1897

APRIL

MADRAS RECORD OFFICE

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

The following Report of the Select Committee on the Bill to provide for the vesting and administration of property held in trust for charitable purposes was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 21st February 1890 :—

We, the undersigned, Members of the Select Committee to which the Bill to provide for the vesting and administration of property held in trust for charitable purposes was referred, have considered the Bill and the papers noted in the margin, and have now the honor to submit this our Report, with the Bill as amended by us annexed thereto.

Endorsement by Assistant Secretary to Government of India, Department of Finance and Commerce, dated 14th June 1889, and enclosure [Papers No. 1].
From Registrar, High Court, Calcutta, No. 1865, dated 7th August 1889 [Paper No. 2].
From Chief Commissioner, Ajmere-Merwara, No. 936—690, dated 28th August 1889 [Paper No. 3].
From Chief Commissioner, Coorg, No. 1323—869, dated 28th August 1889, and enclosure [Papers No. 4].
From Officiating Secretary to Chief Commissioner, Assam, No. 3303, dated 31st August 1889, and enclosure [Papers No. 5].
From Officiating Chief Secretary to Chief Commissioner, Burma, No. 23—16 L., dated 2nd September 1889, and enclosures [Papers No. 6].
From Chief Secretary to Government, Madras, No. 1526, dated 4th September 1889, and enclosures [Papers No. 7].
From Secretary for Berar to Resident, Hyderabad, No. 357 G., dated 14th September 1889, and enclosures [Papers No. 8].
From Under Secretary to Chief Commissioner, Central Provinces, No. 5909—283, dated 2nd October 1889 [Paper No. 9].
From Officiating Secretary to Government, Bengal, No. 2[illegible] T.—R., dated 3rd October 1889, and enclosures [Papers No. 10].
From Secretary to Government, Punjab, No. [illegible]5 S., dated 27th September 1889, and enclosures [Papers No. 11].
From Chief Secretary to Government, Bombay, No. 4084, dated 8th October 1889, and enclosures [Papers No. 12].
From Chief Secretary to Government, North-Western Provinces and Oudh, No. 2282—III-719 A., dated 18th November 1889, and enclosures [Papers No. 13].

2. *Section* 2.—We have amended the definition of the expression "charitable purpose" in accordance with a suggestion made by the Hon'ble Mr. Justice Mahmud.

3. *Section* 4.—We have made it clear that a Treasurer of Charitable Endowments is not to be an administering trustee of property vested in him as such Treasurer.

4. *Section* 5.—We have provided more fully here for the appointment of administering trustees, and the revision and protection of schemes settled under the section.

5. *Section* 10.—We have here provided for the vesting in administering trustees of property of which a Treasurer of Charitable Endowments has been divested by a direction of the Government.

6. *Section* 13.—We have here specified some of the matters respecting which rules should, in our opinion, be made by the Governor-General in Council, and have included a power to prescribe fees to be paid to the Government in respect of property vested in Treasurers of Charitable Endowments.

7. *Section* 14.—In settling this section we have had regard to the expression of section 226 of the Municipal Corporations Act, 1882 (45 and 46 Vict., cap. 50), to which, and to the cases on which that section was based, our attention was directed by Mr. Collier, the Collector of the 24-Pergunnahs.

8. The other amendments are few and unimportant and do not appear to us to call for remark.

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

In English.

Gazette.	Date.
Gazette of India	15th June 1889.
Fort St. George Gazette	9th July 1889.
Bombay Government Gazette	20th June 1889.
Calcutta Gazette	26th June 1889.
North-Western Provinces and Oudh Government Gazette.	22nd June 1889.

In English—continued.

Gazette.	Date.
Punjab Government Gazette	20th June 1889.
Central Provinces Gazette	29th June 1889.
Burma Gazette	6th July 1889.
Assam Gazette	6th July 1889.
Coorg District Gazette	1st July 1889.
Sind Official Gazette	18th July 1889.

In the Vernaculars.

Province.	Language.	Date.
Madras	Kanarese	30th July 1889.
	Tamil	6th August 1889.
	Telugu	6th August 1889.
	Malayalam	3rd September 1889.
	Hindustani	17th September 1889.
Bombay	Marathi	18th July 1889.
	Gujarathi	18th July 1889.
	Kanarese	25th July 1889.
Bengal	Bengali	23rd July 1889.
	Uriya	25th July 1889.
	Hindi	20th August 1889.
North-Western Provinces and Oudh.	Urdu	13th July 1889.
Punjab	Urdu	25th July and 1st and 8th August 1889.
Burma	Burmese	17th August 1889.
Assam	Bengali	3rd August 1889.
Coorg	Kanarese	2nd September 1889.
Sind	Sindhi	25th July 1889.

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

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

The 19th February 1890.

No. II.

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:—

Title, extent and commencement.

1. (1) This Act may be called the Charitable Endowments Act, 1890.

(2) It extends to the whole of British India, *inclusive of Upper Burma and British Baluchistan*; and

(3) It shall come into force on the first day of *October*, 1890.

Definition.

2. In this Act "charitable purpose" includes relief of the poor, education, medical relief and the advancement of any other object of general public utility, but does not include *a purpose which relates exclusively to religious teaching or worship*.

Appointment and incorporation of Treasurer of Charitable Endowments.

3. (1) The Governor-General in Council may appoint *an officer* 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 *under the authority of this Act*, be a corporation sole by the name of the Treasurer of Charitable Endowments for the territories subject to the Local Government, and, *as such Treasurer*, shall have perpetual succession and a corporate seal, and may sue and be sued in his corporate name.

Orders vesting property in Treasurer.

4. (1) 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 *other* provisions of *this section*, order, by notification in the official Gazette, that the property be vested in the Treasurer of Charitable Endowments on such terms *as to the application of the property or the income thereof* 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) *When any property has vested under this section in a Treasurer of Charitable Endowments, he is entitled to all documents of title relating thereto.*

(3) A Local Government shall not make an order under sub-section (1) for the vesting in *a* 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.

(4) *An order under this section vesting property in a Treasurer of Charitable Endowments shall not require or be deemed to require him to administer the property, or impose or be deemed to impose upon him the duty of a trustee with respect to the administration thereof.*

Schemes for administration of property vested in the Treasurer.

5. (1) *On* application made as hereinafter mentioned, and with the concurrence of the person or persons making the application, *the Local Government, if it thinks fit, may* settle a scheme for the administration of any property which has been or is to be vested in the Treasurer of Charitable Endowments, *and may in such scheme appoint, by name or office, a person or persons, not being or including such Treasurer, to administer the property.*

(2) *On application made as hereinafter mentioned, and with the concurrence of the person or persons making the application, the Local Government may, if it thinks fit, modify any scheme settled under this section or substitute another scheme in its stead.*

(3) A scheme settled, *modified or substituted under this section shall, subject to the other provisions of this section*, 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 *it has been modified or* another such scheme has been substituted in its stead.

(4) Such a scheme, *when it comes into operation*, shall supersede any *decree or* direction relating to the subject-matter thereof *in so far as such decree or direction is* in any way repugnant thereto and its validity shall not be questioned in any Court, *nor shall any Court give, in contravention of the provisions of the scheme, or in any way contrary or in addition thereto, a decree or direction regarding the administration of the property to which the scheme relates.*

(5) 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.

(6) 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 *come* into operation until the property has become so vested.

Mode of applying for vesting orders and schemes.

6. (1) The application referred to in the two last foregoing sections must 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.

Exercise by Governor-General in Council of powers of Local Government.

7. (1) The Governor-General in Council may exercise 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.

Bare trusteeship of Treasurer.

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.

(2) Such Treasurer shall keep a separate account of each property for the time being so vested in so far as *the property* consists of securities for money, and shall *apply the property or the income thereof* 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.

(3) In the case of any property so vested other than securities for money, such Treasurer shall, subject to any special order which he may receive from the *authority by whose order the property became vested in him*, 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.

Annual publication of list of properties vested in Treasurer.

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.

Limitation of functions and powers of Treasurer.

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 (3), clause (*a*), (*b*), (*c*), (*d*), or (*e*), or in the purchase of immoveable property.

(3) *When a Treasurer of Charitable Endowments is divested, by a direction of the Local Government or the Governor-General in Council under this section, of any property, it shall vest in the person or persons acting in the administration thereof and be held by him or them on the same trusts as those on which it was held by such Treasurer.*

Provision for continuance of office of Treasurer in certain contingencies.

11. If the office held by *an officer* 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 *officer* 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.

Transfer of property from one Treasurer to another.

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.

Power to frame forms and make rules.

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 *may* make such rules consistent with this Act as he may deem expedient for—

(*a*) *prescribing the Local Government which is to exercise the powers conferred by this Act in the case of property which is, or is situated, in territories subject to two or more Local Governments,*

(*b*) *prescribing the fees to be paid to the Government in respect of any property vested under this Act in a Treasurer of Charitable Endowments,*

(*c*) *regulating the cases and mode in which schemes or any modifications thereof are to be published before they are settled or made under section* 5, .

(*d*) *prescribing the forms in which accounts are to be kept by Treasurers of Charitable Endowments, and the mode in which such accounts are to be audited, and,*

(*e*) *generally, carrying* into effect the purposes *of this Act.*

Indemnity to Government and Treasurer.

14. No suit shall be instituted against the Government in respect of anything done or purporting to be done under this Act, *or in respect of any alleged neglect or omission to perform any duty devolving on the Government under this Act, or in respect of the exercise of, or the failure to exercise, any power conferred by this Act on the Government, nor shall any suit be instituted* 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 income thereof, where the loss or misapplication has been occasioned by or through his wilful neglect or default.

Saving with respect to Advocate-General and Official Trustee.

15. Nothing in this Act shall be construed to impair the operation of section 111 of the Statute 53, 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.

General controlling authority of Governor-General in Council.

16. *A Local Government shall, in the exercise of its powers under this Act, be subject to the control of the Governor-General in Council.*

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

(Republished by order of the Right Honorable the Governor in Council.)

J. GROSE,
Ag. Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

The following Report of the Select Committee on the Bill to amend Acts VI and VII of 1884 was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 14th February 1890:—

We, the undersigned, Members of the Select Committee to which the Bill to amend Acts VI and VII of 1884 was referred, have considered the Bill and the papers noted in the margin, and have now the honor to submit this our Report, with the Bill as revised by us annexed thereto.

From Registrar, High Court, Calcutta, No. 1851, dated 6th August 1889 [Paper No. 1].
From Officiating Secretary to Chief Commissioner, Burma, No. 722—28 M.S., dated 22nd August 1889 [Paper No. 2].
From Chief Secretary to Government, Madras, No. 1441, dated 20th August 1889, and enclosures [Papers No. 3].
From Officiating Joint Secretary to Government, Bengal, Public Works Department, No. 2025, dated 3rd September 1889, and enclosures [Papers No. 4].
Resolutions by Government, Bombay, Marine Department, No. 273, dated 4th September 1889, and enclosures, and No. 279, dated 11th September 1889 [Papers No. 5].

2. We have made no material alterations in the clauses which were in the Bill as introduced, but we have made several additions to that Bill.

3. We have proposed in section 1 of the Bill as revised by us to substitute for the definition of "inland water" the definition of that expression which has recently been adopted by the Select Committee on the Indian Railways Bill.

4. We have provided by sections 2, 3, 4 (1), 5, 8, 14, 15, 16, 17 (1), 18, 21 and 22 of the same Bill that the fee now charged for a certificate of survey shall be payable when a survey is held, whether a certificate is given or not.

5. We have also provided by sections 7 and 20 of the same Bill that a fee at a rate not exceeding twice the ordinary rate may be charged for a second survey held at the instance of an owner or master dissatisfied with the declaration on a previous survey.

6. We have provided by sections 9, 10 and 11 of the same Bill for the grant of certificates of service by Local Governments in cases in which masters, engineers and engine-drivers of inland steam-vessels might be prejudicially affected by the delay which has occurred in the enforcement of rules for their examination.

7. We have proposed in section 12 of the same Bill that a power be conferred on Local Governments to make rules requiring (*a*) inland steam-vessels to be provided with a sufficient quantity of fresh water, where necessary, for the use of passengers, and (*b*) the price of passenger-tickets for journeys by such vessels to be printed or otherwise denoted on the tickets.

8. We have considered a proposal made by the Government of Bengal that there be three standards of qualification for, and three classes of, masters and engineers of inland steam-vessels, and that regard be had to tonnage instead of nominal horse-power in determining the size of the vessel in which each class of master or engineer may be employed. The proposal has not been considered by the Government of Bombay or by the Chief Commissioner of Burma, and has been received with disfavor by some of the principal representatives of the inland steam-navigation companies in Calcutta. We have therefore not given effect to it.

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

In English.

Gazette.	Date.
Gazette of India	6th July 1889.
Fort Saint George Gazette	23rd July 1889.
Bombay Government Gazette	11th July 1889.
Calcutta Gazette	17th July 1889.
Burma Gazette	27th July 1889.

In the Vernaculars.

Province.	Language.	Date.
Bombay	Marathi	1st August 1889.
	Gujarathi	1st August 1889.
Bengal	Hindi	23rd July 1889.
	Bengali	30th July 1889.
	Uriya	1st August 1889.

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

D. BARBOUR.
ANDREW R. SCOBLE.
PHIL. P. HUTCHINS.
R. J. CROSTHWAITE.
A. WILSON.

The 13th February 1890.

No. II.

A Bill to amend Acts VI and VII of 1884.

WHEREAS it is expedient to amend the Inland Steam-vessels Act, 1884, and the Indian Steamships Act, 1884, *in manner hereinafter appearing*: It is hereby enacted as follows:—

Inland Steam-vessels Act, 1884.

Amendment of section 5 (3), Act VI, 1884.

1. *For the definition of "inland water" in section* 5, *clause* (3), *of the Inland Steam-vessels Act*, 1884, *the following shall be substituted, namely*:—

"(3) "*inland water*" *means any canal, river, lake or navigable water in British India*:".

Insertion of new section after section 8.

2. *After section* 8 *of the said Act the following shall be inserted, namely*:—

Fees in respect of surveys.

"8*A*. *Before a survey under this Act is commenced, the owner or master of the steamvessel to be surveyed shall pay to such officer as the Local Government, from time to time, appoints in this behalf*—

(*a*) *a fee calculated on the tonnage of the steamvessel according to the rates in the second schedule hereto annexed, or according to any other prescribed rates; and,*

(*b*) *when the survey is to be made in any place of survey other than Calcutta, Madras, Bombay or Rangoon, such additional fee in respect of the expense* (*if any*) *of the journey of the surveyor to the place as the Local Government, from time to time, by notification in the official Gazette, directs.*"

Repeal of part of section 10 (3), Act VI, 1884.

3. *In section* 10, *sub-section* (3), *of the said Act the words "in addition to the fee payable for the certificate" are hereby repealed.*

Amendment of, and addition to, section 11, Act VI, 1884.

4. (1) *In section* 11, *sub-section* (1), *of the said Act the words "fees and other" are hereby repealed.*

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

"(4) The Local Government may, *from time to time*, delegate,—

(*a*) with the previous sanction of the Governor-General in Council, to any person, *by name or as holding an office*, the function, assigned to *the Local Government* by sub-section (1), of granting a certificate of survey under that sub-section;

(*b*) of its own authority, to any person, *by name or as holding an office*, the function, assigned to *the Local Government* 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."

Repeal of section 12, Act VI, 1884.

5. *Section* 12 *of the said Act is hereby repealed.*

Amendment of section 17, Act VI, 1884.

In section 17 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.

Amendment of section 19, Act VI, 1884.

7. *In section* 19, *sub-section* (1), *of the said Act, after the words "on the application of the owner or master" the words "and the payment by him of such fee, not exceeding twice the amount of the fee for the previous survey as the Local Government may require" shall be inserted.*

Amendment of section 21, Act VI, 1884.

8. *In section* 21, *sub-section* (2), *clause* (*d*), *of the said Act, for the words "for certificates of survey" the words "in respect of surveys" shall be substituted.*

Insertion of new section after section 25, Act VI, 1884.

9. *After section* 25 *of the said Act the following shall be inserted, namely*:—

Grant of certificates of service.

"25*A*. (1) *The Local Government may in its discretion grant without examination to any person who has served as a master, or as an engineer, or as an engine-driver, of an inland steamvessel before the first day of April* 1890, *a certificate of service to the effect that he may act as a first-class or second-class master, or as an engineer, or as an engine-driver, as the case may be, of an inland steamvessel.*

(2) *A certificate of service so granted shall have the same effect as a certificate of competency granted under this Act after examination.*"

Amendment of section 26, Act VI, 1884.

10. *In section* 26 *of the said Act the words "or service" shall be inserted after the word "competency".*

Addition to section 29, Act VI, 1884.

11. *To section* 29 *of the said Act the following shall be added, namely*:—

"*The Local Government may also make rules with respect to the grant of certificates of service under this Act, and may by such rules*—

(*a*) *fix the fees to be paid for such certificates, and*

(*b*) *prescribe the form in which such certificates are to be framed and the manner in which the copy of the certificate which is kept by the Local Government is to be recorded.*"

Addition to Chapter VII, Act VI, 1884.

12. *To Chapter VII of the said Act the following shall be added, namely*:—

Power of Local Government to make rules for protection of passengers.

"51*A*. (1) *The Local Government may also make rules for the protection of passengers in inland steam-vessels, and may by such rules require, among other matters, a sufficient quantity of fresh water to be provided free of charge in such vessels for the use of passengers, and the prices of passenger-tickets to be printed or otherwise denoted on such tickets.*

(2) *Any rule under this section may contain a provision that any owner, master or passenger committing a breach of it shall be punished with fine which may extend to fifty rupees.*"

Insertion of new section after section 54, Act VI, 1884.

13. After section 54 of the said Act the following shall be inserted, namely:—

Penalty for having excessive number of passengers on board.

"54A. If an inland steam-vessel has on board thereof or on or in any part thereof a number 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."

Amendment of heading to second schedule, Act VI, 1884.

14. *In the second schedule to the said Act, for the words and figures "See section* 12" *the words, figures and letter "See section* 8*A" shall be substituted.*

Indian Steamships Act, 1884.

Insertion of new section after section 10, Act VII, 1884.

15. *After section* 10 *of the said Act the following shall be inserted, namely*:—

Fees in respect of surveys.

"10*A*. *Before a survey under this Act is commenced, the owner or master of the steamship to be surveyed shall pay to such officer as the Local Government, from time to time, appoints in this behalf*—

(*a*) *a fee calculated on the tonnage of the steamship according to the rates in the schedule hereto annexed or according to any other prescribed rates; and*

(*b*) *when the survey is to be made in any port of survey other than Calcutta, Madras, Bombay or Rangoon, such additional fee, in respect of the expense* (*if any*) *of the journey of the surveyor to the port, as the Local Government, from time to time, by notification in the official Gazette, directs.*"

Repeal of part of section 12 (3), Act VII, 1884.

16. *In section* 12, *sub-section* (3), *of the said Act, the words "in addition to the fee payable for the certificate" are hereby repealed.*

Amendment of, and addition to, section 13, Act VII, 1884.

17. (1) *In section* 13, *sub-section* (1), *of the said Act the words "fees and other" are hereby repealed.*

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

"(4) The Local Government may, *from time to time*, delegate,—

(*a*) with the previous sanction of the Governor-General in Council, to any person, *by name or as holding an office*, the function, assigned to *the Local Government* by sub-section (1), of granting a certificate of survey under that sub-section;

(*b*) of its own authority, to any person, *by name or as holding an office*, the function, assigned to *the Local Government* 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."

Repeal of section 14, Act VII, 1884.

18. *Section* 14 *of the said Act is hereby repealed.*

Amendment of section 19, Act VII, 1884.

19. 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.

Amendment of section 21, Act VII, 1884.

20. *In section* 21, *sub-section* (1), *of the said Act, after the words "on the application of the owner or master," the words "and the payment by him of such fee, not exceeding twice the amount of the fee for the previous survey, as the Local Government may require," shall be inserted.*

Amendment of section 24, Act VII, 1884

21. *In section* 24, *sub-section* (2), *clause* (*d*), *for the words "for certificates of survey" the words "in respect of surveys" shall be substituted.*

Amendment of heading to second schedule, Act VII, 1884.

22. *In the schedule to the said Act, for the words and figures "See section* 14" *the words, figures and letter "See section* 10*A" shall be substituted.*

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

(Republished by order of the Right Honorable the Governor in Council.)

J. GROSE,
Ag. Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

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 February 1890 :—

No. 4 OF 1890.

A Bill to amend Acts I of 1859, *VII of* 1880 *and V of* 1883.

WHEREAS it is expedient to amend Act I of 1859 (*for the amendment of the law relating to Merchant Seamen*), the Indian Merchant Shipping Act, 1880, and the Indian Merchant Shipping Act, 1883, in manner hereinafter appearing; It is hereby enacted as follows :—

Act I of 1859.

Addition of section after section 24, Act I, 1859.

1. After section 24 of Act I of 1859 the following shall be inserted, viz. :—

Renewal of running agreements in certain cases.

"24A. (1) When a running agreement with the crew of a foreign-going ship has been made under section 23 and the ship arrives after the next following thirtieth day of June or thirty-first day of December at a port of destination in India which is not the port therein at which the crew have agreed to be discharged, the master may, with the previous sanction of the shipping-master, renew the agreement with the crew, or may be required by the shipping master so to renew the agreement, for the voyage from such port of destination to the port in India at which the crew have agreed to be discharged.

"(2) If the master of the ship is required by the shipping-master to renew the agreement as aforesaid and refuses so to renew it, any expenses which may be incurred by the Government for the subsistence of the crew and their conveyance to the port at which they have agreed to be discharged shall be a charge upon the ship, and shall be recoverable as if they were expenses incurred in respect of distressed seamen under the provisions of Chapter III of the Indian Merchant Shipping Act, 1880."

Amendment of section 115, Act I, 1859.

2. To section 115 of the same Act the following shall be added, namely :—

"and for the repayment to the Secretary of State for India in Council of all expenses which may be incurred by the Government in respect of any such lascar or other native seaman who may be discharged or left behind at any port out of India and becomes distressed and is relieved under the provisions of the Merchant Shipping Act, 1854, section 211, and the enactments amending the same."

