central Provinces Local Self-government Act, 1883, shall be suspended in respect of all matters made over to the management of the panchayat.

J. M. MACPHERSON,

Offg. Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, DECEMBER 21, 1889.

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 20th December, 1889:—

NO. 16 OF 1889.

A Bill to amend Act XXV of 1867.

WHEREAS it is expedient to amend Act XXV of 1867 (*an Act for the regulation of Printing-presses and Newspapers, for the preservation of copies of books printed in British India, and for the registration of such books*); It is hereby enacted as follows:—

Repeal of part of preamble to Act XXV, 1867.

1. In the preamble to the said Act the word "three" is hereby repealed.

2. In section 1 of the said Act, in the definition of the word "Magistrate" the words "and a Justice of the Peace" are hereby repealed.

Repeal of part of section 1, Act XXV, 1867.

3. In section 6 of the said Act, for the words "other Court within the local limits of whose ordinary original civil jurisdiction" the words "other principal Civil Court of original jurisdiction for the place where" shall be substituted.

Amendment of section 6, Act XXV, 1867.

Substitution of new Part for Part III, Act XXV, 1867.

"9. Printed or

Copies of books printed after commencement of Act to be delivered gratis to Government.

4. For Part III (sections 9, 10 and 11) of the said Act the following shall be substituted, namely:—

"9. Printed or lithographed copies of the whole of every book, which shall be printed or lithographed in British India after this Act shall come

into force, together with all maps, prints or other engravings belonging thereto, finished and coloured in the same manner as the best copies of the same shall be produced, and also of any second or subsequent edition which shall be so produced with any additions or alterations, whether the same shall be in letter-press or in the maps, prints or other engravings belonging thereto, and whether the first edition of such book shall have been produced before or after this Act shall come into force, shall, notwithstanding any agreement (if the book be published) between the printer and publisher thereof, be delivered by the printer at such place and to such officer as the Local Government shall, by notification in the official Gazette, from time to time direct, and free of expense to the Government, as follows, that is to say:—

(a) in any case, within one calendar month after the day on which any such book shall first be delivered out of the press, two such copies, and,

(b) if within one calendar year from such day the Local Government shall so require, then within one calendar month after the day on which such requisition shall be made on the printer, another such copy, or other such copies not exceeding two in number, as the Local Government may direct,

the copies so delivered being bound, sewed or stitched together and upon the best paper on which any copies of the book shall be printed or lithographed.

"The publisher or other person employing the printer shall, at a reasonable time before the expiration of the said month, supply him with all maps, prints and engravings finished and coloured as aforesaid, which may be necessary to enable him to comply with the requirements aforesaid."

"Nothing in the former part of this section shall apply to any periodical work published in conformity with the rules laid down in section 5 of this Act.

"10. The officer to whom a copy of a book is delivered under the last foregoing section shall give to the printer a receipt in writing therefor.

"11. Of the two copies delivered pursuant to clause (a) of the first paragraph of section 9 of this Act one shall be disposed of as the Governor General of India in Council shall from time to time, by general or special order, direct, and the other shall be deposited in such public library, or be otherwise disposed of, as the Local Government shall from time to time determine.

Any copy or copies delivered pursuant to clause (b) of the said paragraph shall be transmitted to the British Museum or the Secretary of State for India, or to the British Museum and the said Secretary of State, as the case may be."

5. In sections 12, 13, 14 and 15 of the said Act the words "on conviction before a Magistrate" are hereby repealed.

6. For sections 16 and 17 of the said Act the following shall be substituted, namely:—

"16. If any printer of any such book as is referred to in section 9 of this Act, or of any second or subsequent edition of any such book, shall neglect to deliver copies of the same pursuant to that section, he shall for every such default forfeit to the Government such sum not exceeding fifty rupees as a Magistrate having jurisdiction in the place where the book was printed may, on the application of the officer to whom the copies should have been delivered or of any

person authorised by that officer in this behalf, determine to be in the circumstances a reasonable penalty for the default, and, in addition to such sum, such further sum as the Magistrate may determine to be the value of the copies which the printer ought to have delivered.

"If any publisher or other person employing any such printer shall neglect to supply him, in the manner prescribed in the second paragraph of section 9 of this Act, with the maps, prints or engravings which may be necessary to enable him to comply with the provisions of that section, such publisher or other person shall for every such default forfeit to the Government such sum not exceeding fifty rupees as such a Magistrate as aforesaid may, on such an application as aforesaid, determine to be in the circumstances a reasonable penalty for the default, and, in addition to such sum, such further sum as the Magistrate may determine to be the value of the maps, prints or engravings which such publisher or other person ought to have supplied.

"17. Any sum forfeited to the Government under the last foregoing section may be recovered, under the warrant of the Magistrate determining the sum or of his successor in office, in the manner authorised by the Code of Criminal Procedure for the time being in force, and within the period prescribed by the Indian Penal Code, for the levy of a fine under the warrant of the Magistrate imposing the fine or of his successor in office.

"All fines or forfeitures under this Part of this Act shall, when recovered, be disposed of as the Local Government shall from time to time direct."

7. In section 18 of the said Act, for the words and figure "pursuant to section 9" the words, letter and figure "pursuant to clause (a) of the first paragraph of section 9" shall be substituted.

8. Section 22 of the said Act is hereby repealed.

STATEMENT OF OBJECTS AND REASONS.

The principal objects of this Bill are—

- to reduce, from three to two, the number of the copies of every book which are to be delivered by the printer to the Government;
- to authorize the Local Government to require the delivery of additional copies for transmission to the British Museum and the Secretary of State; and
- to abrogate the rule that copies delivered under the Act shall be paid for by the Government.

Two copies of every book are required for preservation in India, and, if the book is deemed by the trustees of the British Museum and the Secretary of State to be a work which ought to be preserved in England also, additional copies are required for transmission to the Museum and the India Office.

In England the copies which are required by the Statute 5 & 6 Vict., cap. 45, to be presented to the British Museum without demand, and to the Bodleian Library at Oxford, the Public Library at Cambridge, the Faculty of Advocates at Edinburgh and Trinity College, Dublin, on demand, have to be delivered to those institutions without payment; and it appears to the Government that the time has come for requiring the presentation, without payment, of such copies as may be required by Indian law to be delivered to the order of the Local Government. When the Bill which became Act XXV of 1867 was introduced, it was feared that the obligation to pay for copies delivered might lead to extravagant demands being made on the Government, and this apprehension has been realized.

The other objects of the Bill are to repeal certain portions of the Act of 1867 which have become obsolete (sections 2, 5 and 8), to indicate the District Court as the Court in which, beyond the limits of the presidency-towns, one of the originals of the declaration made under section 5 of the Act is to be deposited (section 3) and to amend the expression of sections 16 and 17 of the Act (section 6).

The 19th December, 1889.

PHIL. P. HUTCHINS.

S. HARVEY JAMES.

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