The Indian Merchant Shipping Act, 1880.

Amendment of section 74, Act VII, 1880.

3. In section 74 of the Indian Merchant Shipping Act, 1880, after the words "so appointed" the words "or bringing within such limits any wreck which has been found and taken possession of elsewhere" shall be inserted.

The Indian Merchant Shipping Act, 1883.

Amendment of section 6, Act V, 1883.

4. To section 6 of the Indian Merchant Shipping Act, 1883, the following shall be added, namely :—

"(4) The word 'coasts' in this section includes the coasts of creeks and tidal rivers."

Now sub-section substituted for sub-section (1) of section 7, Act V, 1883.

5. For sub-section (1) of section 7 of the same Act the following shall be substituted, namely :—

Power for Local Government to appoint Special Court of Investigation.

"If the Local Government to which the report or notice prescribed by the last foregoing section has been made or given, or within whose territories any competent witnesses of any such loss, abandonment, stranding, damage or casualty as is described in clause (*a*), (*b*), (*c*), or (*d*) of sub-section (1) of the same section have arrived or are to be found, or any evidence of such supposed loss as is described in clause (*e*) of the same sub-section can be obtained, is of opinion that a formal investigation into the facts mentioned in any of the said clauses is requisite or expedient, such Local Government may appoint a special Court, consisting of not less than two nor more than four persons, and direct that Court to make the investigation, and may fix the place for making the same."

Amendment of section 8, Act V, 1883.

6. In section 8 of the same Act, after the words "Local Government" the words "or by such officer as the Local Government has empowered in this behalf" shall be inserted.

Amendment of section 20, Act V, 1883.

7. In section 20 of the same Act, clause (*a*) and the proviso shall be repealed.

Addition of section after section 24, Act V, 1883.

8. After section 24 of the same Act the following shall be added, namely :—

"24A. (1) Notwithstanding anything in the foregoing provisions of this Act, a certificate (whether of competency or service) which has been granted by any Local Government to a master, mate or engineer, but has not been granted under the provisions of the Merchant Shipping (Colonial) Act, 1869, or of any Order in Council under the said Act, may, if a Court conducting an investigation under this Act finds that the loss, stranding or abandonment of or damage to any ship, or loss of life, has been caused by the wrongful act or default of the master, mate or engineer, or that he is incompetent or has been guilty of any gross act of drunkenness, tyranny or other misconduct, be suspended or cancelled by the Court:

Power to Court to suspend or cancel certificates granted by Local Government.

"Provided that the Court shall not suspend or cancel a certificate unless the holder of the certificate was furnished before the commencement of the investigation with the copy of the report or statement required by section 9 or section 10, as the case may be.

"(2) At the conclusion of the investigation, or as soon afterwards as possible, the Court shall state in open sitting the decision to which it may have come with respect to the cancelment or suspension of any certificate.

"(3) A master, mate or engineer whose certificate has been cancelled or suspended by the Court shall, on demand by the Court, deliver the certificate to the Court, and the Court shall forward it to the Local Government together with the report which it is required by section 17, sub-section (1), to transmit to that Government.

"(4) A master, mate or engineer failing to deliver a certificate as required by sub-section (3) shall be punished with fine which may extend to five hundred rupees.

"(5) The duties imposed and powers conferred by sections 22, 23 and 24 on the Local Government which cancels or suspends a certificate shall, when a Court has under this section cancelled or suspended a certificate, be performed and exercised by the Local Government to which the Court has forwarded the certificate under sub-section (3), as if such Local Government had itself cancelled or suspended the certificate under section 20."

STATEMENT OF OBJECTS AND REASONS.

The objects of this Bill are the following:—

(*a*) to amend Act I of 1859 (*for the amendment of the law relating to Merchant Seamen*) so as to make it lawful for the master of a foreign-going ship, when the term of a running agreement has expired at a port in India which is not also the port at which the crew have agreed to be discharged, to renew the agreement, with the sanction of the shipping-master at the port at which the agreement has expired, for the voyage from that port to the port in India which is the port of discharge agreed to by the crew (section 1);

(*b*) to provide in section 115 of the same Act for the indemnification of the State against expenses incurred in the relief of lascars left abroad by masters of foreign vessels (section 2);

(*c*) to provide, in amendment of section 74 of the Indian Merchant Shipping Act, 1880, that all wreck found outside, but brought within, the local limits for which a Receiver of Wreck has been appointed, as well as wreck found within those limits, shall be delivered to the Receiver (section 3);

(*d*) to explain that the word "coasts" in section 6 of the Indian Merchant Shipping Act, 1883, includes the coasts of creeks and tidal rivers (section 4);

(*e*) to provide in Chapter II of the same Act for giving power to a Local Government to convene a Court of Investigation into a casualty which has occurred in the jurisdiction of, or been reported to, another Local Government, when it may be advisable to hold such a Court by reason of the witnesses being within the jurisdiction of the Local Government or for other sufficient cause (section 5);

(*f*) to provide in section 8 of the same Act that the Governor of Bombay in Council may delegate to the Political Resident at Aden his powers under that section in respect of investigations at Aden into shipping casualties (section 6); and

(*g*) to provide, in amendment of Chapter III of the same Act, that Courts of Investigation may cancel or suspend local certificates of competency or service as they may now cancel or suspend Board of Trade and Colonial certificates.

2. These amendments of Act I of 1859 and the Indian Merchant Shipping Acts of 1880 and 1883 have been shown by experience to be either necessary or desirable.

D. BARBOUR.

The 7th February 1890.

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

(Republished by order of the Right Honorable the Governor in Council.)

J. GROSE,
Ag. Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

The following Report of the Select Committee on the Bill to amend Acts XVII of 1864, X of 1865, II of 1874 and V of 1881 was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 31st January 1890:—

We, the undersigned, Members of the Select Committee to which the Bill to amend Acts XVII of 1864, X of 1865, II of 1874 and V of 1881 was referred, have considered the Bill and the papers noted in the margin, and have now the honor to submit this our Report, with the Bill as amended by us annexed thereto.

Endorsement by Under Secretary to Government of India, Home Department, No. 1249, dated 31st August 1889, and enclosure [Papers No. 1].
From Chief Commissioner, Coorg, No. 1652—1699 E.-I, dated 22nd October 1889, and enclosure [Papers No. 2].
From Secretary for Berar to Resident, Hyderabad, No. 412 G., dated 6th November 1889, [Paper No. 3].
From Officiating Secretary to Chief Commissioner, Assam, No. 4022, dated 5th November 1889 [Paper No. 4].
From Chief Commissioner, Ajmere-Merwara, No. 8C.—690, dated 11th November 1889, and enclosure [Papers No. 5].
From Chief Secretary to Government, Madras, No. 1933, dated 12th November 1889, and enclosures [Papers No. 6].
From Administrator-General, Bengal, dated 12th November 1889 [Paper No. 7].
From Under Secretary to Chief Commissioner, Central Provinces, No. 6786—359, dated 18th November 1889 [Paper No. 8].
From Acting Secretary to Government, Bombay, No. 6059, dated 15th November 1889, and enclosures [Papers No. 9].
From Officiating Secretary to Government, Punjab, No. 1280, dated 27th November 1889, and enclosures [Papers No. 10].
From Chief Secretary to Government, Bengal, No. J.-19-A. 217, dated 30th November 1889, and enclosures [Papers No. 11].
From Officiating Secretary to Chief Commissioner, Burma, No. 1230—2—L., dated 29th November 1889 [Paper No. 12].
From Official Trustee, Bengal, No. 13, dated 3rd December 1889 [Paper No. 13].
From the Right Honorable the Secretary of State for India, No. 28, dated 14th November 1889 [Paper No. 14].
From Registrar, High Court, Calcutta, No. 2532, dated 6th December 1889, and enclosure [Papers No. 15].
From Secretary to Government, North-Western Provinces and Oudh, No. 884—VII—230B., dated 9th December 1889, and enclosures [Papers No. 16].
From Secretary to Government, North-Western Provinces and Oudh, No. 64—VII—230B., dated 18th January 1890, and enclosure [Papers No. 17].

2. We have provided by section 6 of the Bill as revised that the High Court, when appointing under section 10 of Act XVII of 1864 the Official Trustee to be the trustee of property which is already subject to a trust, may, for special reasons to be recorded by the Court, declare the Official Trustee to be entitled to commission at higher rates than those now permissible under section 11 of the Act.

3. By sections 7 and 14 of the Bill as revised we have provided for the submission by Administrators-General and Official Trustees of such returns and statements as the Government may require from them. By section 7 we have also provided for the future division of the Presidency of Bengal into Provinces for the purposes of Act XVII of 1864 in the same manner as the Bill had already provided for the future division of that Presidency into Provinces for the purposes of Act II of 1874.

4. By section 10 of the Bill as revised we have, on geographical, military and other considerations, included British Baluchistan in the Presidency of Bombay.

5. By section 13 of the Bill as revised we have proposed to authorize District Judges in charge of the property of deceased persons under section 64 of Act II of 1874 to make payments thereout for certain emergent purposes.

6. The other amendments of the Bill are unimportant and do not call for remark.

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

In English.

Gazette.	Date.
Gazette of India	31st August 1889.
Fort Saint George Gazette	17th September 1889.
Bombay Government Gazette	5th September 1889.
Calcutta Gazette	11th September 1889.
North-Western Provinces and Oudh Government Gazette.	7th September 1889.

In English—continued.

Gazette.	Date.
Punjab Government Gazette	5th September 1889.
Central Provinces Gazette	14th September 1889.
British Burma Gazette	21st September 1889.
Assam Gazette	21st September 1889.
Coorg District Gazette	1st October 1889.

In the Vernaculars,

Province.	Language.	Date.
Bombay	Marathi ..	17th October 1889.
	Gujarathi ..	17th October 1889.
	Kanarese ..	17th October 1889.
Bengal	Uriya ..	26th September 1889.
	Bengali ..	8th October 1889.
	Hindi ..	8th October 1889.
North-Western Provinces and Oudh,	Urdu ..	2nd November 1889.
Punjab	Urdu ..	7th November 1889.
Assam	Bengali ..	19th October 1889.

8. 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.
R. J. CROSTHWAITE.
K. L. NULKAR.

27th January 1890.

No. II.

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.

Addition to section 1, Act XVII, 1864.

1. In section 1 of Act XVII of 1864, before the definition of the expression "High Court," *the following shall be inserted*, namely:—

"Government."

"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:".

Insertion of new section after section 1, Act XVII, 1864.

2. *After section 1 of the said Act the following shall be inserted, namely:—*

Construction of references to Presidencies.

"2. *In this Act references to the Presidency of Fort William in Bengal, the Presidency of Fort St. George and the Presidency of Bombay shall, as regards all persons for whom the Governor-General in Council has for the time being power to make laws and regulations, be read as references to the Presidency of Bengal, the Presidency of Madras and the Presidency of Bombay, respectively, as those expressions are severally defined in the law for the time being in force relating to the office and duties of Administrator-General.*"

Substitution of new section for section 5.

3. For section 5 of the said Act the following shall be substituted, namely:—

Appointment, suspension and removal of Official Trustees.

"5. Every Official Trustee appointed under this Act shall be appointed and may be suspended or removed from his office by the Government."

Amendment of section 6, Act XVII, 1864.

4. In section 6 of the said Act, for the words "Chief Justice by whom he is appointed" the word "Government" shall be substituted.

Amendment of section 7, Act XVII, 1864.

5. 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,".

Addition to section 11, Act XVII, 1864.

6. *To section 11 of the said Act the following shall be added, namely:—*

"*Provided that the High Court, by its order appointing the Official Trustee to be trustee of such property, may, for special reasons to be recorded by the Court, direct that the Official Trustee shall be entitled by way of remuneration, in respect of the capital moneys, sums and rents aforesaid, or any of them, to a commission at rates or a rate to be specified in the order and exceeding the rates or rate hereinbefore in this section prescribed.*"

Addition of sections to Act XVII, 1864.

7. *To the said Act, after section 32, the following shall be added, namely:—*

Compliance with requisitions for returns.

"33. *The Official Trustee shall comply with such requisitions as may be made by the Government for returns and statements, in such form and manner as the Government may deem proper.*

Division of the Presidency of Fort William in Bengal into provinces.

"34. (1) *Notwithstanding anything in the foregoing provisions of this Act, the Governor-General in Council, upon the occurrence of any vacancy in the office of the Official Trustee of Bengal, may, by notification in the Gazette of India—*

(*a*) *divide the Presidency of Fort William in Bengal into so many Provinces as he thinks fit,*

(*b*) *define the limits of each of those provinces, and,*

(*c*) *appoint an Official Trustee for each province,*

and, subject to the provisions of this section, the following consequences shall thereupon ensue, namely:—

(*i*) *the Office of Official Trustee of Bengal shall cease to exist:*

(*ii*) *the Official Trustee 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 Official Trustee of Bengal had and performed as Official Trustee therein:*

(*iii*) *the functions of the Government under this Act shall, as regards the territories and dominions included in the 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 of Judicature at Fort William in Bengal 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:*

(*v*) *in the foregoing provisions of this Act, the word 'Presidency' shall be deemed to include a Province, the expression 'Chief Justice' the Chief Justice, senior Judge or sole Judge, as the case may be, of a High Court appointed by the Governor-General in Council under clause (iv) of this sub-section, and the expression 'Advocate General' a Government Advocate or other officer appointed by the Governor General in Council to discharge for a Province the functions under this Act of an Advocate-General for a Presidency: and,*

(*vi*) *generally, the provisions of the foregoing sections and of any other enactment for the time being in force with respect to the Official Trustee of Bengal shall, in relation to a Province, be construed, so far as may be, to apply to the Official Trustee appointed for the province under this section.*

2. *Any proceeding which was commenced before the publication of the notification dividing the Presidency of Fort William in Bengal into provinces, and to or in which the Official Trustee 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 Official Trustee 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 Official Trustee of Bengal, and shall hold and execute the trusts of which immediately before the publication of the notification the Official Trustee of Bengal was trustee in all respects as if he were such successor.*

(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)."

Official Trustees holding office at commencement of this Act.

8. 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.

Addition of new section after section 326, Act X, 1865.

9. After section 326 of the Indian Succession Act, 1865, the following shall be inserted, namely:—

Transfer of assets from British India to executor or administrator in country of domicile for distribution.

"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 *have* been a grant of probate or letters of administration in British India with respect to the assets there and *a grant of administration* 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 *after 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."

The Administrator-General's Act, 1874.

Amendment of definitions of "Presidency of Bengal" and "*Presidency of Bombay*" in section 3, Act II, 1874.

10. In clause (*b*) of the definition of the expression "Presidency of Bengal" in section 3 of the Administrator-General's Act, 1874, the word "Burma" shall be substituted for the words "British Burma," *and to clause (a) of the definition of the expression "Presidency of Bombay" in the same section of that Act the words and under the administration of the Chief Commissioner of British Baluchistan" shall be added.*

Substitution of new paragraph for first paragraph of section 37, Act II, 1874.

11. (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;".

(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.

Addition of new section after section 41, Act II, 1874.

12. After section 41 of the said Act the following 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 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 *after* 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."

Transfer of certain assets from British India to executor or administrator in country of domicile for distribution.

Addition to section 64, Act II, 1874.

13. *To section 64 of the said Act the following shall be added, namely :—*

"The District Judge may cause to be paid out of any property of which he or such officer has charge, or out of the proceeds of such property or of any part thereof, such sums as may appear to him to be necessary for all or any of the following purposes, namely :—

(a) the payment of the expenses of the funeral of the deceased and of obtaining probate of his will or letters of administration to his estate and effects,

(b) the payment of wages due for services rendered to the deceased within three months next preceding his death by any labourer, artisan or domestic servant, and

(c) the relief of the immediate necessities of the family of the deceased,

and nothing in section 279, section 280 or section 281 of the Indian Succession Act, 1865, or in any other law for the time being in force with respect to rights of priority of creditors of deceased persons, shall be held to affect the validity of any payment so caused to be made."

Addition to Part VI, Act II, 1874.

14. *To Part VI, and after section 66, of the said Act the following shall be added, namely :—*

Compliance with requisitions for returns.

"67. The Administrator-General shall comply with such requisitions as may be made by the Government for returns and statements, in such form and manner as the Government may deem proper."

Addition to Act II, 1874, of a Part respecting the division of the Presidency of Bengal into Provinces.

15. To the said Act, after Part VI and section 67 thereof, the following shall be added, namely :—

"PART VII.

DIVISION OF THE PRESIDENCY OF BENGAL INTO PROVINCES.

Division of the Presidency of Bengal into Provinces.

68. (1) Notwithstanding anything in the foregoing provisions of this Act, the Governor-General in Council, upon the occurrence 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 sub-section, and the expression 'Advocate-General' a Government Advocate or other officer appointed by the *Governor-General in Council* 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."

The Probate and Administration Act, 1881.

Addition of new section after section 145, Act V, 1881.

16. After section 145 of the Probate and Administration Act, 1881, the following shall be inserted, namely :—

Transfer of assets from British India to executor or administrator in country of domicile for distribution.

"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 *have* been a grant of probate or letters of administration in British India with respect to the assets there and *a grant of administration* 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 *after 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."

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

(Republished by order of the Right Honorable the Governor in Council.)

J. GROSE,
Ag. Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

The following Report of the Select Committee on the Bill to consolidate, amend and add to the Law relating to Railways in India was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 14th February 1890:—

WE, the undersigned, Members of the Select Committee to which the Bill to consolidate, amend and add to the Law relating to Railways in India 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 Secretary to Chief Commissioner, Coorg, No. 2147—2178, dated 11th December, 1888 [Paper No. 1].
From Chief Commissioner, Ajmere-Merwára, No. 1426—690, dated 17th December, 1888 [Paper No. 2].
Office Memorandum from Government of India, Public Works Department, No. 048 R.T., dated 8th December, 1888, and enclosures [Papers No. 3].
From Chief Secretary to Government, Madras, No. 2605, dated 21st December, 1888, and enclosures [Papers No. 4].
Office Memorandum from Government of India, Public Works Department, No. 0105 R.T., dated 29th December, 1888, and enclosures [Papers No. 5].
Office Memorandum from Government of India, Public Works Department, No. 0126 R.T., dated 5th January, 1889, and enclosures [Papers No. 6].
From Secretary, British Indian Association, dated 10th January, 1889, and enclosure [Papers No. 7].
From Officiating Chief Secretary to Chief Commissioner, Burma, No. 259—18 L., dated 11th January, 1889, and enclosures [Papers No. 8].
From Mr. Noor Khan, Police Inspector, Surat Division, Bombay, Baroda and Central India Railway, dated 19th January, 1889 [Paper No. 9].
From Under Secretary to Chief Commissioner, Central Provinces, No. 4671—15, dated 23rd January, 1889, and enclosures [Papers No. 10].
From Secretary for Berar to Resident, Hyderabad, No. 24 G., dated 21st January, 1889, and enclosures [Papers No. 11].
Office Memorandum from Government of India, Public Works Department, No. 0204 R.T., dated 29th January, 1889, and enclosures [Papers No. 12].
From Secretary to Government, Punjab, No. 122, dated 29th January, 1889, and enclosures [Papers No. 13].
Office Memorandum from Government of India, Public Works Department, No. 0234 R.T., dated 12th February, 1889, and enclosure [Papers No. 14].
Memorandum from Government of India, Public Works Department, No. 0327 R.T., dated 12th March, 1889, and enclosures [Papers No. 15].
Memorandum from Government of India, Public Works Department, No. 0348 R.T., dated 15th March, 1889, and enclosures [Papers No. 16].
From Officiating Secretary to Chief Commissioner, Assam, No. 1269, dated 4th May, 1889 [Paper No. 17].
Office Memorandum from Government of India, Public Works Department, No. 150 R.T., dated 16th May, 1889, and enclosures [Papers No. 18].
From Secretary to Government, North-Western Provinces and Oudh, No. 974—VI-258B., dated 11th May, 1889, and enclosures [Papers No. 19].
Office Memorandum from Government of India, Public Works Department, No. 297 R.T., dated 3rd July, 1889, and enclosure [Papers No. 20].
Office Memorandum from Government of India, Public Works Department, No. 676 R.C., dated 19th July, 1889, and enclosures [Papers No. 21].
From Registrar, High Court, Calcutta, No. 2225, dated 26th September, 1889 [Paper No. 22].
From Acting Secretary to Government, Bombay, No. 4332, dated 16th August, 1889, and enclosure [Papers No. 23].
From Acting Secretary to Government, Bombay, No. 3635, dated 24th October, 1889, and enclosure [Papers No. 24].
Office Memorandum from Government of India, Public Works Department, No. 679 R.T., dated 31st October, 1889, and enclosures [Papers No. 25].
From the Hon'ble Sir Dinshaw Manockjee Petit, Kt., dated 27th November, 1889 [Paper No. 26].
From Registrar, High Court, Calcutta, No. 2531, dated 6th December, 1889 [Paper No. 27].
Office Memorandum from Government of India, Public Works Department, No. 098 R.T., dated 24th December, 1889, and enclosures [Papers No. 28].

2. The opinions received respecting the Bill were very numerous and valuable, and have suggested to us alterations in many sections. These alterations are indicated in italics in the copy of the Bill annexed to this Report, and the more important of them will now be noticed as far as possible in the order in which they occur.

3. *Section I, sub-section* (2).—The mention of Upper Burma is rendered desirable by the terms of the Upper Burma Laws Act, 1886; and the mention of British Baluchistan, and the manner in which that mention is made, are suggested by the terms of the British Baluchistan Laws Regulation, 1890, and of the Sindh-Pishin Railway Act, 1887.

4. *Section* 2.—After much consideration we have been compelled to the conclusion that a clause saving existing contracts, such as has been proposed by several railway companies, ought not to be inserted in the Bill. Such a clause might bring each railway company under a different law, and would certainly cause great inconvenience. Each company might claim to interpret the Act according to its view of its rights under its contract, and the attempt to do this, even if not successful, might very seriously impair the operation of those parts of the proposed Act which deal with the creation of traffic facilities and with the prevention of undue preference. The powers which it is proposed to take in India are the same as it has been found necessary to take in England for the protection of the public, and so far as appears, without any prejudicial effect on the interests of railway companies. In India the exercise of those powers is scarcely likely to be as frequent as in England, and it may reasonably be presumed their operation will produce equally satisfactory results. The provisions of the Bill, we may add, are in our opinion rather supplementary to, than in conflict with, those of the earlier contracts, which relate almost exclusively to the management of the individual railways and not to their relations with other lines. In later contracts those provisions have been substantially introduced.

5. *Section* 3.—We have inserted in this section definitions of "inland water" and "maund." We have also made more clear the intendment of sub-clause (*d*) in the definition of "railway."

6. *Section* 7.—We have subjected to the control of the Governor-General in Council the exercise by railway administrations of the powers conferred upon them by this section.

7. *Section* 8.—We have made provision here for the alteration of the position of pipes for the supply of compressed air, and of the position of electric wires.

8. *Section* 10.—We have recast this section with a view to making it more effectual for its purpose, and have supplemented it by a definition of "Collector" in section 3.

9. *Section* 11.—We have provided in sub-section (3), clause (*b*), that a railway administration may be required by the Governor-General in Council to execute accommodation works after ten years from the opening of a railway. It has been urged that a mischief caused by a line of railway to the land adjoining it does not in some cases become known till many years after the construction of the line.

10. *Section* 12.—In this section we have provided for cases in which the Government or a local authority may desire to construct a road across, under or over a railway.

11. *Section* 26.—We have made no alteration in the proposed constitution of Railway Commissions. It appears to us that the interest which the Government has in all railways is itself a strong reason for the constitution of an independent tribunal presided over by a Judge of high rank.

12. *Sections* 30 *and* 36.—We have provided in the latter of these sections for the more effectual enforcement of injunctions made under the former of them.

13. *Section* 41.—We have by this section made it clear that no suit or other proceeding can be instituted or taken in any Civil Court for anything done, or any omission made, by a railway administration in violation or contravention of any of the new provisions respecting traffic facilities.

14. *Section* 42, *sub-section* (4).—We have added to the proviso a clause in the terms of 51 and 52 Vict., c. 25, s. 25 (9), and have left it to the Governor-General in Council to determine in each case whether or not any question as to a proposed through rate shall be referred to a Railway Commission.

15. *Section* 44.—We have limited the effect of this section, with respect to the carriage of traffic by a vessel which is not part of a railway, to carriage for the purposes of the traffic of a railway.

16. *Section* 47.—We have in this section provided for the making of rules with respect to the carriage by railway of persons suffering from infectious or contagious disorders, and the disinfection of carriages which have been used by such persons, and we have recognised the practice of departmental fines which obtains universally on Indian railways.

17. *Section* 54.—We have subjected to the control of the Governor-General in Council the power of railway administrations to impose conditions for working traffic.

18. *Section* 56.—We have provided in this section that, before any unclaimed animals or goods in the possession of a railway administration are sold, a notice shall be served on the owner, if he is known, requiring him to remove the animals or goods within a reasonable time.

19. *Sections* 58, 78 *and* 106.—We have recast much of these sections with the object of making their operation less oppressive to the public, while sufficiently protective of the interests of railway administrations.

20. *Section* 60.—We have endeavoured to remove the objections which have been taken to the application to India of all the provisions of the English Acts of 1873 and 1888 respecting the preparation and maintenance of rate-books, and the keeping of them open to the inspection of the public.

21. *Sections* 64 *and* 95.—We have made provision here for the reservation of compartments for the convenience and exclusive use of females.

22. *Section* 80.—We have made fuller provision in this section as to the railway administration which may be sued in respect of loss or injury occurring in the course of through traffic.

23. *Section* 81.—We have here defined the responsibility of administration for loss or injury to traffic which the railway administration has procured to be carried by a vessel which is not part of a railway, where the loss or injury occurs in such a vessel.

24. *Section* 91.—We have followed English law in annexing a penalty to refusal or neglect on the part of a railway administration to comply with a decision of the Governor-General in Council on a difference regarding the conduct of joint traffic with safety to the public.

25. *Section* 104.—We have proposed to make it an offence for a railway servant to keep a level-crossing closed against the public when it is unnecessary for him to do so.

26. *Section* 113.—We have limited the amount which may be levied by way of excess charge under this section.

27. *Section* 132.—We have endeavoured here, by calling in aid certain provisions of the Code of Criminal Procedure, 1882, to remove difficulties which have been experienced in the working of the corresponding section in the Indian Railway Act, 1879.

28. The other amendments of the Bill are numerous, but do not appear to us to call for special remarks.

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

In English.

Gazette.	*Date.*
Gazette of India	27th October, 1888.
Fort Saint George Gazette	13th November, 1888.
Bombay Government Gazette	8th November, 1888.
Calcutta Gazette	7th November, 1888.
North-Western Provinces and Oudh Government Gazette	3rd November, 1888.
Punjab Government Gazette	1st November, 1888.
Central Provinces Gazette	10th November, 1888.
British Burma Gazette	17th November, 1888.
Assam Gazette	10th November, 1888.
Coorg District Gazette	1st December, 1888.

In the Vernaculars.

Province.	*Language.*	*Date.*
Madras	Tamil	12th February, 1889.
	Kanarese	26th February, 1889.
	Telugu	19th March, 1889.
	Hindustáni	7th May, 1889.
	Malayalam	14th May, 1889.
Bombay	Maráthi	7th March, 1889.
	Gujaráthi	7th March, 1889.
	Kanarese	11th April, 1889.
Bengal	Bengali	16th April, 1889.
North-Western Provinces and Oudh.	Urdu	26th January, 1889.
Assam	Bengali	4th May, 1889.
Coorg	Kanarese	1st April, 1889.

30. 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.
C. A. ELLIOTT.
PHIL. P. HUTCHINS.
ANANDA GAJAPATI RAZU.
R. J. CROSTHWAITE.
A. WILSON.

The 12th February, 1890.

No. II.

THE INDIAN RAILWAYS BILL

(*as revised by Select Committee*).

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No. II.

A Bill to consolidate, amend and add to the law relating to Railways in India.

WHEREAS it is expedient to consolidate, amend and add to the law relating to railways in India; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (1) This Act may be called the Indian Railways Act, 1890.

(2) It extends to the whole of British India, *inclusive of Upper Burma and (in so far as it has been or may be extended under the provisions of the Sindh-Pishin Railway Act*, 1887) *of British Baluchistan* and applies *also* to all subjects of Her Majesty within the dominions of Princes and States in India in alliance with Her Majesty, and to all Native subjects of Her Majesty without and beyond British India and those dominions; and

(3) It shall come into force on the first day of April, 1890.

Repeal.

2. (1) On and from that day the enactments specified in the first schedule are repealed to the extent mentioned in the third column thereof.

(2) But all rules, declarations and appointments made, *sanctions and directions given*, forms approved, powers conferred and notifications published under any of those enactments, or under any enactment repealed by any of them, shall, so far as they are consistent with this Act, be deemed to have been respectively made, *given*, approved, conferred and published under this Act.

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

Definitions.

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

(1) "tramway" means a tramway constructed under the Indian Tramways Act, 1886, or any special Act relating to tramways:

(2) "ferry" includes a bridge of boats, pontoons or rafts, a swing-bridge, a flying bridge and a temporary bridge, and the approaches to, and landing-places of, a ferry:

(3) "*inland water*" *means any canal, river, lake or navigable water in British India:*

(4) "railway" means a railway, or any portion of a railway, for the public carriage of passengers, animals or goods, and includes—

(*a*) all land within the fences or other boundary-marks indicating the limits of the land appurtenant to a railway;

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

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

(*d*) all ferries, ships, boats and rafts which are used on inland waters for the purposes of the traffic of a railway and *belong to or are hired or worked by* the authority administering the railway:

(5) "railway company" includes any persons, whether incorporated or not, who are owners or lessees of a railway or parties to an agreement for working a railway;

(6) "railway administration" or "administration," in the case of a railway administered by the Government or a Native State, means the Manager of the railway and includes the Government or the Native State, and, in the case of a railway administered by a railway company, means the railway company:

(7) "railway servant" means any person employed by a railway administration in connection with the service of a railway:

(8) "Inspector" means an Inspector of Railways appointed under this Act:

(9) "goods" includes inanimate things of every kind:

(10) "rolling-stock" includes locomotive engines, tenders, carriages, wagons, trucks and trollys of all kinds:

(11) "traffic" includes rolling-stock of every description as well as passengers, animals and goods:

(12) "through traffic" means traffic which is carried over the railways of two or more railway administrations:

(13) "rate" includes any fare, charge or other payment for the carriage of any passenger, animal or goods:

(14) "terminals" includes charges in respect of stations, sidings, wharves, depôts, warehouses, cranes, and other similar matters, and of any services rendered thereat:

(15) "pass" means an authority given by a railway administration, or by an officer appointed by a railway administration in this behalf, and authorising the person to whom it is given to travel as a passenger on a railway gratuitously:

(16) "ticket" includes a single ticket, a return ticket and a season ticket:

(17) "*maund*" *means a weight of three thousand two hundred tolas, each tola being a weight of one hundred and eighty grains Troy: and*

(18) "*Collector*" *means the chief officer in charge of the land revenue administration of a district, and includes any officer specially appointed by the Local Government to discharge the functions of a Collector under this Act.*

CHAPTER II.

INSPECTION OF RAILWAYS.

Appointment and duties of Inspectors.

4. (1) The Governor-General in Council may appoint persons, by name or by virtue of their office, to be Inspectors of Railways.

(2) The duties of an Inspector of Railways shall be—

(*a*) to inspect railways with a view to determine whether they are fit to be opened for the public carriage of passengers, and to report thereon to the Governor-General in Council as required by this Act;

(*b*) to make such periodical or other inspections of any railway or of any rolling-stock used thereon as the Governor-General in Council may direct;

(*c*) to make inquiry under this Act into the cause of any accident on a railway;

(*d*) to perform such other duties as are imposed on him by this Act or any other enactment for the time being in force relating to railways.

Powers of Inspectors.

5. An Inspector shall, for the purpose of any of the duties which he is required or authorised to perform under this Act, be deemed to be a public servant within the meaning of the Indian Penal Code, and, subject to the control of the Governor-General in Council, shall for that purpose have the following powers, namely:—

(*a*) to enter upon and inspect any railway or any rolling-stock used thereon;

(*b*) by an order in writing under his hand addressed to the railway administration, to require the attendance before him of any railway servant, and to require answers or returns to such inquiries as he thinks fit to make from such railway servant or from the railway administration;

(*c*) to require the production of any book or document belonging to or in the possession or control of any railway administration (except a communication between a railway company and its legal advisers) which it appears to him to be necessary to inspect.

Facilities to be afforded to Inspectors.

6. A railway administration shall afford to the Inspector all reasonable facilities for performing the duties and exercising the powers imposed and conferred upon him by this Act.

CHAPTER III.

CONSTRUCTION AND MAINTENANCE OF WORKS.

Authority of railway administrations to execute all necessary works.

7. (1) Subject to the provisions of this Act and, *in the case of immoveable property not belonging to the railway administration, to the provisions* of any enactment for the time being in force for the acquisition of land for public purposes and for companies, and, subject also, in the case of a railway company, to the provisions of any contract between the company and the Government, a railway administration may, for the purpose of constructing a railway or the accommodation or other works connected therewith, and notwithstanding anything in any other enactment for the time being in force,—

(*a*) make or construct in, upon, across, under or over any lands, or any streets, hills, valleys, roads, railways or tramways, or any rivers, canals, brooks, streams or other waters, or any drains, water-pipes, gas-pipes or telegraph lines, such temporary or permanent inclined planes, arches, tunnels, culverts, embankments, aqueducts, bridges, roads, ways, passages, conduits, drains, piers, cuttings and fences as the railway administration thinks proper;

(*b*) alter the course of any rivers, brooks, streams or watercourses, for the purpose of constructing and maintaining tunnels, bridges, passages or other works over or under them, and divert or alter, as well temporarily as permanently, the course of any rivers, brooks, streams or watercourses or any roads, streets or ways, or raise or sink the level thereof, in order the more conveniently to carry them over or under or by the side of the railway, as the railway administration thinks proper;

(*c*) make drains or conduits into, through or under any lands adjoining the railway for the purpose of conveying water from or to the railway;

(*d*) erect and construct such houses, warehouses, offices and other buildings *and* such yards, stations, wharves, engines, machinery, apparatus and other works and conveniences as the railway administration thinks proper;

(*e*) alter, repair or discontinue such *buildings, works and conveniences* as aforesaid or any of them, and substitute others in their stead; and

(*f*) do all other acts necessary for making, maintaining, altering or repairing and using the railway.

(2) *The exercise of the powers conferred on a railway administration by sub-section* (1) *shall be subject to the control of the Governor-General in Council.*

Alteration of pipes, *wires* and drains.

8. A railway administration may, for the purpose of exercising the powers conferred upon it by this Act, alter the position of any pipe for the supply of gas, *water or compressed air or the position of any electric wire or* of any drain not being a main drain:

Provided that—

(*a*) when the railway administration desires to alter the position of any such pipe, *wire* or drain it shall give reasonable notice of its intention to do so, and of the time at which it will begin to do so, to the local authority or company having control over the pipe, *wire* or drain, or, when the pipe, *wire* or drain is not under the control of a local authority or company, to the person under whose control the pipe, *wire* or drain is;

(*b*) a local authority, company or person receiving notice under proviso (*a*) may send a person to superintend the work, and the railway administration shall execute the work to the reasonable satisfaction of the person so sent *and shall make arrangements for continuing during the execution of the work the supply of gas, water, compressed air or electricity or the maintenance of the drainage, as the case may be.*

Temporary entry upon land for repairing or preventing accident.

9. (1) The Governor-General in Council may authorise any railway administration, in case of any slip or other accident happening or being apprehended to any cutting, embankment or other work under the control of the railway administration, to enter upon any lands adjoining its railway for the purpose of repairing or preventing the accident, and to do all such works as may be necessary for the purpose.

(2) In case of necessity the railway administration may enter upon the lands and do the works aforesaid without having obtained the previous sanction of the Governor-General in Council, but in such a case shall, within seventy-two hours after such entry, make a report to the Governor-General in Council, specifying the nature of the accident or apprehended accident, and of the works necessary to be done, and the power conferred on the railway administration by this sub-section shall cease and determine if the Governor-General in Council, after considering the report, considers that the exercise of the power is not necessary for the public safety.

Payment of compensation *for damage caused by lawful* exercise of powers under section 7, 8 or 9.

10. (1) A railway administration shall do as little damage as possible in the exercise of the powers conferred by any of the three last foregoing sections, and *compensation shall be paid for any damage caused by the exercise thereof.*

(2) *A suit shall not lie to recover such compensation, but in case of dispute the amount thereof shall, on application to the Collector, be determined and paid in*

accordance, so far as may be, with the provisions of sections 11 *to* 15, *both inclusive, and sections* 18 *to* 42, *both inclusive, of the Land Acquisition Act,* 1870, *and the provisions of sections* 57 *and* 58 *of that Act shall apply to the award of compensation.*

Accommodation works.

11. (1) A railway administration shall make and maintain the following works for the accommodation of the owners and occupiers of lands adjoining the railway, namely :—

(*a*) such and so many convenient crossings, bridges, arches, culverts and passages over, under or by the sides of, or leading to or from, the railway as may, in the opinion of the Governor-General in Council, be necessary for the purpose of making good any interruptions caused by the railway to the use of the lands through which the railway is made, and

(*b*) all necessary arches, tunnels, culverts, drains, watercourses or other passages, over or under or by the sides of the railway, of such dimensions as will, in the opinion of the Governor-General in Council, be sufficient at all times to convey water as freely from or to the lands lying near or affected by the railway as before the making of the railway, or as nearly so as may be.

(2) *Subject to the other provisions of this Act, the* works specified in clauses (*a*) and (*b*) of sub-section (1) shall be made during or immediately after the laying out or formation of the railway over the lands traversed thereby and in such manner as to cause as little damage or inconvenience as possible to persons interested in the lands or affected by the works.

(3) The foregoing provisions of this section are subject to the following provisos, namely :—

(*a*) a railway administration shall not be required to make any accommodation works in such a manner as would prevent or obstruct the working or using of the railway, or to make any accommodation works with respect to which the owners and occupiers of the lands have agreed to receive and have been paid compensation in consideration of their not requiring the works to be made ;

(*b*) save as hereinafter in this chapter provided, a railway administration shall not, *except on the requisition of the Governor-General in Council*, be compelled to defray the cost of executing any further or additional accommodation works for the use of the owners or occupiers of the lands after the expiration of ten years from the date on which the railway passing through the lands was first opened for public traffic ;

(*c*) where a railway administration has provided suitable accommodation for the crossing of a road or stream, and the road or stream is afterwards diverted by the act or neglect of the person having the control thereof, the administration shall not be compelled to provide other accommodation for the crossing of the road or stream.

(4) The Governor-General in Council may appoint a time for the commencement of any work to be executed under sub-section (1), and if for fourteen days next after that time the railway administration fails to commence the work or, having commenced it, fails to proceed diligently to execute it in a sufficient manner, the Governor-General in Council may execute it and recover from the railway administration the cost incurred by him in the execution thereof.

Power for owner, occupier *or local authority* to cause additional accommodation works to be made.

12. If an owner or occupier of any land affected by a railway considers the works made under the last foregoing section to be insufficient for the commodious use of the land, *or if the Local Government or a local authority desires to construct a public road or other work across, under or over a railway, he or it, as the case may be,* may at any time require the railway administration to make at his *or its* expense such further *accommodation works* as he *or it* thinks necessary and are agreed to by the railway administration or as, in case of difference of opinion, may be authorised by the Governor-General in Council.

Fences, screens, gates and bars.

13. The Governor-General in Council may require that, within a time to be specified in the requisition or within such further time as he may appoint in this behalf,—

(*a*) boundary marks or fences be provided or renewed by a railway administration for a railway or any part thereof and for roads constructed in connection therewith ;

(*b*) any works in the nature of a screen near to or adjoining the side of any public road constructed before the making of a railway be provided or renewed by a railway administration for the purpose of preventing danger to passengers on the road by reason of horses *or other animals* being frightened by the sight or noise of the rolling-stock moving on the railway ;

(*c*) suitable gates, chains, bars, stiles or hand-rails be erected or renewed by a railway administration at places where a railway crosses a public road on the level ;

(*d*) persons be employed by railway administration to open and shut such gates, chains or bars.

Over and under bridges.

14. (1) Where a railway administration has constructed a railway across a public road on the level, the Governor-General in Council may at any time, if it appears to him necessary for the public safety, require the railway administration, within such time as he thinks fit, to carry the road either under or over the railway by means of a bridge or arch, with convenient ascents and descents and other convenient approaches, instead of crossing the road on the level, or to execute such other works as, in the circumstances of the case, may appear to the Governor-General in Council to be best adapted for removing or diminishing the danger arising from the level-crossing.

(2) The Governor-General in Council may require, as a condition of making a requisition under sub-section (1), that the local authority, if any, which maintains the road shall undertake to pay the whole of the cost to the railway administration of complying with the requisition or such portion of the cost as the Governor-General in Council thinks just.

Removal of trees dangerous to or obstructing the working of a railway.

15. (1) In either of the following cases, namely :—

(*a*) where there is danger that a tree standing near a railway may fall on the railway so as to obstruct traffic,

(*b*) when a tree obstructs the view of any fixed signal,

the railway administration may, with the permission of any Magistrate, fell the tree or deal with it in such other manner as will in the opinion of the railway administration avert the danger or remove the obstruction, as the case may be.

(2) In case of emergency the power mentioned in sub-section (1) may be exercised by a railway administration without the permission of a Magistrate.

(3) Where a tree felled or otherwise dealt with under sub-section (1) or sub-section (2) was in existence before the railway was constructed or the signal was fixed, any Magistrate may, upon the application of the persons interested in the tree, award to those persons such compensation as he thinks reasonable.

(4) Such an award, subject, where made in a Presidency-town by any Magistrate other than the Chief Presidency Magistrate or where made elsewhere by any Magistrate other than the District Magistrate, to revision by the Chief Presidency Magistrate or the District Magistrate, as the case may be, shall be final.

(5) *A Civil Court shall not entertain a suit to recover compensation for any tree felled or otherwise dealt with under this section.*

CHAPTER IV.

OPENING OF RAILWAYS.

Right to use locomotives.

16. (1) A railway administration may, with the previous sanction of the Governor-General in Council, use upon a railway locomotive engines or other motive power, and rolling-stock to be drawn or propelled thereby.

(2) But rolling-stock shall not be moved upon a railway by steam or other *motive* power until *such* general rules for the railway *as may be deemed to be necessary* have been made, sanctioned *and* published under this Act.

Notice of intended opening of a railway.

17. (1) Subject to the provisions of sub-section (2), a railway administration shall, one month at least before it intends to open any railway for the public carriage of passengers, give to the Governor-General in Council notice in writing of its intention.

(2) The Governor-General in Council may in any case, if he thinks fit, reduce the period of, or dispense with, the notice mentioned in sub-section (1).

Sanction of the Government a condition precedent to the opening of a railway.

18. A railway shall not be opened for the public carriage of passengers until the Governor-General in Council, or an Inspector empowered by the Governor-General in Council in this behalf, has by order sanctioned the opening thereof for that purpose.

Procedure in sanctioning the opening of a railway.

19. (1) The sanction of the Governor-General in Council under the last foregoing section shall not be given until an Inspector has, after inspection of the railway, reported in writing to the Governor-General in Council—

(*a*) that he has made a careful inspection of the railway and rolling-stock ;

(*b*) that the moving and fixed dimensions prescribed by the Governor-General in Council have not been infringed ;

(*c*) that the weight of rails, strength of bridges, general structural character of the works, and the size of and maximum gross load upon the axles of any rolling-stock are *such as have been* prescribed by the Governor-General in Council ;

(*d*) that the railway is sufficiently supplied with rolling-stock ;

(*e*) that general rules for the working of the railway *when opened for the public carriage of passengers* have been made, sanctioned and published under this Act ; and

(*f*) that, in his opinion, the railway can be opened for the public carriage of passengers without danger to the public using it.

(2) If in the opinion of the Inspector the railway cannot be so opened without danger to the public using it, he shall state that opinion together with the grounds therefor to the Governor-General in Council, and the Governor-General in Council may thereupon order the railway administration to postpone the opening of the railway.

(3) An order under the last foregoing sub-section must set forth the requirements to be complied with as a condition precedent to the opening of the railway being sanctioned, and shall direct the postponement of the opening of the railway until those requirements have been complied with or the Governor-General in Council is otherwise satisfied that the railway can be opened without danger to the public using it.

(4) The sanction given under this section may be either absolute or subject to such conditions as the Governor-General in Council thinks necessary for the safety of the public.

(5) When sanction for the opening of a railway is given subject to conditions and the railway administration fails to fulfil those conditions, the sanction shall be deemed to be void and the railway shall not be worked or used until the conditions are fulfilled to the satisfaction of the Governor-General in Council.

Application of the provisions of the three last foregoing sections to material alterations of a railway.

20. (1) The provisions of sections 17, 18 and 19 with respect to the opening of a railway shall extend to the opening of works mentioned in sub-section (2) when those works form part of, or are directly connected with, a railway used for the public carriage of passengers and have been constructed after the inspection which preceded the first opening of the railway.

(2) The works referred to in sub-section (1) are additional lines of railway, deviation lines, stations, junctions and crossings on the level, and any alteration or reconstruction materially affecting the structural character of any work to which the provisions of sections 17, 18 and 19 apply or are extended by this section.

Exceptional provision.

21. When an accident has occurred resulting in a temporary suspension of traffic, and either the original line and works have been rapidly restored to their original standard, or a temporary diversion has been laid for the purpose of restoring communication, the original line and works so restored, or the temporary diversion, as the case may be, may, in the absence of the Inspector, be opened for the public carriage of passengers, subject to the following conditions, namely :—

(*a*) that the railway servant in charge of the works undertaken by reason of the accident has *certified in writing* that the opening of the restored line and works, or of the temporary diversion, will not *in his opinion* be attended with danger to the public using the line and works or the diversion ; and

(*b*) that notice by telegraph of the opening of the line and works or the diversion shall

be sent, *as soon as may be*, to the Inspector appointed for the railway.

Power to make rules with respect to the opening of railways.

22. The Governor-General in Council may make rules defining the cases in which, and in those cases the extent to which, the procedure prescribed in sections 17 to 20 (both inclusive) may be dispensed with.

Power to close an opened railway.

23. (1) When, after inspecting any open railway used for the public carriage of passengers, or any rolling-stock used thereon, an Inspector is of opinion that the use of the railway or of any specified rolling-stock will be attended with danger to the public using it, he shall state that opinion, together with the grounds therefor, to the Governor-General in Council; and the Governor-General in Council may thereupon order that the railway be closed for the public carriage of passengers, or that the use of the rolling-stock so specified be discontinued, or that the railway or the rolling-stock so specified be used for the public carriage of passengers on such conditions *only* as the Governor-General in Council may consider necessary for the safety of the public.

(2) An order under sub-section (1) must set forth the grounds on which it is founded.

Re-opening of a closed railway.

24. (1) When a railway has been closed under the last foregoing section, it shall not be re-opened for the public carriage of passengers until it has been inspected, and its re-opening sanctioned, in accordance with the provisions of this Act.

(2) When the Governor-General in Council has ordered under the last foregoing section that the use of any specified rolling-stock be discontinued, that rolling-stock shall not be used until an Inspector has reported that it is fit for use and the Governor-General in Council has sanctioned its use.

(3) When the Governor-General in Council has imposed under the last foregoing section any conditions with respect to the use of any railway or rolling-stock, those conditions shall be observed until they are withdrawn by the Governor-General in Council.

Delegation of powers under this Chapter to Inspectors.

25. (1) The Governor-General in Council may, by general or special order, authorise the discharge of any of his functions under this Chapter by an Inspector, and may cancel any sanction or order given by an Inspector discharging any such function or attach thereto any condition which the Governor-General in Council might have imposed if the sanction or order had been given by himself.

(2) A condition imposed under sub-section (1) shall for all the purposes of this Act have the same effect as if it were attached to a sanction or order given by the Governor-General in Council.

CHAPTER V.

RAILWAY COMMISSIONS AND TRAFFIC FACILITIES.

Railway Commissions.

Constitution of Railway Commission.

26. (1) For the purposes of this Chapter the Governor-General in Council shall, as occasion may in his opinion require, appoint a commission, styled a Railway Commission (in this Act referred to as the Commissioners) and consisting of one Law Commissioner and two Lay Commissioners.

(2) The Commissioners shall sit at such times and in such places as the Governor-General in Council appoints.

(3) The Law Commissioner shall be such Judge of the High Court having jurisdiction in reference to European British subjects under the Code of Criminal Procedure, 1882, in the place where the Commissioners are to sit as, in the case of a High Court established under the Statute 24 and 25 Victoria, chapter 104, the Chief Justice or, in the case of the Chief Court of the Punjab, the Senior Judge or, in the case of the Court of the Recorder of Rangoon, the Chief Commissioner of Burma may, on the request of the Governor-General in Council, assign by writing under his hand.

(4) The Lay Commissioners shall be appointed by the Governor-General in Council, and one at least of them shall be of experience in railway business.

Restriction of jurisdiction of Railway Commission to cases specially referred.

27. The Commissioners shall take cognizance of such cases only as are referred to them by the Governor-General in Council.

Reference of cases to Railway Commission.

28. In any of the following circumstances, namely:—

(*a*) where complaint is made to the Governor-General in Council of anything done or any omission made by a railway administration in violation or contravention of any provision of this Chapter;

(*b*) where any difference *which is under the provisions of any agreement required or authorized to be referred* to arbitration arises between railway administrations, and the railway administrations apply to the Governor-General in Council to have it referred to the Commissioners;

(*c*) where any other difference, *being a difference between railway administrations or one* to which a railway administration is a party, arises, and the parties thereto apply to the Governor-General in Council to have it referred to the Commissioners;

the Governor-General in Council may, if he thinks fit, refer the case to the Commissioners for decision.

Constitution of Railway Commission in session.

29. The three Commissioners shall attend at the hearing of any case referred to them for decision under this Chapter, and the Law Commissioner shall preside at the hearing.

Powers of Railway Commission.

30. (1) In hearing any such case the Commissioners shall have all the powers which may be exercised in the hearing of an original civil suit by a High Court.

(2) *The decision shall, if the Commissioners differ in opinion, be in accordance with the opinion of the majority, and the final order in the case shall be by way of injunction and not otherwise.*

(3) At the hearing the Commissioners may permit any *party* to appear before them either by himself or by any legal practitioner entitled to practise in any High Court.

Appeals from orders of Railway Commission.

31. (1) An appeal shall not lie from any order of the Commissioners upon any question of fact on which two of the Commissioners are agreed.

(2) Subject to the provisions of sub-section (1), an appeal shall lie from an order of the Commissioners—

(*a*) where the Law Commissioner was the Recorder or Additional Recorder of Rangoon, to the High Court of Judicature at Fort William in Bengal, and

(*b*) in any other case, to the High Court of which the Law Commissioner was a member.

(3) Such an appeal must be presented within six months from the date of the order appealed from, and shall be heard by a bench of as many Judges, not being fewer than three, as the High Court may by rule prescribe.

(4) In the hearing of the appeal the High Court shall, subject to the other provisions of this Chapter, have all the powers which it has as an Appellate Court under the Code of Civil Procedure, and may make any order which the Commissioners could have made.

Operation of orders of Railway Commission.

32. Notwithstanding any appeal to the High Court from an order of the Commissioners, the order shall, unless the Commissioners or the majority of them see fit to suspend it, continue in operation until it is reversed or varied by that Court.

Assessors.

33. (1) The Commissioners, in the exercise of their jurisdiction under this Chapter, may from time to time, with the general or special sanction of the Governor-General in Council, call in one or more persons of engineering or other technical knowledge to act as assessors.

(2) There shall be paid to such persons such remuneration as the Governor-General in Council upon the recommendation of the Commissioners may direct.

Power of the Governor-General in Council to make rules for the purposes of this Chapter.

34. The Governor-General in Council may make rules regulating proceedings before the Commissioners and enabling the Commissioners to carry into effect the provisions of this Chapter, and prescribing fees to be taken in relation to proceedings before the Commissioners.

Costs of proceedings under this Chapter.

35. The costs of and incidental to any proceedings before the Commissioners or the High Court under this Chapter shall be in the discretion of the Commissioners or the High Court, as the case may be, *and the payment of costs awarded by the Commissioners may be enforced by the Court of which the Law Commissioner was a Judge as if the payment had been ordered by a decree of a High Court.*

Execution of order of Railway Commission and High Court.

36. (1) *The Court of which the Law Commissioner was a Judge may, if it appears on the application of any person who was a party to the proceedings before the Commissioners or on appeal before the High Court, or of the representative of any such person, that an injunction made under this Chapter by the Commissioners or by a High Court has not been obeyed by the party enjoined, order such party to pay a sum not exceeding one thousand rupees for every day during which the injunction is disobeyed after the date of the order directing such payment.*

(2) *The payment of such sum may be enforced by the Court which made the order as if that Court had given a decree for the same, and the Court may direct that the whole or any part of the sum shall be paid to the person making the application under sub-section* (1) *or to the Government.*

Evidence of documents.

37. A document purporting to be signed by the Commissioners, or any of them, shall be received in evidence without proof of the signature, and shall, until the contrary is proved, be deemed to have been so signed and to have been duly executed or issued by the Commissioners.

Submission to the Governor-General in Council of special reports by Railway Commission.

38. The Commissioners shall, as soon as may be after the disposal of each case referred to them, submit to the Governor-General in Council a special report on the case, and the Governor-General in Council shall cause the report to be published in such manner as he thinks fit for the information of persons interested in the subject-matter thereof.

Dissolution of Railway Commission.

39. Except for the purpose of the last foregoing section, a Railway Commission shall be deemed to be dissolved at the close of the last of the sittings of the Commissioners for the decision of the cases referred to them:

Provided that, on the application of any person who was a party to the proceedings before the Commissioners, or of the representative of any such person, the Governor-General in Council may, if he thinks fit, in any case in which the order passed by the Commissioners is not open to appeal, re-appoint the Commissioners for the purpose of hearing an application for a review of their decision and of granting the same and re-hearing the case if they think that the case should be re-heard.

Finality of orders of Railway Commission subject to the foregoing provisions of this Chapter.

40. Subject to the foregoing provisions of this Chapter and to any direction of Her Majesty in Council, an order of the Commissioners shall be final and shall not be questioned in or restrained by any Court.

Bar of jurisdiction of ordinary Courts in certain matters cognisable by Railway Commission.

41. *Except as provided in this Act, no suit shall be instituted or proceeding taken for anything done or any omission made by a railway administration in violation or contravention of any provision of this Chapter or of any order made thereunder by the Commissioners or by a High Court.*

Traffic Facilities.

Duty of railway administrations to arrange for receiving and forwarding traffic without unreasonable delay and without partiality.

42. (1) Every railway administration shall, according to its powers, afford all reasonable facilities for the receiving, forwarding and delivering of traffic upon and from the several railways belonging to or worked by it and for the return of rolling-stock.

(2) A railway administration shall not make or give any undue or unreasonable preference or advantage to or in favour of any particular person or railway administration, or any particular description of traffic, in any respect whatsoever, or subject any particular person or railway administration or any particular description of traffic to any undue or unreasonable prejudice or disadvantage in any respect *whatsoever*.

(3) A railway administration having or working railways which form part of a continuous line of railway communication, or having its terminus or station within one mile of the terminus or station of another railway administration, shall afford all due and reasonable facilities for receiving and forwarding by one of such railways all the traffic arriving by the other at such terminus or station, without any unreasonable delay, and without any such preference or advantage or prejudice or disadvantage as aforesaid, and so that no obstruction may be offered to the public desirous of using such railways as a continuous line of communication, and so that all reasonable accommodation may by means of such railways be at all times afforded to the public in that behalf.

(4) The facilities to be afforded under this section shall include the due and reasonable receiving, forwarding and delivering by every railway administration, at the request of any other railway administration, of through traffic to and from the railway of any other railway administration at through rates:

Provided as follows:—

(*a*) the railway administration requiring the traffic to be forwarded shall give written notice of the proposed through rate to each forwarding railway administration, stating both its amount *and its apportionment* and the route by which the traffic is proposed to be forwarded. The proposed through rate *for animals or goods* may be per truck or per maund;

(*b*) each forwarding railway administration shall, within the prescribed period after the receipt of such notice, by written notice inform the railway administration requiring the traffic to be forwarded whether it agrees to the rate, *apportionment* and route, and, if it *has any objection, what* the grounds of the objection *are*;

(*c*) if at the expiration of the prescribed period no such objection has been sent by any forwarding railway administration, the rate shall come into operation at the expiration of that period;

(*d*) if an objection to the rate, *apportionment* or route has been sent within the prescribed period, the Governor-General in Council *may, if he thinks fit,* on the request of any of the railway administrations, refer the case to the Commissioners for their decision;

(*e*) if the objection is to the granting of the rate or to the route, the Commissioners shall consider whether the granting of the rate is a due and reasonable facility in the interests of the public, and whether, regard being had to the circumstances, the route proposed is a reasonable route, and shall allow or refuse the rate accordingly or fix such other rate as may seem to the Commissioners to be just and reasonable;

(*f*) if the objection is only to the apportionment of the rate, *and the case has been referred to the Commissioners,* the rate shall come into operation at the expiration of the prescribed period, but the decision of the Commissioners as to its apportionment shall be retrospective: in *the case of any other objection* the operation of the rate shall be suspended until the Commissioners make their order in the case;

(*g*) the Commissioners in apportioning the through rate shall take into consideration all the circumstances of the case, including any special expense incurred in respect of the construction, maintenance or working of the route or any part of the route, as well as any special charges which any railway administration is entitled to make in respect thereof;

(*h*) *the Commissioners shall not in any case compel any railway administration to accept lower mileage rates than the mileage rates which the administration may for the time being legally be charging for like traffic carried by a like mode of transit on any other line of communication between the same points, being the points of departure and arrival of the through route;*

(*i*) subject to the foregoing provisions of this sub-section, the Commissioners shall have full power to decide that any proposed through rate is due and reasonable, notwithstanding that a less amount may be allotted to any forwarding railway administration out of the through rate than the maximum rate which the railway administration is entitled to charge, and to allow and apportion the through rate accordingly;

(*j*) the prescribed period mentioned in this sub-section shall be one month, or such longer period as the Governor-General in Council may by general or special order prescribe.

Undue preference in case of unequal rates for like traffic or services.

43. (1) Whenever it is shown that a railway administration charges one trader or class of traders or the traders in any *local area* lower rates for the same or similar *animals or goods,* or lower rates for the same or similar services, than it charges to other traders or classes of traders, or to the traders in another *local area,* the burden of proving that such lower charge does not amount to an undue preference shall lie on the railway administration.

(2) In deciding whether a lower charge does or does not amount to an undue preference, the Commissioners may, so far as they think reasonable, in addition to any other considerations affecting the case, take into consideration whether such lower charge is necessary for the purpose of securing, in the interests of the public, the traffic in respect of which it is made.

Provision for facilities and equal treatment where ships or boats are used which are not part of a railway.

44. Where a railway administration is a party to an agreement for *procuring the traffic of the railway to be carried* on *any* inland water *by* any ferry, ship, boat or raft which *does not belong to or is not hired or worked by* the railway administration, the provisions of the two last foregoing sections applicable to a railway shall extend to the ferry, ship, boat or raft *in so far as it is used for the purposes of the traffic of the railway.*

Terminals.

45. A railway administration may charge reasonable terminals.

Power of Railway Commission to fix terminals.

46. (1) The Governor-General in Council may, *if he thinks fit,* refer to the Commissioners for decision any question or dispute which may arise with respect to the terminals charged by a railway administration, and the Commissioners may thereupon decide what is a reasonable sum to be paid to the railway administration in respect of terminals.

(2) In deciding the question or dispute the Commissioners shall have regard only to the expenditure reasonably necessary to provide the accommodation in respect of which the terminals are charged, irrespective of the outlay which may have been actually incurred by the railway administration in providing that accommodation.

CHAPTER VI.

WORKING OF RAILWAYS.

General.

General rules.

47. (1) Every railway company and, in the case of a railway administered by the Government, an officer to be appointed by the Governor-General in Council in this behalf, shall make general rules consistent with this Act for the following purposes, namely:—

(*a*) for regulating the mode in which, and the speed at which, rolling-stock used on the railway is to be moved or propelled;

(*b*) for *providing* for the accommodation and convenience of passengers *and regulating the carriage of their luggage;*

(*c*) for declaring what shall be deemed to be, for the purposes of this Act, dangerous or offensive goods, and for regulating the carriage of such goods;

(*d*) *for regulating the conditions on which the railway administration will carry passengers suffering from infectious or contagious disorders, and providing for the disinfection of carriages which have been used by such passengers;*

(*e*) for regulating the conduct of the railway servants;

(*f*) for regulating the terms and conditions on which the railway administration will warehouse or retain goods at any station on behalf of the consignee or owner; and,

(*g*) generally, for regulating the travelling upon, and the use, working and management of, the railway.

(2) The rules may provide that any person committing a breach of any of them shall be punished with fine which may extend to any sum not exceeding fifty rupees, *and that, in the case of a rule made under clause (e) of sub-section (1), the railway servant shall forfeit a sum not exceeding one month's pay, which sum may be deducted by the railway administration from his pay.*

(3) A rule made under this section shall not take effect until it has received the sanction of the Governor-General in Council and been published in the *Gazette of India:*

Provided that, where the rule is in the terms of a rule which has already been published at length in the *Gazette of India,* a notification in that Gazette referring to the rule already published and announcing the adoption thereof shall be deemed a publication of a rule in the *Gazette of India* within the meaning of this sub-section.

(4) The Governor-General in Council may cancel any rule made under this section, and the authority required by sub-section (1) to make rules thereunder may at any time, with the previous sanction of the Governor-General in Council, rescind or vary any such rule.

(5) Every rule purporting to have been made for any railway under section 8 of the Indian Railway Act, 1879, and appearing from the *Gazette of India* to be intended to apply to the railway at the commencement of this Act, shall, notwithstanding any irregularity in the making or publication of the rule, be deemed to have been made and to have taken effect under this section.

(6) Every railway administration shall keep at each station on its railway a copy of the general rules for the time being in force under this section *on the railway,* and shall allow any person to inspect it free of charge at all reasonable times.

Disposal of differences between railways regarding conduct of joint traffic.

48. Where two or more railway administrations whose railways have a common terminus or a portion of the same line of rails in common, or form separate portions of one continued line of railway communication, are not able to agree upon arrangements for conducting at such common terminus, or at the point of junction between them, their joint traffic with safety to the public, the Governor-General in Council, upon the application of either or any of the administrations, may decide the matters in dispute between them, so far as those matters relate to the safety of the public, and may determine whether the whole or what proportion of the expenses attending on such arrangements shall be borne by either or any of the administrations respectively.

Agreements with the Governor-General in Council for construction or lease of rolling-stock.

49. Any railway company, not being a company *for which* the Statute 42 and 43 Victoria, chapter 41, *provides,* may from time to time make and carry into effect agreements with the Governor-General in Council for the construction of rolling-stock, plant or machinery used on, or in connection with, railways, or for leasing or taking on lease any rolling-stock, plant, machinery or equipments required for use on a railway, or for the maintenance of rolling-stock.

Powers of railway companies to enter into working agreements.

50. Any railway company, not being a company *for which* the Statute 42 and 43 Victoria, chapter 41, *provides,* may from time to time make with the Governor-General in Council, and carry into effect, or, with the sanction of the Governor-General in Council, make with any other railway administration, and carry into effect, any agreement with respect to any of the following purposes, namely:—

(*a*) the working, use, management and maintenance of any railway;

(*b*) the supply of rolling-stock and machinery necessary for any of the purposes mentioned in clause (*a*) and of officers and servants for the conduct of the traffic of the railway;

(*c*) the payments to be made and the conditions to be performed with respect to such working, use, management and maintenance;

(*d*) the interchange, accommodation and conveyance of traffic being on, coming from or *intended* for the respective railways of the contracting parties, and the fixing, collecting, apportionment and appropriation of the revenues arising from that traffic;

(*e*) generally, the giving effect to any such provisions or stipulations with respect to any of the purposes *hereinbefore in this section* mentioned as the contracting parties may think fit and mutually agree on:

Provided that the agreement shall not affect any of the rates which the railway administrations parties thereto are from time to time respectively authorized to demand and receive from any person, and that every person shall, notwithstanding the agreement, be entitled to the use and benefit of the railways of any railway administrations, parties to the agreement, on the same terms and conditions, and on payment of the same rates as he would be if the agreement had not been entered into.

Establishment of ferries and roadways for accommodation of traffic.

51. Any railway company, not being a company *for which* the Statute 42 and 43 Victoria, chapter 41, *provides,* may from time to time exercise with the sanction of the Governor-General in Council all or any of the following powers, namely:—

(*a*) It may establish, for the accommodation of the traffic of its railway, any ferry equipped with machinery and plant of

good quality and adequate in quantity to work the ferry;

(*b*) it may work for purposes other than the accommodation of the traffic of the railway any ferry established by it under this section;

(*c*) it may provide and maintain on any of its bridges roadways for foot-passengers, cattle, carriages, carts or other traffic;

(*d*) it may construct and maintain roads for the accommodation of traffic passing to or from its railway;

(*e*) it may provide and maintain any means of transport which may be required for the reasonable convenience of passengers, animals or goods carried or to be carried on its railway;

(*f*) it may charge tolls on the traffic using such ferries, roadways, roads or means of transport as it may provide under this section, according to tariffs to be arranged from time to time with the sanction of the Governor-General in Council.

Returns.

52. Every railway administration shall, in forms to be prescribed by the Governor-General in Council, prepare, half-yearly or at such intervals as the Governor-General in Council may prescribe, such returns of its capital and revenue transactions and of its traffic as the Governor-General in Council may require, and shall forward a copy of such returns to the Governor-General in Council at such times as he may direct.

Carriage of Property.

Maximum load for wagons.

53. (1) Every railway administration shall determine the maximum load for every wagon or truck in its possession, and shall exhibit the words or figures representing the load so determined in a conspicuous manner on the outside of every such wagon or truck.

(2) Every person owning a wagon or truck which passes over a railway shall similarly determine and exhibit the maximum load for the wagon or truck.

(3) The gross weight of any such wagon or truck bearing on the axles when the wagon or truck is loaded to such maximum load shall not exceed such limit as may be fixed by the Governor-General in Council for the class of axle under the wagon or truck.

Power for railway administrations to impose conditions for working traffic.

54. (1) *Subject to the control of the Governor-General in Council, a* railway administration may impose conditions, not inconsistent with this Act or with any general rule thereunder, with respect to the receiving, forwarding or delivering of any animals or goods.

(2) The railway administration shall keep at each station on its railway a copy of the conditions for the time being in force under sub-section (1) at the station, and shall allow any person to inspect it free of charge at all reasonable times.

(3) *A railway administration shall not be bound to carry any animal suffering from any infectious or contagious disorder.*

Lien for rates, terminals and other charges.

55. (1) If a person fails to pay on demand *made by or on behalf of a railway administration* any rate, terminal or other charge due from him in respect of any animals or goods, the railway administration may detain the whole or any of the animals or goods, or, if they have been removed from the railway, any other animals or goods of such person then being in or thereafter coming into its possession.

(2) When any animals or goods have been detained under sub-section (1), the railway administration may sell by public auction, in the case of perishable goods at once, and in the case of other goods or of animals on the expiration of at least fifteen days' notice of the intended auction, published in one or more of the local newspapers or, where there are no such newspapers, in such manner as the Governor-General in Council may prescribe, sufficient of such animals or goods to produce a sum equal to the charge and all expenses of such detention, notice and sale, including, in the case of animals, the expenses of the feeding, watering and tending thereof.

(3) Out of the proceeds of the sale the railway administration may retain a sum equal to the charge and the expenses aforesaid, rendering the surplus, if any, of the proceeds, and such of the animals or goods (if any) as remain unsold, to the person entitled thereto.

(4) If a person on whom a demand for any rate, terminal or other charge *due from him* has been made fails to remove from the railway within a reasonable time any animals or goods which have been detained under sub-section (1), or any animals or goods which have remained unsold after a sale under sub-section (2), the railway administration may sell the whole of them and dispose of the proceeds of the sale as nearly as may be under the provisions of sub-section (3).

(5) Notwithstanding anything in the foregoing sub-sections, the railway administration may recover by suit any such rate, terminal or other charge as aforesaid or balance thereof.

Disposal of unclaimed things on a railway.

56. (1) When any animals or goods have come into the possession of a railway administration for carriage or otherwise and are not claimed by the owner or other person appearing to the railway administration to be entitled thereto, the railway administration *shall, if such owner or person is known, cause a notice to be served upon him requiring him to remove the animals or goods.*

(2) *If such owner or person is not known, or the notice cannot be served upon him, or he does not comply with the requisition in the notice, the railway administration may within a reasonable time, subject to the provisions of any other enactment for the time being in force,* sell *the animals or goods* as nearly as may be under the provisions of the last foregoing section, rendering the surplus, if any, of the proceeds of the sale to any person entitled thereto.

Power for railway administrations to require indemnity on delivery of goods in certain cases.

57. Where any animals, goods *or sale-proceeds* in the possession of a railway administration are claimed by two or more persons or the ticket or receipt given *for the animals or goods* is not forthcoming, the railway administration may withhold delivery of the animals, goods *or sale-proceeds* until the person entitled in its opinion to receive them has given an indemnity, to the satisfaction of the railway administration, against the claims of any other person with respect to the animals, goods *or sale-proceeds*.

Requisitions for written accounts of description of goods.

58. (1) The owner or person having charge of any goods which are brought up on a railway for the purpose of being carried thereon, *and the consignee of any goods which have been carried on a railway,* shall, on the request of any railway servant appointed in this behalf by the railway administration, deliver to *such servant* an account in writing signed by such owner or person, *or by such consignee, as the case may be, and containing such a* description of the goods *as may be sufficient to determine the rate which the railway administration is entitled to charge in respect thereof.*

(2) *If such owner, person or consignee refuses or neglects to give such an account, and refuses to open the parcel or package containing the goods in order that their description may be ascertained, the railway administration may,* (*a*) *in respect of goods which have been brought for the purpose of being carried on the railway, refuse to carry the goods unless in respect thereof a rate is paid not exceeding the highest rate which may be in force at the time on the railway for any class of goods or,* (*b*) *in respect of goods which have been carried on the railway, charge a rate not exceeding such highest rate.*

(3) If an account delivered under sub-section (1) is materially false with respect to the description of any goods to which it purports to relate, *and which have been carried on the railway,* the railway administration may charge in respect of the carriage of the goods a rate not exceeding double the highest rate which may be in force at the time on the railway for any class of goods.

(4) If any difference arises between a railway servant and *the owner* or person having charge, *or the consignee,* of any goods *which have been brought to be carried or have been* carried on a railway, respecting the description of goods of which an account has been delivered under this section, the railway servant may detain and examine the goods.

(5) If it appears from the examination that the description *of the goods is* different from that stated in an account delivered under sub-section (1), the person who delivered the account, or, if that person is not the owner of the goods, then that person and the owner jointly and severally, shall be liable to pay to the railway administration the cost of the detention and examination of the goods, and the railway administration shall be exonerated from all responsibility for any loss *which may have been caused by the detention or examination thereof.*

(6) If it appears that the description *of the goods is* not different from that stated in an account delivered under sub-section (1), the railway administration shall pay the cost of the detention and examination and be responsible to the owner of the goods for any *such loss as aforesaid.*

Dangerous or offensive goods.

59. (1) No person shall be entitled to take with him, or to require a railway administration to carry, any dangerous or offensive goods upon a railway.

(2) No person shall take any such goods with him upon a railway without giving notice of their nature to the station-master or other railway servant in charge of the place where he brings the goods upon the railway, or shall tender or deliver any such goods for carriage upon a railway without distinctly marking their nature on the outside of the package containing them or otherwise giving notice in writing of their nature to the railway servant to whom he tenders or delivers them.

(3) Any railway servant may refuse to receive such goods for carriage and, when such goods have been so received without such notice as is mentioned in sub-section (1) having to his knowledge been given, may refuse to carry them or may stop their transit.

(4) If any railway servant has reason to believe any such goods to be contained in a package with respect to the contents whereof such notice as is mentioned in sub-section (2) has not to his knowledge been given, he may cause the package to be opened for the purpose of ascertaining its contents.

(5) Nothing in this section shall be construed to derogate from the Indian Explosives Act, 1884, or any rule under that Act, and nothing in sub-sections (1), (3) and (4) shall be construed to apply to any goods tendered or delivered for carriage by order or on behalf of the Government or to any goods which an officer, soldier, sailor or police-officer or a person enrolled as a volunteer under the Indian Volunteers Act, 1869, may take with him upon a railway in the course of his employment or duty as such.

Exhibition to the public of authority for quoted rates.

60. *At every station at which a railway administration quotes a rate to any other station for the carriage of traffic other than passengers and their luggage, the railway servant appointed by the administration to quote the rate shall, at the request of any person, show to him at all reasonable times, and without payment of any fee, the rate-books or other documents in which the rate is authorised by the administration or administrations concerned.*

Requisitions on railway administrations for details of gross charges.

61. (1) Where any charge is made by and paid to a railway administration in respect of the carriage of goods over its railway, the administration shall, on the application of the person by whom or on whose behalf the charge has been paid, render to the applicant an account showing how much of the charge comes under each of the following heads, namely:—

(*a*) the carriage of the goods on the railway;

(*b*) terminals;

(*c*) *demurrage; and*

(*d*) collection, delivery and other expenses;

but without particularising the several items of which the charge under each head consists.

(2) The application under sub-section (1) must be in writing and be made to the railway administration within one month after the date of the payment of the charge by or on behalf of the applicant, and the account must be rendered by the administration within two months after the receipt of the application.

Carriage of Passengers.

Communication between passengers and railway servants in charge of trains.

62. The Governor-General in Council may require any railway administration to provide and maintain in proper order, in any train worked by it which carries passengers, such efficient means of communication between the passengers and the railway servants in charge of the train as the Governor-General in Council has approved.

Maximum number of passengers for each compartment.

63. Every railway administration shall fix, subject to the approval of the Governor-General in Council, the maximum number of passengers which may be carried in each compartment of every description of carriage, and shall exhibit the number so fixed in a conspicuous manner inside or outside each compartment, in English or in one or more of the vernacular languages in common use in the territory traversed by the railway, or both in English and in one or more of such vernacular languages, as the Governor-General in Council, after consultation with the railway administration, may determine.

Reservation of compartments for females.

64. (1) *On and after the first day of January,* 1891, *every railway administration shall in every train carrying passengers reserve for the exclusive use of females one compartment at least of the lowest class of carriage forming part of the train.*

(2) *One such compartment so reserved shall, if the train is to run for a distance exceeding fifty miles, be provided with a closet.*

65. Every railway administration shall cause to be posted in a conspicuous *and accessible* place at every station on its railway, in English and in a vernacular language in common use in the territory where the station is situate, a copy of the time-tables for the time being in force on the railway, and lists of the fares chargeable for travelling from the station where the lists are posted to every place for which card-tickets are ordinarily issued to passengers at that station.

Exhibition of time-tables and tables of fares at stations.

66. (1) Every person desirous of travelling on a railway shall, upon payment of his fare, be supplied with a ticket, specifying the class of carriage for which, and the place from and the place to which, the fare has been paid, and the amount of the fare.

Supply of tickets on payment of fares.

(2) The matters required by sub-section (1) to be specified on a ticket shall be set forth—

(*a*) if the class of carriage to be specified thereon is the lowest class, then in a vernacular language in common use in the territory traversed by the railway, and

(*b*) if the class of carriage to be so specified is any other than the lowest class, then in English.

67. (1) Fares shall be deemed to be accepted, and tickets to be issued, subject to the condition of there being room available in the train for which the tickets are issued.

Provision for case in which tickets have been issued for trains not having room available for additional passengers.

(2) A person to whom a ticket has been issued and for whom there is not room available in the train for which the ticket was issued shall on returning the ticket within *three hours* after the departure of the train be entitled to have his fare at once refunded.

(3) *A person for whom there is not room available in the class of carriage for which he has purchased a ticket and who is obliged to travel in a carriage of a lower class shall be entitled on delivering up his ticket to a refund of the difference between the fare paid by him and the fare payable for the class of carriage in which he travelled.*

68. No person shall, *without the permission of a railway servant*, enter any carriage on a railway for the purpose of travelling therein as a passenger unless he has with him a *proper* pass or ticket.

Prohibition against travelling without pass or ticket.

69. Every passenger by railway shall, on the requisition of any railway servant appointed by the railway administration in this behalf, present his pass or ticket to the railway servant for examination, and at *or near* the end of the journey for which the pass or ticket was issued or, in the case of a season pass or ticket, at the expiration of the period for which it is current, deliver up the pass or ticket to the railway servant.

Exhibition and surrender of passes and tickets.

70. A return ticket *or season ticket* shall not be transferable and may be used only by the person for whose journey to and from the places specified thereon it was issued.

Return and season tickets.

71. (1) *A railway administration may refuse to carry, except in accordance with the conditions prescribed under section 47, sub-section (1), clause (d),* a person suffering from any infectious *or contagious* disorder.

Power to refuse to carry persons suffering from infectious or contagious disorder.

(2) A person suffering from such a disorder shall not enter or travel upon a railway without the special permission of the station-master or other railway servant in charge of the place where he enters upon the railway.

(3) A railway servant giving such permission as is mentioned in sub-section (2) must arrange for the *separation* of the person suffering from the disorder from other persons being or travelling upon the railway.

CHAPTER VII.

RESPONSIBILITY OF RAILWAY ADMINISTRATIONS AS CARRIERS.

72. (1) The responsibility of a railway administration for the loss, destruction or deterioration of animals or goods delivered to the administration to be carried by railway shall, subject to the other provisions of this Act, be that of a bailee under *sections* 151, 152 *and* 161 of the Indian Contract Act, 1872.

Measure of the general responsibility of a railway administration as a carrier of animals and goods.

(2) An agreement purporting to limit that responsibility shall, in so far as it purports to effect such limitation, be void unless it—

(*a*) is in writing signed by or on behalf of the person sending or delivering *to the railway administration* the animals or goods, and

(*b*) is otherwise in a form approved by the Governor-General in Council.

(3) Nothing in the common law of England or in the Carriers Act, 1865, *regarding* the *responsibility of common carriers with respect to the* carriage of animals or goods, shall *affect the responsibility as in this section defined of a railway administration.*

73. (1) The responsibility of a railway administration under the last foregoing section for the loss, destruction or deterioration of animals delivered to the administration to be carried on a railway shall not in any case exceed, in the case of elephants or horses, five hundred rupees a head or, in the case of camels or horned cattle, fifty rupees a head or, in the case of sheep, goats, dogs or other animals, ten rupees a head, unless the person sending or delivering them to the administration caused them to be declared, or declared them, at the time of their delivery for carriage by railway, to be respectively of higher value than five hundred, fifty or ten rupees a head, as the case may be.

Further provision with respect to the liability of a railway administration as a carrier of animals.

(2) Where such higher value has been declared, the railway administration may charge, in respect of the increased risk, a percentage upon the excess of the value so declared over the respective sums aforesaid.

(3) In every proceeding against a railway administration for the recovery of compensation for the loss, destruction or deterioration of any animal the burden of proving the value of the animal and, where the animal has been injured, the extent of the injury shall lie upon the person claiming the compensation.

74. A railway administration shall not be responsible for the loss, destruction or deterioration of any luggage belonging to or in charge of a passenger unless a railway servant has booked and given a receipt *therefor*.

Further provision with respect to the liability of a railway administration as a carrier of luggage.

75. (1) When any articles mentioned in the second schedule are contained in any parcel or package delivered to a railway administration *for carriage by railway*, and the value of such articles in the parcel or package exceeds one hundred rupees, the railway administration shall not be responsible for the loss, destruction or deterioration of the parcel or package unless the person sending or delivering the parcel or package to the administration caused its value and contents to be declared or declared them at the time of the delivery of the parcel or package for carriage by railway, and, *if so required by the administration, paid or engaged to pay a percentage on the value so declared* by way of conpensation for increased risk.

Further provision with respect to the liability of a railway administration as a carrier of articles of special value.

(2) When any parcel or package of which the value has been declared under sub-section (1) has been lost or destroyed or has deteriorated, the compensation recoverable in respect of such loss, destruction or deterioration shall not exceed the value so declared, and the burden of proving the value so declared to have been the true value shall, *notwithstanding anything in the declaration*, lie on the person claiming the compensation.

(3) *A railway administration may make it a condition of carrying a parcel declared to contain any article mentioned in the second schedule that a railway servant authorised in this behalf has been satisfied by examination or otherwise that the parcel actually contains the article declared to be therein.*

76. In any suit against a railway administration for compensation for loss, destruction or deterioration of animals or goods delivered to a railway *administration* for carriage by railway, it shall not be necessary for the plaintiff to prove how the loss, destruction or deterioration was caused.

Burden of proof in suits in respect of loss of animals or goods.

77. A person shall not be entitled to a refund of an overcharge in respect of animals or goods carried by railway or to compensation for the loss, destruction or deterioration of animals or goods delivered to be so carried, unless his claim to the refund or compensation has been preferred in writing by him or on his behalf to the railway administration within six months from the date of the delivery of the animals or goods for carriage by railway.

Notification of claims to refunds of overcharges and to compensation for losses.

78. Notwithstanding anything in the foregoing provisions of this Chapter, a railway administration shall not be responsible for the loss, destruction or deterioration of any goods with respect to the description of which an account materially false has been delivered under sub-section (1) of section 58 *if the loss, destruction or deterioration is in any way brought about by the false account, nor in any case for an amount exceeding the value of the goods if such value were calculated in accordance with the description contained in the false account.*

Exoneration from responsibility in case of goods falsely described.

79. Where an officer, soldier or follower, while being or travelling as such on duty upon a railway belonging to, *and worked by*, the Government, loses his life or receives any personal injury in such circumstances that if he were not an officer, soldier or follower being or travelling as such on duty upon the railway compensation would be payable under Act No. XIII of 1855 or to him, as the case may be, the form and amount of the compensation to be made in respect of the loss of his life or his injury shall, where there is any provision in this behalf in the military regulations to which he was immediately before his death, or is, subject, be determined in accordance with those regulations, and not otherwise.

Settlement of compensation for injuries to officers, soldiers and followers on duty.

80. *Notwithstanding anything in any agreement purporting to limit the liability of a railway administration with respect to traffic while on the railway of another administration, a* suit for compensation for loss of the life of, or personal injury to, a passenger, or for loss, destruction or deterioration of animals or goods, where the passenger was or the animals or goods were booked through over the railways of two or more railway administrations, *may be brought either* against the railway administration from which the passenger *obtained his pass or* purchased his ticket or to which the animals or goods were delivered by the consignor thereof, as the case may be, *or against the railway administration on whose railway the loss, injury, destruction or deterioration occurred.*

Suits for compensation for injury to through-booked traffic.

81. *Where a railway administration under contract to carry animals or goods by any inland water procures the same to be carried in a vessel which is not a railway as defined in this Act, the responsibility of the railway administration for the loss, destruction or deterioration of the animals or goods during their carriage in the vessel shall be the same as if the vessel were such a railway.*

Limitation of liability of railway administration in respect of traffic on inland waters by vessel not being part of railway.

82. (1) When a railway administration contracts to carry passengers, animals or goods partly by railway and partly by sea, a condition exempting the railway administration from responsibility for any loss of life, personal injury or loss of or damage to animals or goods which may happen during the carriage by sea from the act of God, the King's enemies, fire, accidents from machinery, boilers and steam and all and every other dangers and accidents of the seas, rivers and navigation of whatever nature and kind soever shall, without being expressed, be deemed to be part of the contract, and, subject to that condition, the railway administration shall, irrespective of the nationality or ownership of the ship used for the carriage by sea, be responsible for any loss of life, personal injury or loss of or damage to animals or goods which may happen during the carriage by sea, to the extent to which it would be responsible under the Merchant Shipping Act, 1854, and the Merchant Shipping Act Amendment Act, 1862, if the ship were registered under the former of those Acts and the railway administration were owner of the ship, and not to any greater extent.

Limitation of liability of railway administration in respect of accidents at sea.

(2) The burden of proving that any such loss, injury or damage as is mentioned in sub-section (1) happened during the carriage by sea shall lie on the railway administration.

CHAPTER VIII.

ACCIDENTS.

83. When any of the following accidents occurs in the course of working a railway, namely :—

Report of railway accidents.

(*a*) any accident attended with loss of human life, or *with* grievous hurt as defined in the Indian Penal Code, or *with* serious injury to property ;

(*b*) any collision between trains of which one is a train *carrying passengers*;

(*c*) the derailment of any train carrying passengers, or of any part of such a train;

(*d*) any accident of a description usually attended with loss of human life or *with* such grievous hurt as aforesaid or *with* serious injury to property;

(*e*) any accident of any other description which the Governor-General in Council may notify in this behalf in the Gazette of India;

the railway administration working the railway and, if the accident happens to a train belonging to any other railway administration, the other railway administration also shall, without unnecessary delay, send notice of the accident to the Local Government and to the Inspector appointed for the railway; and the station-master nearest to the place at which the accident occurred or, where there is no station-master, the railway servant in charge of the section of the railway on which the accident occurred shall, without unnecessary delay, give notice of the accident to the Magistrate of the district in which the accident occurred, and to the officer in charge of the police-station within the local limits of which it occurred, or to such other Magistrate and police-officer as the Governor-General in Council appoints in this behalf.

Power to make rules regarding notices of and inquiries into accidents.

84. The Governor-General in Council may make rules, consistent with this Act and any other enactment for the time being in force, for *all or* any of the following purposes, namely:—

(*a*) for prescribing the forms of the notices mentioned in the last foregoing section, and the particulars of the accident which those *notices* are to contain;

(*b*) for prescribing the class of accidents of which notice is to be sent by telegraph immediately after the accident has occurred;

(*c*) for prescribing the duties of railway servants, police-officers, Inspectors and Magistrates on the occurrence of an accident.

Submission of return of accidents.

85. Every railway administration shall send to the Governor-General in Council a return of accidents occurring upon its railway, whether attended with personal injury or not, in such form and manner and at such intervals of time as the Governor-General in Council directs.

Provision for compulsory medical examination of person injured in railway accident.

86. Whenever any person injured by an accident on a railway claims compensation on account of the injury, any court or person having by law or consent of parties authority to determine the claim may order that the person injured be examined by some duly qualified medical practitioner named in the order and not being a witness on either side, and may make such order with respect to the cost of the examination as it or he thinks fit.

CHAPTER IX.

PENALTIES AND OFFENCES.

Forfeitures by Railway Companies.

Penalty for default in compliance with requisition under section 13.

87. If a railway company fails to comply with any requisition made under section 13, it shall forfeit to the Government the sum of two hundred rupees for the default and a further sum of fifty rupees for every day after the first during which the default continues.

Penalty for contravention of section 16, 18, 19, 20, 21 or 24.

88. If a railway company moves any rolling-stock upon a railway by steam or other *motive* power in contravention of section 16, sub-section (2), or opens or uses any railway or work in contravention of section 18, section 19, section 20 or section 21, or re-opens any railway or uses any rolling-stock in contravention of section 24, it shall forfeit to the Government the sum of two hundred rupees for every day during which the motive power, railway, work or rolling-stock is used in contravention of any of those sections.

Penalty for not having certain documents kept or exhibited at stations under section 47, 54, or 65.

89. If a railway company fails to comply with the provisions of section 47, sub-section (6), section 54, sub-section (2), or section 65, with respect to the books or other documents to be kept open to inspection or conspicuously posted at stations on its railway, it shall forfeit to the Government the sum of fifty rupees for every day during which the default continues.

Penalty for not making rules as required by section 47.

90. If a railway company fails to comply with the provisions of section 47 with respect to the making of general rules, it shall forfeit to the Government the sum of fifty rupees for every day during which the default continues.

Penalty for failure to comply with decision under section 48.

91. *If a railway company refuses or neglects to comply with any decision of the Governor-General in Council under section 48, it shall forfeit to the Government the sum of two hundred rupees for every day during which the refusal or neglect continues.*

Penalty for delay in submitting returns under section 52 or 85.

92. If a railway company fails to comply with the provisions of section 52 or section 85 with respect to the submission of any return, it shall forfeit to the Government the sum of fifty rupees for every day during which the default continues after the fourteenth day from the date prescribed for the submission of the return.

Penalty for *neglect of* provisions of section 53 or 63 with respect to carrying capacity of rolling-stock.

93. If a railway company contravenes the provisions of section 53 or section 63, with respect to the maximum load to be carried in any wagon or truck, or the maximum number of passengers to be carried in any compartment, or the exhibition of such load on the wagon or truck or of such number *in or* on the compartment, or knowingly suffers any person owning a wagon or truck passing over its railway to contravene the provisions of the former of those sections, it shall forfeit to the Government the sum of twenty rupees for every day during which either section is contravened.

Penalty for failure to comply with requisition under section 62 for maintenance of means of communication between passengers and railway servants.

94. If a railway company fails to comply with any requisition of the Governor-General in Council under section 62 for the provision and maintenance in proper order, in any train worked by it which carries passengers, of such efficient means of communication as the Governor-General in Council has approved, it shall forfeit to the Government the sum of twenty rupees for each train run in disregard of the requisition.

Penalty for failure to reserve compartments for females under section 64.

95. *If a railway company fails to comply with the requirements of section 64 with respect to the reservation of compartments for females or the provision of closets therein, it shall forfeit to the Government the sum of twenty rupees for every train in respect of which the default occurs.*

Penalty for omitting to give the notices of accidents required by section 83 and under section 84.

96. If a railway company omits to give such notice of an accident as is required by section 83 and the rules for the time being in force under section 84, it shall forfeit to the Government the sum of one hundred rupees for every day during which the omission continues.

Recovery of penalties.

97. (1) When a railway company has through any act or omission forfeited any sum to the Government under the foregoing provisions of this Chapter, the sum shall be recoverable by suit in the District Court having jurisdiction in the place where the act or omission or any part thereof occurred.

(2) The suit must be instituted with the previous sanction of the Governor-General in Council, and the plaintiff therein shall be the Secretary of State for India in Council.

(3) The Governor-General in Council may remit the whole or any part of any sum forfeited by a railway company to the Government under the foregoing provisions of this Chapter.

Alternative or supplementary character of remedies afforded by the foregoing provisions of this Chapter.

98. Nothing in those provisions shall be construed to preclude the Government from resorting to any other mode of proceeding instead of, or in addition to, such a suit as is mentioned in the last foregoing section, for the purpose of compelling a railway company to discharge any obligation imposed upon it by this Act.

Offences by Railway Servants.

Breach of duty *imposed by section 60.*

99. If a railway servant *whose duty it is to comply with the provisions of section 60 negligently or wilfully omits to comply therewith*, he shall be punished with fine which may extend to twenty rupees.

Drunkenness.

100. *If a railway servant is in a state of intoxication while on duty, he shall be punished with fine which may extend to fifty rupees, or, where the improper performance of the duty would be likely to endanger the safety of any person travelling or being upon a railway, with imprisonment for a term which may extend to one year, or with fine, or with both.*

Endangering the safety of persons.

101. If a railway servant, when on duty, endangers the safety of any person—

(*a*) by disobeying any general rule made, sanctioned, published and notified under this Act, or

(*b*) by disobeying any rule or order which is not inconsistent with any such general rule, and which such servant was bound by the terms of his employment to obey, and of which he had notice, or

(*c*) by any rash or negligent act or omission,

he shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to five hundred rupees, or with both.

Compelling passengers to enter carriages already full.

102. If a railway servant compels, or attempts to compel, *or causes*, any passenger to enter a compartment which already contains the maximum number of passengers exhibited *thereon or* thereon under section 63, he shall be punished with fine which may extend to twenty rupees.

Omission to give notice of accident.

103. If a station-master or a railway servant in charge of a section of a railway omits to give such notice of an accident as is required by section 83 and the rules for the time being in force under section 84, he shall be punished with fine which may extend to fifty rupees.

Obstructing level-crossings.

104. If a railway servant *unnecessarily*—

(*a*) allows any rolling-stock to stand across a place where the railway crosses a public road on the level, *or*

(*b*) *keeps a level-crossing closed against the public,*

he shall be punished with fine which may extend to twenty rupees.

False returns.

105. If any return which is required by this Act is false in any particular to the knowledge of any person who signs it, that person shall be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to one year, or with both.

Other Offences.

Giving false account *of goods.*

106. If a person requested under section 58 to give an account *with respect to* any goods gives an account which is materially false, he and, if he is not the owner of the goods, the owner also shall be punished with fine which may extend to ten rupees for every maund or part of a maund of the goods, and the fine shall be in addition to any rate or other charge to which the goods may be liable.

Unlawfully bringing dangerous or offensive goods upon a railway.

107. If in contravention of section 59 a person takes with him any dangerous or offensive goods upon a railway, or tenders or delivers any such goods for carriage upon a railway, he shall be punished with fine which may extend to five hundred rupees, and shall also be responsible for any loss, injury or damage which may be caused by reason of such goods having been so brought upon the railway.

Needlessly interfering with means of communication in a train.

108. If a passenger, without reasonable and sufficient cause, makes use of or interferes with any means provided by a railway administration for communication between passengers and the railway servants in charge of a train, he shall be punished with fine which may extend to fifty rupees.

Entering compartment *reserved* or already full or resisting entry into a compartment not full.

109. (1) If a passenger, having entered a compartment *which is reserved by a railway administration for the use of another passenger or which already contains* the maximum number of passengers exhibited therein *or thereon* under section 63, refuses to leave it when required to do so by any railway servant, he shall be punished with fine which may extend to *twenty* rupees.

(2) If *a passenger* resists the lawful entry of *another passenger* into a compartment *not reserved by the railway administration for the use of the passenger resisting or* not already containing the maximum

number of passengers exhibited *therein or* thereon under section 63, he shall be punished with fine which may extend to *twenty* rupees.

Smoking.

110. (1) If a person, without the consent of his fellow-passengers, if any, in the same compartment, smokes in any compartment except a compartment specially provided for the purpose, he shall be punished with fine which may extend to twenty rupees.

(2) If any person persists in so smoking after being warned by any railway servant to desist, he may, in addition to incurring the liability mentioned in sub-section (1), be removed by any railway servant from the carriage in which he is travelling.

Defacing public notices.

111. If a person, without authority in this behalf, pulls down or *wilfully* injures any board or document set up or posted by order of a railway administration on a railway *or any rolling-stock*, or obliterates *or alters* any of the letters or figures upon any such board or document, he shall be punished with fine which may extend to fifty rupees.

Fraudulently travelling or attempting to travel without proper pass or ticket.

112. *If a person, with intent to defraud a railway administration,—*

(*a*) *enters in contravention of section* 68 *any carriage on a railway, or*

(*b*) *uses or attempts to use a single pass or single ticket which has already been used on a previous journey or, in the case of a return-ticket, a half thereof which has already been so used,*

he shall be punished with fine which may extend to one hundred rupees in addition to the amount of the single fare for any distance which he may have travelled.

Travelling without pass or ticket or with insufficient pass or ticket or beyond authorised distance.

113. If a passenger travels in a train without having a *proper* pass or *a proper* ticket with him, or, being in or having alighted from a train, fails or refuses to present for examination or to deliver up his pass or ticket immediately on requisition being made therefor under section 69, he shall be liable to pay, on the demand of any railway servant appointed by the railway administration in this behalf, the *excess charge* hereinafter in this section mentioned, in addition to the ordinary single fare for the distance which he has travelled or, where there is any doubt as to the station from which he started, the ordinary single fare from the station from which the train originally started, or, if the tickets of passengers travelling in the train have been examined since the original starting of the train, the ordinary single fare from the place where the tickets were examined or, in case of their having been examined more than once, were last examined.

(2) If a passenger travels or attempts to travel in or on a carriage, or by a train, of a higher class than that for which he has obtained a pass or purchased a ticket, or travels in or on a carriage beyond the place authorized by his pass or ticket, he shall be liable to pay, on the demand of any railway servant appointed by the railway administration in this behalf, the *excess charge* hereinafter in this section mentioned, in addition to any difference between any fare paid by him and the fare payable in respect of such journey as he has made.

(3) The *excess charge* referred to in sub-section (1) and sub-section (2) shall,—

(*a*) where the passenger has immediately after incurring the *charge* and before being detected by a railway servant notified to the railway servant *on duty with* the train the fact of the *charge* having been incurred, be one rupee, two annas or eight annas, and

(*b*) in any other case, be six rupees, one rupee or three rupees,

according as the passenger is travelling or has travelled or has attempted to travel in a carriage of the highest class or in a carriage of the lowest class or in a carriage of any other class or kind:

Provided that such excess charge shall in no case exceed,—

(*a*) *where the liability to pay it arises under sub-section* (1), *the amount of the ordinary single fare which the passenger incurring the charge is liable to pay under that sub-section, or,*

(*b*) *where such liability arises under sub-section* (2), *the amount of the difference between the fare paid by the passenger incurring the charge and the fare payable in respect of such journey as he has made.*

(4) If a passenger liable to pay the *excess charge* and fare mentioned in sub-section (1), or the *excess charge* and any difference of fare mentioned in sub-section (2), fails or refuses to pay the same on demand being made therefor under one or other of those sub-sections, as the case may be, the sum payable by him shall, on application made to any Magistrate by any railway servant appointed by the railway administration in this behalf, be recovered by the Magistrate from the passenger as if it were a fine imposed on the passenger by the Magistrate and shall, as it is recovered, be paid to the railway administration.

Transferring return half of return ticket.

114. If a person sells or attempts to sell, or parts or attempts to part with the possession of, the return half of a return ticket in order to enable any other person to travel therewith, or purchases such half of a return ticket, he shall be punished with fine which may extend to fifty rupees, *and, if the purchaser of such half of a return ticket travels or attempts to travel therewith, he shall be punished with an additional fine which may extend to* the amount of the single fare for the return journey authorized by the ticket.

Disposal of fines under the two last foregoing sections.

115. That portion of any fine imposed under *section* 112 *or the last foregoing section* which represents the single fare therein mentioned shall, as the fine is recovered, be paid to the railway administration before any portion of the fine is credited to the Government.

Altering or defacing pass or ticket.

116. If a passenger wilfully alters or defaces his pass or ticket so as to render the date, number or any material portion thereof illegible, he shall be punished with fine which may extend to fifty rupees.

Being *or suffering person to travel* on railway with infectious *or contagious* disorder.

117. If a person suffering from an infectious *or contagious* disorder enters or travels upon a railway in contravention of section 71, sub-section (2), he, and any person having charge of him upon the railway when he so entered or travelled thereon, shall be punished with fine which may extend to twenty rupees, in addition to the forfeiture of any fare which either of them may have paid, and of any pass or ticket which either of them may have obtained or purchased, and may be removed from the railway by any railway servant.

(2) *If any such railway servant as is referred to in section* 71, *sub-section* (2), *knowing that a person is suffering from any infectious or contagious disorder, wilfully permits the person to travel upon a railway without arranging for his separation from other*

passengers, he shall be punished with fine which may extend to one hundred rupees.

Entering carriage in motion, or otherwise improperly travelling on a railway.

118. (1) If a passenger enters or leaves, or attempts to enter or leave, any carriage while the train is in motion, or elsewhere than at the side of the carriage adjoining the platform or other place appointed by the railway administration for passengers to enter or leave the carriage, or opens the *side*-door of any carriage while the train is in motion, he shall be punished with fine which may extend to twenty rupees.

(2) If a passenger, after being warned by a railway servant to desist, persists in travelling on the roof, steps or footboard of any carriage or on an engine, or in any other part of a train not intended for the use of passengers, he shall be punished with fine which may extend to fifty rupees and may be removed from the railway by any railway servant.

Entering carriage or other place reserved for females.

119. If a male person, knowing a carriage, compartment, room or other place to be reserved by a railway administration for the exclusive use of females, enters the place without lawful excuse, or, having entered it, remains therein after having been desired by any railway servant to leave it, he shall be punished with fine which may extend to one hundred rupees, in addition to the forfeiture of any fare which he may have paid and of any pass or ticket which he may have obtained or purchased, and may be removed from the railway by any railway servant.

Drunkenness or nuisance on a railway.

120. If a person in any railway carriage or upon any part of a railway—

(*a*) is in a state of intoxication, or

(*b*) commits any nuisance or act of indecency, or uses obscene or abusive language, or

(*c*) wilfully and without lawful excuse interferes with the comfort of any passenger or extinguishes any lamp,

he shall be punished with fine which may extend to fifty rupees, in addition to the forfeiture of any fare which he may have paid and of any pass or ticket which he may have obtained or purchased, and may be removed from the railway by any railway servant.

Obstructing railway servant in his duty.

121. If a person wilfully obstructs or impedes any railway servant in the discharge of his duty, he shall be punished with fine which may extend to one hundred rupees.

Trespass and refusal to desist from trespass.

122. (1) If a person *unlawfully enters* upon a railway, he shall be punished with fine which may extend to twenty rupees.

(2) If a person so *entering* refuses to leave the railway on being requested to do so by any railway servant, or by any other person on behalf of the railway administration, he shall be punished with fine which may extend to fifty rupees, and may be removed from the railway by such servant or other person.

Disobedience of omnibus drivers to directions of railway servants.

123. If a driver or conductor of a tramcar, omnibus, carriage or other vehicle while upon the premises of a railway disobeys the reasonable directions of any railway servant or police-officer, he shall be punished with fine which may extend to twenty rupees.

Opening or not properly shutting gates.

124. In either of the following cases, namely:—

(*a*) If a person, knowing or having reason to believe that an engine or train is approaching along a railway, opens any gate set up on either side of the railway across a road, or passes or attempts to pass, or drives or takes, or attempts to drive or take, any animal, *vehicle* or other thing across the railway,

(*b*) if, in the absence of a gatekeeper, a person omits to shut and fasten such a gate as aforesaid as soon as he and any animal, *vehicle* or other thing under his charge have passed through the gate,

the person shall be punished with fine which may extend to fifty rupees.

Cattle-trespass.

125. (1) The owner or person in charge of any cattle straying on a railway provided with fences suitable for the exclusion of cattle shall be punished with fine which may extend to five rupees for each head of cattle, in addition to any amount which may have been recovered or may be recoverable under the Cattle-trespass Act, 1871.

(2) If any cattle are wilfully driven, or knowingly permitted to be, on *any* railway otherwise than for the purpose of lawfully crossing the railway or for any other lawful purpose, the person in charge of the cattle or, at the option of the railway administration, the owner of the cattle shall be punished with fine which may extend to ten rupees for each head of cattle, in addition to any amount which may have been recovered or may be recoverable under the Cattle-trespass Act, 1871.

(3) Any fine imposed under this section may, if the Court so directs, be recovered in manner provided by section 25 of the Cattle-trespass Act, 1871.

(4) The expression "public road" in sections 11 and 26 of the Cattle-trespass Act, 1871, shall be deemed to include a railway, and any railway servant may exercise the powers conferred on officers of police by the former of those sections.

(5) *The word "cattle" has the same meaning in this section as in the Cattle-trespass Act*, 1871.

Maliciously wrecking or attempting to wreck a train.

126. If a person unlawfully—

(*a*) puts or throws upon or across any railway any wood, stone or other matter or thing, or

(*b*) takes up, removes, *loosens* or displaces any rail, sleeper or other matter or thing belonging to any railway, or

(*c*) turns, moves, *unlocks* or diverts any points or other machinery belonging to any railway, or

(*d*) makes or shows, or hides or removes, any signal or light upon or near to any railway, or

(*e*) does or causes to be done *or attempts to do* any other *act* or thing in relation to any railway,

with intent, or with knowledge that he is likely, to endanger the safety of any person travelling or being upon the railway, he shall be punished with transportation for life or with imprisonment for a term which may extend to *ten* years.

Maliciously hurting or attempting to hurt persons travelling by railway.

127. If a person unlawfully throws or causes to fall or strike at, against, into or upon any rolling-stock forming part of a train any wood, stone or other matter or thing with intent, or with knowledge that he is likely, to endanger the safety

of any person being in or upon such rolling-stock or in or upon any other rolling-stock forming part of the same train, he shall be punished with transportation for life or with imprisonment for a term which may extend to *ten* years.

Endangering safety of persons travelling by railway by wilful act or omission.

128. If a person, by any unlawful act or by any wilful omission or neglect, endangers or causes to be endangered the safety of any person travelling or being upon any railway, or obstructs or causes to be obstructed *or attempts to obstruct* any rolling-stock upon any railway, he shall be punished with imprisonment for a term which may extend to two years.

Endangering safety of persons travelling by railway by rash or negligent act or omission.

129. If a person rashly or negligently does any act, or omits to do what he is legally bound to do, and the act or omission is likely to endanger the safety of any person travelling or being upon a railway, he shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

Special provision with respect to the commission by children of acts endangering safety of persons travelling by railway.

130. (1) If a minor under the age of twelve years is with respect to any railway guilty of any of the acts or omissions mentioned or referred to in any of the four last foregoing sections, he shall be deemed, *notwithstanding anything in section* 82 *or section* 83 *of the Indian Penal Code*, to have committed an offence, and the Court convicting him may, if it thinks fit, *direct that the minor, if a male, shall be punished with whipping, or may require* the father or guardian *of the minor to execute*, within such time as the Court may fix, a bond binding himself, in such penalty as the Court directs, to prevent the minor from being again guilty of any of those acts or omissions.

(2) The amount of the bond, if forfeited, shall be recoverable by the Court as if it were a fine imposed by itself.

(3) If a father or guardian fails to execute a bond under sub-section (1) within the time fixed by the Court, he shall be punished with fine *which may extend to fifty rupees.*

Procedure.

Arrest for offences against certain sections.

131. (1) If a person commits any offence mentioned in section 100, 101, 119, 120, 121, 126, 127, 128 *or* 129 *or in section* 130, *sub-section* (1), he may be arrested without warrant or other written authority by any railway servant or police-officer, or by any other person whom such servant or officer may call to his aid.

(2) A person so arrested shall, with *the least possible* delay, be taken before a Magistrate having authority to try him or commit him for trial.

Arrest of *persons* likely to abscond or unknown.

132. (1) If a person commits any offence under this Act other than an offence mentioned in the last foregoing section, or *fails or refuses to pay* any *excess charge* or other *sum demanded* under section 113, and there is reason to believe that he will abscond, or his name and address are unknown and he refuses on demand to give his name and address, or there is reason to believe that the name or address given by him is incorrect, any railway servant or police-officer, or any other person whom such railway servant or police-officer may call to his aid, may, without warrant or other written authority, arrest him.

(2) *The person arrested shall be released on his giving bail, or, if his true name and address are ascertained, on his executing a bond without sureties, for his appearance before a Magistrate when required.*

(3) *If the person cannot give bail and his true name and address are not ascertained, he shall with the least possible delay be taken before the nearest Magistrate having jurisdiction.*

(4) *The provisions of Chapters XXXIX and XLII of the Code of Criminal Procedure*, 1882, *shall, so far as may be, apply to bail given and bonds executed under this section.*

Magistrates having jurisdiction under Act.

133. No Magistrate other than a Presidency Magistrate or than a Magistrate whose powers are not less than those of a Magistrate of the second class shall try any offence under this Act.

Place of trial.

134. (1) Any person committing any offence against this Act or any rule thereunder shall be triable for such offence in any place in which he may be or which the Local Government may notify in this behalf, as well as in any other place in which he might be tried under any law for the time being in force.

(2) Every notification under sub-section (1) shall be published in the local official Gazette, and a copy thereof shall be exhibited for the information of the public in some conspicuous place at each of such railway stations as the Local Government may direct.

CHAPTER X.

SUPPLEMENTAL PROVISIONS.

Taxation of railways by local authorities.

135. Notwithstanding anything to the contrary in any enactment, or in any agreement or award based on any enactment, the following rules shall regulate the levy of taxes in respect of railways and from railway administrations in aid of the funds of local authorities, namely:—

(1) A railway administration shall not be liable to pay any tax in aid of the funds of any local authority unless the Governor-General in Council has, by *notification in the official Gazette*, declared the railway administration to be liable to pay the tax.

(2) While *a notification of* the Governor-General in Council under clause (1) of this section is in force, the railway administration shall be liable to pay to the local authority either the tax mentioned in the *notification* or, in lieu thereof, such sum, if any, as an officer appointed in this behalf by the Governor-General in Council may, having regard to all the circumstances of the case, from time to time determine to be fair and reasonable.

(3) The Governor-General in Council may at any time revoke or vary *a notification* under clause (1) of this section.

(4) Nothing in this section is to be construed as debarring any railway administration from entering into a contract with any local authority for the supply of water or light, or for the scavenging of railway premises, or for any other service which the local authority may be rendering or be prepared to render within any part of the local area under its control.

(5) "Local authority" in this section means a local authority as defined in the General Clauses Act, 1887, and includes any authority legally entitled to or entrusted with the control or management of any fund for the maintenance of watchmen or for the conservancy of a river.

Restriction on execution against railway property.

136. (1) None of the rolling-stock, machinery, plant, tools, fittings, materials or effects used or provided by a railway administration for the purpose of the traffic on its railway, or of its stations or workshops, shall be liable to be taken in execution of any decree or order of any Court without the previous sanction of the Governor-General in Council.

(2) Nothing in sub-section (1) is to be construed as affecting the authority of any Court to attach the earnings of a railway in execution of a decree or order.

Railway servants to be public servants for the purposes of Chapter IX of the Indian Penal Code.

137. (1) Every railway servant shall be deemed to be a public servant for the purposes of Chapter IX of the Indian Penal Code.

(2) In the definition of "legal remuneration" in section 161 of that Code the word "Government" shall, for the purposes of sub-section (1), be deemed to include any employer of a railway servant as such.

(3) A railway servant shall not—

(*a*) purchase or bid for, either in person or by agent, in his own name or in that of another, or jointly or in shares with others, any property put up to auction under section 55 or section 56, or,

(*b*) in contravention of any direction of the railway administration in this behalf, engage in trade.

(4) Notwithstanding anything in section 21 of the Indian Penal Code, a railway servant shall not be deemed to be a public servant for any of the purposes of that Code except those mentioned in sub-section (1).

Procedure for summary delivery to railway administration of property detained by a railway servant.

138. If a railway servant is discharged or suspended from his office, or dies, absconds or absents himself, and he or his wife or widow, or any of his family or representatives, refuses or neglects, after notice in writing for that purpose, to deliver up to the railway administration, or to a person appointed by the railway administration in this behalf, any station, dwelling-house, office or other building, with its appurtenances, or any books, papers or other matters, belonging to the railway administration and in the possession or custody of such railway servant at the occurrence of any such event as aforesaid, any Magistrate *of the first class* may, on application made by or on behalf of the railway administration, order any police-officer, with proper assistance, to enter upon the building and remove any person found therein and take possession thereof, or to take possession of the books, papers or other matters, and to deliver the same to the railway administration or a person appointed by the railway administration in that behalf.

Mode of signifying communications from the Governor-General in Council.

139. Any notice, determination, direction, requisition, appointment, expression of opinion, approval or sanction to be given or signified on the part of the Governor-General in Council, for any of the purposes of, or in relation to, this Act, or any of the powers or provisions therein contained, shall be sufficient and binding if in writing signed by a Secretary, Deputy Secretary, Under-Secretary or Assistant Secretary to the Government of India, or by any other officer or servant authorized to act on behalf of the Governor-General in Council in respect of the matters to which the same may relate, and the Governor-General in Council shall not in any case be bound in respect of any of the matters aforesaid unless by some writing signed in manner aforesaid.

Service of notices on railway administrations.

140. Any notice or other document required or authorized by this Act to be served on a railway administration may be served, in the case of a railway administered by the Government or a Native State, on the Manager and, in the case of a railway administered by a railway company, on the Agent in India of the railway company—

(*a*) by delivering the notice or other document to the Manager or Agent, or

(*b*) by leaving it at his office, or

(*c*) by forwarding it by post in a prepaid letter addressed to the Manager or Agent at his office and registered under Part III of the Indian Post Office Act, 1866.

Service of notices by railway administrations.

141. Any notice or other document required or authorized by this Act to be served on any person by a railway administration may be served—

(*a*) by delivering it to the person, or

(*b*) by leaving it at the usual or last known place of abode of the person, or

(*c*) by forwarding it by post in a prepaid letter addressed to the person at his usual or last known place of abode and registered under Part III of the Indian Post Office Act, 1866.

Presumption where notice is served by post.

142. Where a notice or other document is served by post, it shall be deemed to have been served at the time when the letter containing it would be delivered in the ordinary course of post, and in proving such service it shall be sufficient to prove that the letter containing the notice or other document was properly addressed and registered.

Provisions with respect to rules.

143. (1) A rule under section 22, section 34 or section 84, or the cancellation, rescission or variation of a rule under any of those sections or under section 47, sub-section (4), shall not take effect until it has been published in the Gazette of India.

(2) Where any rule made under this Act, or the cancellation, rescission or variation of any such rule, is required by this Act to be published in the Gazette of India, it shall, besides being so published, be further notified to persons affected thereby in such manner as the Governor-General in Council, by general or special order, directs.

(3) The Governor-General in Council may cancel or vary any rule made by him under this Act.

Delegation of powers of Governor-General in Council.

144. (1) The Governor-General in Council may, by notification in the Gazette of India, invest, *absolutely or subject to conditions*, any local Government with any of the powers or functions of the Governor-General in Council under this Act with respect to any railway, and may, by that or a like notification, declare what Local Government shall, for the purposes of the exercise of powers or functions so conferred, be deemed to be the Local Government in respect of the railway.

(2) The provisions of section 139 with respect to proceedings of the Governor-General in Council shall, so far as they can be made applicable, apply to proceedings of a Local Government exercising the powers or discharging the functions of the Governor-General in Council in pursuance of a notification under sub-section (1).

Representation of Managers and Agents of Railways in Courts.

145. (1) The Manager of a railway administered by the Government or a Native State, and the Agent in India of a railway administered by a railway company, may, by instrument in writing, authorize any railway servant or other person to act for or represent him in any proceeding before any Civil, Criminal or other Court.

(2) A person authorized by a Manager or Agent to conduct prosecutions on behalf of a railway administration shall, *notwithstanding anything in section 495 of the Code of Criminal Procedure*, 1882, *be entitled to conduct such prosecutions without the permission of the Magistrate.*

Power to extend Act to steam-tramways.

146. The Governor-General in Council may, by notification in the Gazette of India, extend this Act or any portion thereof to any tramway worked by steam or other mechanical power.

Power to exempt railways from Act.

147. The Governor-General in Council may, by a like notification, exempt any railway from any of the provisions of this Act.

Matters supplemental to the definitions of "railway" and "railway servant."

148. (1) For the purposes of section 3, *clauses* (5), (6) *and* (7), and sections 4 to 19 (both inclusive), 47 to 52 (*both inclusive*), 59, 79, 83 to 92 (*both inclusive*), 96, 97, 98, 100, 101, 103, 104, 107, 111, 122, 124 *to* 132 (*both inclusive*), 134 *to* 138 (*both inclusive*), 140, 141, 144, 145 *and* 147, the word "railway," whether it occurs alone or as a prefix to another word, has reference to a railway or portion of a railway under construction and to a railway or portion of a railway not used for the public carriage of passengers, animals or goods as well as to a railway falling within the definition of that word in section 3, *clause* (4).

(2) For the purposes of sections 5, 21, 83, 100, 101, 103, 104, 121, 122, 125, *and* 137, sub-sections (1), (2) and (4), and section 138, the expression "railway servant" includes a person employed upon a railway in connection with the service thereof by a person fulfilling a contract with the railway administration.

Amendment of the Indian Penal Code.

149. In sections 194 and 195 of the Indian Penal Code, for the words "by this Code or the law of England" the words "by the law of British India or England" shall be substituted.

Amendment of the Sindh-Pishin Railway Act, 1887.

150. *For that portion of the preamble to the Sindh-Pishin Railway Act*, 1887, *which begins with the words "so far as it applies" and ends with the words "in its entirety," the words should apply in its entirety to that part of the Sindh-Pishin section of the North-Western Railway which lies beyond the Province of Sindh" shall be substituted.*

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(*See section* 2.)

Number and year.	Title.	Extent of repeal.
Acts of the Governor-General in Council.		
III of 1865 ..	Carriers Act, 1865 ..	Section 7 (*so far as it relates to railways*) *and section* 10.
IV of 1879 ..	Indian Railway Act, 1879.	The whole.
IV of 1883 ..	Indian Railway Act, 1883.	The whole.
XI of 1886 ..	Indian Tramways Act, 1886.	Section 49:
XX *of* 1886 ..	*Upper Burma Laws Act*, 1886.	*So much as relates to Acts IV of* 1879 *and IV of* 1883.
Act of the Lieutenant-Governor of Bengal in Council.		
II of 1882 ..	Bengal Embankment Act, 1882.	Section 16, and in section 17 the proviso to the first paragraph of that section, *the words "or under the section last preceding,"* and the words "or railroad" wherever they occur.

THE SECOND SCHEDULE.

ARTICLES TO BE DECLARED AND INSURED.

(*See section* 75.)

(*a*) gold and silver, coined or uncoined, manufactured or unmanufactured;

(*b*) plated articles;

(*c*) cloths and tissue and lace of which gold or silver forms part, not being the uniform or part of the uniform of an officer, soldier, sailor, police-officer or person enrolled as a volunteer under the Indian Volunteers Act, 1869, or of any public officer, British or foreign, entitled to wear uniform;

(*d*) *pearls*, precious stones, jewellery and trinkets;

(*e*) watches, clocks and timepieces of any description;

(*f*) Government securities;

(*g*) Government stamps;

(*h*) bills of exchange, hundis, promissory-notes, bank-notes and orders or other securities for payment of money;

(*i*) maps, writings and title-deeds;

(*j*) paintings, engravings, lithographs, photographs, carvings, sculpture and other works of art;

(*k*) art pottery and all articles made of glass, china or marble;

(*l*) silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials;

(*m*) shawls;

(*n*) lace and furs;

(*o*) opium;

(*p*) ivory, ebony, coral and sandalwood;

(*q*) musk, sandalwood-oil and other essential oils used in the preparation of *itr* or other perfume;

(*r*) musical and scientific instruments;

(*s*) *any article of special value which the Governor-General in Council may, by notification in the Gazette of India, add to this schedule.*

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

(Republished by order of the Right Honorable the Governor in Council.)

J. GROSE,
Acting Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

The following Report of the Select Committee on the Bill to consolidate and amend the Law relating to Guardian and Ward was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 7th March 1890 :—

We, the undersigned, Members of the Select Committee to which the Bill to consolidate and amend the law relating to Guardian and Ward was referred, have considered the Bill and the papers noted in the margin, and have now the honor to submit this our Report, with the Bill as amended by us annexed thereto.

From Officiating Government Pleader, Moradabad, dated 5th June 1886 [Paper No. 1].
From Secretary to Chief Commissioner, Coorg, No. 1099—150, dated 11th June 1886, and enclosures [Papers No. 2].
From Officiating Secretary to Chief Commissioner, Assam, dated 14th June 1886, and enclosures [Papers No. 3].
From Secretary, Behar Landholders' Association, dated 20th June 1886 [Paper No. 4].
From Mr. P. R. Desai, Pleader, District Court, Satara, dated 3rd July 1886 [Paper No. 5].
From Officiating Assistant Secretary to Government, Bengal, dated 8th July 1886, and enclosure [Papers No. 6].
Suggestions by Mr. Mata Prasad, Munsif, Etawah, dated 9th July 1886 [Paper No. 7].
From Chief Secretary to Government, Madras, No. 1781, dated 6th July 1886, and enclosures [Papers No. 8].
From Secretary for Berar to Resident, Hyderabad, No. 234 G., dated 24th July 1886 [Paper No. 9].
From Chief Commissioner, Ajmere-Merwara, No. 803—690-II, dated 29th July 1886 [Paper No. 10].
From Secretary to Chief Commissioner, Burma, No. 695—15 L., dated 27th July 1886, and enclosures [Papers No. 11].
From Under Secretary to Chief Commissioner, Central Provinces, No. 3425—187, dated 31st July 1886, and enclosures [Papers No. 12].
From Under Secretary to Chief Commissioner, Central Provinces, No. 3658—218, dated 12th August 1886, and enclosure [Papers No. 13].
Note by the Hon'ble Syud Ameer Hossein, Presidency Magistrate, Calcutta, dated 16th August 1886 [Paper No. 14].
From Chief Secretary to Government, Bengal, No. 1341 J.D., dated 20th September 1886, and enclosures [Papers No. 15].
From Secretary to Government, North-Western Provinces and Oudh, No. 737—VII-235-25, dated 21st September 1886, and enclosures [Papers No. 16].
From Acting Under Secretary to Government, Bombay, No. 5481, dated 22nd September 1886, and enclosures [Papers No. 17].
From Secretary to Government, North-Western Provinces and Oudh, No. 796-VII-235-27, dated 12th October 1886, and enclosures [Papers No. 18].
From Secretary to Government, Punjab, No. 1247, dated 16th December 1886, and enclosures [Papers No. 19].
From Secretary to Government, Punjab, No. 21, dated 10th January 1887, and enclosures [Papers No. 20].
From Registrar, High Court, Calcutta, No. 141, dated 18th January 1887, and enclosure [Papers No. 21].
Note by the Hon'ble Rao Saheb Visvanath Narayan Mandlik, C.S.I., dated 7th May 1887, [Paper No. 22].
Office Memorandum from Government of India, Revenue and Agricultural Department, No. 704—24, dated 23rd December 1887, and enclosures [Papers No. 23].
Circular to Local Governments and Administrations, Nos. 1531—41, dated 17th August 1889, and replies thereto.

2. The Bill was introduced in 1886, and was considered by a Select Committee in 1887. That Committee made many amendments in the Bill, but decided not to submit a report, partly because the Bill contained a clause respecting the appointment of guardians for minor members of undivided Hindu families about which there was much difference of opinion, and partly because the Calcutta High Court considered that the Bill did not hold out sufficient inducement to *de facto* guardians to subject themselves to the provisions of the proposed Act.

On these two matters Local Governments have since been specially consulted, and in undertaking the reconsideration of the Bill as amended in 1887 we have had the benefit of their advice.

The weight of authority is distinctly adverse to the retention of the clause respecting the appointment of guardians for minor members of undivided Hindu families, and we have removed that clause from the Bill.

The inducements to *de facto* guardians to subject themselves to the proposed Act are several. No fees will be payable in respect of the appointment of guardians (section 2): a *de facto* guardian acting without appointment by the Court will incur the risk of being superseded on an application by the Collector (section 8): appointed guardians may be properly remunerated for their care and pains in

the execution of their duties (section 22): testamentary and appointed guardians will have the powers possessed by executors and administrators respectively under the Probate and Administration Act, 1881, and will be in a position to pass secure titles (sections 28 and 29): appointed guardians may protect themselves by applying for, and acting upon, the direction of the Court (section 33), and the submission of accounts by them is no longer to be obligatory, but to be left to the discretion of the Courts under the rules of the High Court [sections 34 and 50 (1) (*d*)]: joint guardians may come to the Court for the settlement of their differences (section 43): and certain privileges are conferred on appointed guardians by clauses B, C and D of the section (section 53) amending Chapter XXXI of the Code of Civil Procedure. In the opinion of most of the authorities consulted these inducements were sufficient, but we have now added to them the provision in clause A of section 53 that, where a guardian has been appointed for a minor by the Court, a suit is not to be instituted in the name of the minor by any other person as next friend without the leave of the Court to be granted after hearing any objection which the guardian may have to make with respect to the institution of the suit. This provision will, we believe, be very valuable in practice, and it will further tend to remove the objection which was taken to the Bill by the Calcutta High Court.

3. *Section* 4.—We have amended the definition of "minor," extended that of "European British subject," and made it clear that "District Court" includes a High Court in the exercise of its ordinary original civil jurisdiction.

4. *Sections* 5 *and* 15.—Here, as regards European British subjects, we have followed as closely as possible the provisions of the Guardianship of Infants Act, 1886 (49 and 50 Vict., C. 27).

5. *Section* 17.—Sub-section (5) of this section makes it sufficiently clear that neither a Collector nor any other person can be appointed a guardian against his will.

6. *Section* 22.—Where a Collector is appointed guardian, fees will be chargeable for the maintenance of his special establishment as they are chargeable in the case of estates under the superintendence of the Court of Wards.

7. *Section* 23.—This section will, of course, be read under section 3 as subject to such enactments as section 193 of the North-Western Provinces Land Revenue Act, 1873.

8. *Section* 39.—We have followed the Guardianship of Infants Act, 1886, in making a testamentary guardian removable on the same grounds as a guardian appointed by the Court.

9. *Section* 43.—Following section 3 of the same Act we have provided here for the settlement of differences of opinion between joint guardians.

10. The other amendments made in the Bill since its introduction are numerous, but do not appear to us to call for remark.

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

In English.

Gazette.	Date.
Gazette of India	20th and 27th March and 3rd April 1886.
Fort St. George Gazette	31st March 1886.
Bombay Government Gazette	25th March and 1st and 8th April 1886.
Calcutta Gazette	24th and 31st March and 7th April 1886.
North-Western Provinces and Oudh Government Gazette ..	27th March and 3rd and 10th April 1886.
Punjab Government Gazette	1st, 8th and 15th April 1886.
Central Provinces Gazette	27th March and 3rd and 10th April 1886.
Burma Gazette	10th, 17th and 24th April 1886.
Assam Gazette	10th, 17th and 24th April 1886.
Coorg District Gazette	1st May 1886.

In the Vernaculars.

Province.	Language.	Date.
Madras	Tamil	13th August 1886.
	Telugu	27th August 1886.
	Kanarese	30th August 1886.
	Malayalam	3rd September 1886.
	Hindustani	10th September 1886.
Bombay	Gujarathi	10th June 1886.
	Marathi	17th June 1886.
	Kanarese	22nd July 1886.
Bengal	Bengali	8th, 15th and 22nd June 1886.
	Hindi	8th, 15th and 22nd June 1886.
	Uriya	1st, 8th and 15th July 1886.
North-Western Provinces and Oudh.	Urdu	3rd, 10th and 17th July 1886.
Punjab	Urdu	8th July 1886.
Central Provinces	Marathi	30th June and 7th and 15th July 1886.
	Hindi	28th July and 4th and 11th August 1886.
Burma	Burmese	23rd and 30th October and 6th November 1886.

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

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

The 1st March 1890.

No. II.

THE GUARDIANS AND WARDS BILL.

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THE SCHEDULE.—ENACTMENTS REPEALED.

No. II.

A Bill to consolidate and amend the law relating to Guardian and Ward.

WHEREAS it is expedient to consolidate and amend the law relating to guardian and ward; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (1) This Act may be called the Guardians and Wards Act, 1890.

(2) It extends to the whole of British India, *inclusive of Upper Burma and British Baluchistan*; and

(3) It shall come into force on the first day of July 1890.

Repeal.

2. (1) On and from that day the enactments mentioned in the schedule shall be repealed to the extent specified in the third column thereof.

(2) But all proceedings had, certificates granted, allowances assigned, obligations imposed, and applications, appointments, orders and rules made under any of those enactments, shall, so far as may be, be deemed to have been respectively had, granted, assigned, imposed and made under this Act; and

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

Saving of jurisdiction of Courts of Wards and Chartered High Courts.

3. This Act shall be read subject to every enactment heretofore or hereafter passed relating to any Court of Wards by the Governor-General in Council or by a Governor or Lieutenant-Governor in Council; and nothing in this Act shall be construed to affect, or in any way derogate from, the jurisdiction or authority of any Court of Wards, or to take away any power possessed by any High Court established under the Statute 24 and 25 Victoria, Chapter 104 (*An Act for establishing High Courts of Judicature in India*).

Definitions.

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

(1) "minor" means *a person who, under the provisions of the Indian Majority Act*, 1875, *is to be deemed not to have attained his majority*:

(2) "guardian" means a person having the care of the person of a minor or of his property, or of both his person and property:

(3) "ward" means a minor for whose person or property, or both, there is a guardian:

(4) "District Court" has the meaning assigned to that expression in the Code of Civil Procedure, *and includes a High Court in the exercise of its ordinary original civil jurisdiction*:

(5) "the Court" means the District Court having jurisdiction to entertain an application under this Act for *an order appointing or declaring a person to be a guardian*; and, where a guardian has been appointed or declared in pursuance of any such application, it means the Court which appointed or declared the guardian, or, in any matter relating to the person of the ward, the District Court having jurisdiction in the place where the ward for the time being ordinarily resides:

(6) "Collector" means the chief officer in charge of the revenue-administration of a district, and includes any officer whom the Local Government, by notification in the official Gazette, may, by name or in virtue of his office, appoint to be a Collector in any local area, or with respect to any class of persons, for all or any of the purposes of this Act:

(7) "European British subject" *means an European British subject as defined* in the Code of Criminal Procedure, 1882, and *includes any Christian of European descent*: *and*

(8) "prescribed" means prescribed by rules made by the High Court under this Act.

CHAPTER II.

APPOINTMENT AND DECLARATION OF GUARDIANS.

Power of parents to appoint in case of European British subjects.

5. (1) Where a minor is an European British subject, a guardian *or guardians* of his person or property, or both, may be appointed by will or *other instrument* to take effect on the death of the person appointing,—

(*a*) by the father *of the minor*, *or*,

(*b*) *if the father* is dead or incapable of acting, by the *mother*.

(2) *Where guardians have been appointed under sub-section* (1) *by both parents they shall act jointly.*

Saving of power to appoint in other cases.

6. In the case of a minor who is not an European British subject, nothing in this Act shall be construed to take away or derogate from any power to appoint a guardian of his person or property, or both, which is valid by the law to which the minor is subject.

Power of the Court to make order as to guardianship.

7. (1) Where the Court is satisfied that it is for the welfare of a minor that *an order should* be made—

(*a*) appointing a guardian of his person or property, or both, or

(*b*) declaring a person to be such a guardian,

the Court may make an order accordingly.

(2) An order under this section shall imply the removal of any guardian who has not been appointed by will or other instrument or appointed or declared by the Court.

(3) Where a guardian has been appointed by will or other instrument or appointed or declared by the Court, an order under this section appointing or declaring another person to be guardian in his stead shall not be made until the powers of the guardian appointed or declared as aforesaid have ceased under the provisions of this Act.

Persons entitled to apply for order.

8. An order *shall not* be made under the last foregoing section *except* on the application of—

(*a*) the person desirous of being, or claiming to be, the guardian of the minor, or

(*b*) any relative or friend of the minor, or

(*c*) the Collector of the district or other local area within which the minor ordinarily resides or in which he has property, or

(*d*) the Collector having authority with respect to the class to which the minor belongs.

Court having jurisdiction to entertain application.

9. (1) If the application is with respect to the guardianship of the person of the minor, it shall be made to the District Court having jurisdiction in the place where the minor ordinarily resides.

(2) If the application is with respect to the guardianship of the property of the minor, it may be made either to the District Court having jurisdiction in the place where the minor ordinarily resides or to a District Court having jurisdiction in a place where he has property.

(3) If an application with respect to the guardianship of the property of a minor is made to a District Court other than that having jurisdiction in the place where the minor ordinarily resides, the Court may return the application if in its opinion the application would be disposed of more justly or conveniently by any other District Court having jurisdiction.

Form of application.

10. (1) If the application is not made by the Collector, it shall be by petition signed and verified in manner prescribed by the Code of Civil Procedure for the signing and verification of a plaint, and stating, so far as can be ascertained,—

(*a*) the name, sex, religion, date of birth and ordinary residence of the minor;

(*b*) where the minor is a female, whether she is married, and, if so, the name and age of her husband;

(*c*) the nature, situation and approximate value of the property, if any, of the minor;

(*d*) the name and residence of the person having the custody or possession of the person or property of the minor;

(*e*) what near relations the minor has, and where they reside;

(*f*) whether a guardian of the person or property, or both, of the minor has been appointed by any person entitled or claiming to be entitled by the law to which the minor is subject to make such an appointment;

(*g*) whether an application has at any time been made to the Court or to any other Court with respect to the guardianship of the person or property, or both, of the minor, and, if so, when, to what Court and with what result;

(*h*) whether the application is for the appointment or declaration of a guardian of the person of the minor, or of his property, or of both;

(*i*) where the application is to appoint a guardian, the qualifications of the proposed guardian;

(*j*) where the application is to declare *a person to be* a guardian, the grounds on which that *person claims*;

(*k*) the causes which have led to the making of the application; and

(*l*) such other particulars, if any, as may be prescribed or as the nature of the application renders it necessary to state.

(2) If the application is made by the Collector, it shall be by letter addressed to the Court and forwarded by post or in such other manner as may be found convenient, and shall state as far as possible the particulars mentioned in sub-section (1).

(3) The application must be accompanied by a declaration of the willingness of the proposed guardian to act, and the declaration must be signed by him and attested by at least two witnesses.

Procedure on admission of application.

11. (1) If the Court is satisfied that there is ground for proceeding on the application, it shall fix a day for the hearing thereof, and cause notice of the application and of the date fixed for the hearing—

(*a*) to be served in the manner directed in the Code of Civil Procedure on—

(i) the parents of the minor if they are residing in British India,

(ii) the person, if any, named in the petition or letter as having the custody or possession of the person or property of the minor,

(iii) the person proposed in the application or letter to be appointed or declared guardian, unless that person is himself the applicant, and

(iv) any other 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 of the residence of the minor, and otherwise published in such manner as the Court, subject to any rules made by the High Court under this Act, thinks fit.

(2) The Local Government may, by general or special order, require that, when any part of the property described in a petition under section 10, sub-section (1), is land of which a Court of Wards could assume the superintendence, the Court shall also cause a notice as aforesaid to be served on the Collector in whose district the minor ordinarily resides, and on every Collector in whose district any portion of the land is situate, and the Collector may cause the notice to be published in any manner he deems fit.

(3) No charge shall be made by the Court or the Collector for the service or publication of any notice served or published under sub-section (2).

Power to make interlocutory order for production of minor and interim protection of person and property.

12. (1) The Court may direct that the person, if any, having the custody of the minor shall produce him or cause him to be produced at such place and time and before such person as it appoints, and may make such order for the temporary custody and protection of the person or property of the minor as it thinks proper.

(2) If the minor is a female who ought not to be compelled to appear in public, the direction under sub-section (1) for her production shall require her to be produced in accordance with the customs and manners of the country.

(3) Nothing in this section shall authorise—

(*a*) *the Court to place* a female minor in the temporary custody of a person claiming to be her guardian on the ground of his being her husband, unless she is *already in his custody with the consent of her parents, if any*, or

(*b*) any person to whom the temporary custody and protection of the property of a minor is entrusted to dispossess otherwise than by due course of law any person in possession of any of the property.

Hearing of evidence before making of order.

13. On the day fixed for the hearing of the application, or as soon afterwards as may be, the Court shall hear such evidence as may be adduced in support of or in opposition to the application.

Simultaneous proceedings in different Courts.

14. (1) If proceedings for the appointment or declaration of a guardian of a minor are taken in more Courts than one, each of those Courts shall, on being apprised of the proceedings in the other Court or Courts, stay the proceedings before itself.

(2) If the Courts are both or all subordinate to the same High Court, they shall report the case to the High Court, and the High Court shall determine in which of the Courts the proceedings with respect to the appointment or declaration of a guardian of the minor shall be had.

(3) In any other case in which proceedings are stayed under sub-section (1), the Courts shall report the case through the Local Government to the Governor-General in Council, and the Governor-General in Council shall determine in which of the Courts the proceedings with respect to the appointment or declaration of a guardian of the minor shall be had.

Appointment or declaration of several guardians.

15. (1) If the law to which the minor is subject admits of his having two or more joint guardians of his person or property, or both, the Court may, if it thinks fit, appoint or declare them.

(2) On the death of a father, being an European British subject, who has, by will or *other* instrument to take effect on his death, appointed a guardian of *his minor child*, the Court may appoint the mother to be guardian of the *child* jointly with the guardian appointed by the father.

(3) On the death of a mother, being an European British subject, who *during the incapacity of the father of her minor child* has, by will or *other* instrument to take effect on her death, appointed a guardian of *the child*, the Court *may, if the father becomes capable of acting, appoint him to be sole guardian of the child or guardian of the child jointly with the guardian appointed by the mother, as it thinks fit.*

(4) Separate guardians may be appointed or declared of the person and of the property of a minor.

(5) If a minor has several properties, the Court may, if it thinks fit, appoint or declare a separate guardian for any one or more of the properties.

Appointment or declaration of guardian for property beyond jurisdiction of the Court.

16. If the Court appoints or declares a guardian for any property situate beyond the local limits of its jurisdiction, the Court having jurisdiction in the place where the property it situate shall, on production of a certified copy of the order appointing or declaring the guardian, accept him as duly appointed or declared and give effect to the order.

Matters to be considered by the Court in appointing guardian.

17. (1) In appointing or declaring the guardian of a minor the Court shall, subject to the provisions of this section, be guided by what, consistently with the law to which the minor is subject, appears in the circumstances to be for the welfare of the minor.

(2) In considering what will be for the welfare of the minor, the Court shall have regard to the age, sex and religion of the minor, the character and capacity of the proposed guardian and his *nearness of kin* to the minor, the wishes, if any, of a deceased parent, and any existing or previous relations of the proposed guardian with the minor or his property.

(3) If the minor is old enough to form an intelligent preference, the Court may consider that preference.

(4) As between parents who are European British subjects adversely claiming the guardianship of the person, neither parent is entitled to it as of right, but, other things being equal, if the minor is a male of tender years or a female, the minor should be given to the mother, and if the minor is a male of an age to require education and preparation for labor and business, then to the father.

(5) The Court shall not appoint or declare *any* person to be *a* guardian against his will.

Appointment *or declaration* of Collector in virtue of office.

18. Where *a* Collector is appointed *or declared* by the Court in virtue of his office to be guardian of the person or property, or both, of a minor, the order appointing *or declaring* him shall be deemed to authorise and require the person for the time being holding the office to act as guardian of the minor with respect to his person or property, or both, as the case may be.

Guardian not to be appointed by the Court in certain cases.

19. Nothing in this chapter shall authorise the Court to appoint or declare a guardian *of the property of a minor whose property is under the superintendence of a Court of Wards, or to appoint or declare a guardian* of the person—

(*a*) of a minor who is a married female and whose husband is not, in the opinion of the Court, unfit to be guardian of her person, or,

(*b*) subject to the provisions of this Act with respect to European British subjects, of a minor whose father is living and is not, in the opinion of the Court, unfit to be guardian of the person of the minor, or

(*c*) of a minor whose property is under the superintendence of a Court of Wards competent to appoint a guardian of the person of the minor.

CHAPTER III.

DUTIES, RIGHTS AND LIABILITIES OF GUARDIANS.

General.

Fiduciary relation of guardian to ward.

20. (1) A guardian stands in a fiduciary relation to his ward, and, save as provided by the will or other instrument, if any, by which he was appointed, or by *this Act*, he must not make any profit out of his office.

(2) The fiduciary relation of a guardian to his ward extends to and affects purchases by the guardian of the property of the ward, and by the ward of the property of the guardian, immediately or soon after the ward has ceased to be a minor, and generally all transactions between them while the influence of the guardian still lasts or is recent.

Capacity of minors to act as guardians.

21. A minor is incompetent to act as guardian of any minor except his own wife or child or, where he is the managing member of an undivided Hindu family, the wife or child of another minor member of that family.

Remuneration of guardian.

22. (1) A guardian appointed or declared by the Court shall be entitled to such allowance, if any, as the Court thinks fit for his care and pains in the execution of his duties.

(2) *When an officer of the Government, as such officer, is so appointed or declared to be guardian, such fees shall be paid to the Government out of the property of the ward as the Local Government, by general or special order, directs.*

Control of Collector as guardian.

23. *A Collector appointed or declared by the Court to be guardian of the person or property, or both, of a minor shall, in all matters connected with the guardianship of his ward, be subject to the control of the Local Government or of such authority as that Government, by notification in the official Gazette, appoints in this behalf.*

Guardian of the Person.

Duties of guardian of the person.

24. A guardian of the person of a ward is charged with the custody of the ward, and must look to his support, health and education, and such other matters as the law to which the ward is subject requires.

Title of guardian to custody of ward.

25. (1) If a ward leaves *or is removed from* the custody of a guardian of his person the Court, *if it is of opinion that it will be for the welfare of the ward to return to the custody of his guardian*, may make an order for his return, and for the purpose of enforcing the order may cause the ward to be arrested and to be delivered into the custody of the guardian.

(2) *For the purpose of arresting the ward, the Court may exercise the power conferred on a Magistrate of the first class by section* 100 *of the Code of Criminal Procedure*, 1882.

(3) The residence of a ward against the will of his guardian with a person who is not his guardian does not of itself terminate the guardianship.

Removal of ward from jurisdiction.

26. (1) A guardian of the person appointed or declared by the Court, unless he is *the Collector or is* a guardian appointed by will or other instrument, shall not, without the leave of the Court by which he was appointed or declared, remove the ward from the limits of its jurisdiction except for such purposes as may be prescribed.

(2) The leave granted by the Court under subsection (1) may be special or general, and may be defined by the order granting it.

Guardian of Property.

Duties of guardian of property.

27. A guardian of the property of a ward is bound to deal therewith as carefully as a man of ordinary prudence would deal with it if it were his own, and, subject to the provisions of this Chapter, he may do all acts which are reasonable and proper for the realisation, protection or benefit of the property.

Powers of testamentary guardian.

28. Where a guardian has been appointed by will or other instrument, his power to mortgage or charge, or transfer by sale, gift, exchange or otherwise, immoveable property belonging to his ward is subject to any restriction which may be imposed by the instrument, unless *he has under this Act been declared guardian and* the Court which made the declaration 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.

Limitation of powers of guardian of property appointed or declared by the Court.

29. Where a person other than a Collector, or than a guardian appointed by will or other instrument, has been appointed or declared by the Court to be guardian of the property of a ward, he shall not, without the previous permission of the Court,—

(*a*) mortgage or charge, or transfer by sale, gift, exchange or otherwise, any part of the immoveable property of his ward, or

(*b*) lease any part of that property for a term exceeding five years or for any term extending more than one year beyond the date on which the ward will cease to be a minor.

Voidability of transfers made in contravention of section 28 or section 29.

30. A disposal of immoveable property by a guardian in contravention of either of the two last foregoing sections is voidable at the instance of any other person affected thereby.

Practice with respect to permitting transfers under section 29.

31. (1) Permission to the guardian to do any of the acts mentioned in section 29 shall not be granted by the Court except in case of necessity or for an evident advantage to the ward.

(2) The order granting the permission shall recite the necessity or advantage, as the case may be, describe the property with respect to which the act permitted is to be done, and specify such conditions, if any, as the Court may see fit to attach to the permission; and it shall be recorded, dated and signed by the Judge of the Court with his own hand, or, when from any cause he is prevented from recording the order with his own hand, shall be taken down in writing from his dictation and be dated and signed by him.

(3) The Court may in its discretion attach to the permission the following among other conditions, namely:—

(*a*) that a sale shall not be completed without the sanction of the Court.

(*b*) that a sale shall be made to the highest bidder by public auction, before the Court or some person specially appointed by the Court for that purpose, at a time and place to be specified by the Court, after such proclamation of the intended sale as the Court, subject to any rules made under this Act by the High Court, directs;

(*c*) that a lease shall not be made in consideration of a premium, or shall be made for such term of years and subject to such rents and covenants as the Court directs;

(*d*) that the whole or any part of the proceeds of the act permitted shall be paid into the Court by the guardian, to be disbursed therefrom or to be invested by the Court on prescribed securities or to be otherwise disposed of as the Court directs.

(4) Before granting permission to a guardian to do an act mentioned in section 29, the Court may cause notice of the application for the permission to be given to any relative or friend of the ward who should, in its opinion, receive notice thereof, and shall hear, and record the statement of any person who appears in opposition to the application.

Variation of powers of guardian of property appointed or declared by the Court.

32. Where a guardian of the property of a ward has been appointed or declared by the Court *and such guardian is not the Collector*, the Court may, from time to time, by order, define, restrict or extend his powers with respect to the property of the ward in such manner and to such extent as it may consider to be for the advantage of the ward and consistent with the law to which the ward is subject.

Right of guardian so appointed or declared to apply to the Court for opinion in management of property of ward.

33. (1) A guardian appointed or declared by the Court may apply by petition to the Court which appointed or declared him for its opinion, advice or direction on any present question respecting the management or administration of the property of his ward.

(2) If the Court considers the question to be proper for summary disposal, it shall cause a copy of the petition to be served on, and the hearing thereof may be attended by, such of the persons interested in the application as the Court thinks fit.

(3) The guardian stating in good faith the facts in the petition and acting upon the opinion, advice or direction given by the Court shall be deemed, so far as regards his own responsibility, to have performed his duty as guardian in the subject-matter of the application.

Obligations on guardian of property appointed or declared by the Court.

34. Where a guardian of the property of a ward has been appointed or declared by the Court *and such guardian is not the Collector*, he shall,—

(*a*) if so required by the Court, give a bond, as nearly as may be in the prescribed form, to the Judge of the Court to enure for the benefit of the Judge for the time being, with or without sureties, as may be prescribed, engaging duly to account for what he may receive in respect of the property of the ward;

(*b*) if so required by the Court, deliver to the Court, within six months from the date of his appointment or declaration by the Court, or within such other time as the Court directs, a statement of the immoveable property belonging to the ward, of the money and other movable property which he has received on behalf of the ward up to the date of delivering the statement, and of the debts due on that date to or from the ward;

(*c*) if so requird by the Court, exhibit his accounts in the Court at such times and in such form as the Court *from time to time* directs;

(*d*) if so required by the Court, pay into the Court at such time as the Court directs the balance due from him on those accounts, or so much thereof as the Court directs; and

(*e*) apply for the maintenance, education and advancement of the ward and of such persons as are dependent on him, and for the celebration of ceremonies to which the ward or any of those persons may be a party, such portion of the income of the property of the ward as the Court *from time to time* directs, and, if the Court so directs, the whole or any part of that property.

Suit against guardian where administration-bond was taken.

35. Where a guardian appointed or declared by the Court has given a bond duly to account for what he may receive in respect of the property of his ward, the Court may, on application made by petition and on being satisfied that the engagement of the bond has not been kept, and upon such terms as to security, or providing that any money received be paid into the Court, or otherwise as the Court thinks fit, assign the bond to some proper person, who shall thereupon be entitled to sue on the bond in his own name as if the bond had been originally given to him instead of to the Judge of the Court, and shall be entitled to recover thereon, as trustee for the ward, in respect of any breach thereof.

Suit against guardian where administration-bond was not taken.

36. (1) Where a guardian appointed or declared by the Court has not given a bond as aforesaid, any person, with the leave of the Court, may, as next friend, at any time during the continuance of the minority of the ward, and upon such terms as aforesaid, institute a suit against the guardian, or, in case of his death, against his representative, for an account of what the guardian has received in respect of the property of the ward, and may recover in the suit, as trustee for the ward, such amount as may be found to be *payable by the* guardian or his representative, as the case may be.

(2) *The provisions of sub-section* (1) *shall, so far as they relate to a suit against a guardian, be subject to the provisions of section* 440 *of the Code of Civil Procedure as amended by this Act.*

General liability of guardian as trustee.

37. Nothing in either of the two last foregoing sections shall be construed to deprive a ward or his representative of any remedy against his guardian, or the representative of the guardian, which, not being expressly provided in either of those sections, any other beneficiary or his representative would have against his trustee or the representative of the trustee.

Termination of Guardianship.

Right of survivorship among joint guardians.

38. On the death of one of two or more joint guardians, the guardianship continues to the survivor or survivors until a further appointment is made by the Court.

Removal of guardian.

39. The Court may, on the application of any person interested, or of its own motion, remove a guardian appointed or declared by the Court, *or a guardian appointed by will or other instrument*, for any of the following causes, namely:—

(*a*) for abuse of his trust;

(*b*) for continued failure to perform *the* duties *of his trust;*

(*c*) for incapacity to perform *the* duties *of his trust;*

(*d*) *for ill-treatment, or neglect to take proper care, of his ward;*

(*e*) for contumacious disregard of any provision of this Act or of any order of the Court;

(*f*) for conviction of an offence implying, in the opinion of the Court, a defect of character which unfits him to be *the guardian of his ward;*

(*g*) for having an interest adverse to the faithful performance of his duties;

(*h*) for ceasing to reside within the local limits of the jurisdiction of the Court;

(*i*) in the case of a guardian of the property, for bankruptcy or insolvency;

(*j*) by reason of the guardianship of the guardian ceasing, or being liable to cease, under the law to which the minor is subject:

Provided that a guardian appointed by will or other instrument, *whether he* has been declared under this Act *or not*, shall not be removed—

(*a*) *for* the cause mentioned in clause (*g*) unless the adverse interest accrued after the death of the person who appointed him, *or it is shown that that person made and maintained the appointment in ignorance of the existence of the adverse interest, or*

(*b*) *for* the cause mentioned in clause (*h*) unless such guardian has taken up such a residence as, in the opinion of the Court, renders it impracticable for him to discharge the functions of guardian.

Discharge of guardian.

40. (1) If a guardian appointed or declared by the Court desires to resign his office, he may apply to the Court to be discharged.

(2) If the Court finds that there is sufficient reason for the application, it shall discharge him, *and if the guardian making the application is the Collector and the Local Government approves of his applying to be discharged, the Court shall in any case discharge him.*

Cessation of authority of guardian.

41. (1) The powers of a guardian of the person cease—

(*a*) by his death, removal or discharge;

(*b*) by the Court of Wards assuming superintendence of the person of the ward;

(*c*) by the ward ceasing to be a minor;

(*d*) in the case of a female ward, by her marriage to a husband who is not unfit to be guardian of her person or, if the guardian was appointed or declared by the Court, by her marriage to a husband who is not, in the opinion of the Court, so unfit; or

(*e*) in the case of a ward whose father was unfit to be guardian of the person of the ward, by the father ceasing to be so or, if the father was deemed by the Court to be so unfit, by his ceasing to be so in the opinion of the Court.

(2) The powers of a guardian of the property cease—

(*a*) by his death, removal or discharge;

(*b*) by the Court of Wards assuming superintendence of the property of the ward; or

(*c*) by the ward ceasing to be a minor.

(3) When for any cause the powers of a guardian cease, the Court may require him *or, if he is dead, his representative* to deliver as it directs any property in his possession or control belonging to the ward or any accounts in his possession or control relating to any past or present property of the ward.

(4) When he has delivered the property or accounts as required by the Court, the Court may declare him to be discharged from his liabilities save as regards any fraud which may subsequently be discovered.

Appointment of successor to guardian dead, discharged or removed.

42. When a guardian appointed or declared by the Court is discharged, or, under the law to which the ward is subject, ceases to be entitled to act, or when any such guardian or a guardian appointed by will or other instrument is removed *or dies*, the Court, of its own motion or on application under Chapter II, may, if the ward is still a minor, appoint or declare another guardian of his person or property, or both, as the case may be.

CHAPTER IV.

SUPPLEMENTAL PROVISIONS.

Orders for regulating conduct or proceedings of guardians, and enforcement of those orders.

43. (1) The Court may, on the application of any person interested or of its own motion, make an order regulating the conduct or proceedings of any guardian appointed or declared by the Court.

(2) *Where there are more guardians than one of a ward and they are unable to agree upon a question affecting his welfare, any of them may apply to the Court for its direction, and the Court may make such order respecting the matter in difference as it thinks fit.*

(3) Except where it appears that the object of making an order under sub-section (1) *or sub-section* (2) would be defeated by the delay, the Court shall, before making the order direct notice of the application therefor or of the intention of the Court to make it, as the case may be, to be given, *in a case under sub-section* (1), to the guardian *or, in a case under sub-section* (2), *to the guardian who has not made the application.*

(4) In case of disobedience to an order made under sub-section (1) *or sub-section* (2), *the order may be enforced in the same manner as an injunction granted under section* 492 *or section* 493 *of the Code of Civil Procedure, in a case under sub-section* (1), *as if the ward were the plaintiff and the guardian were the defendant or, in a case under sub-section* (2), *as if the guardian who made the application were the plaintiff and the other guardian were the defendant.*

(5) *Except in a case under sub-section* (2), *nothing in this section shall apply to a Collector who is, as such, a guardian.*

Penalty for removal of ward from jurisdiction.

44. If, for the purpose or with the effect of preventing the Court from exercising its authority with respect to a ward, a guardian appointed or declared by the Court removes the ward from the limits of the jurisdiction of the Court in contravention of the provisions of section 26, he shall be liable, by order of the Court, to fine not exceeding one thousand rupees, or to imprisonment *in the civil jail* for a term which may extend to six months.

Penalty for contumacy.

45. (1) In the following cases, namely:—

(*a*) if a person having the custody of a minor fails to produce him or cause him to be produced in compliance with a direction under section 12, sub-section (1), or to do his utmost to compel the minor to return to the custody of his guardian in obedience to an order under section 25, sub-section (1), or

(*b*) if a guardian appointed or declared by the Court fails to deliver to the Court, within the time allowed by or under clause (*b*) of section 34, a statement required under that clause, or to exhibit accounts in compliance with a requisition under clause (*c*) of that section, or to pay into the Court the balance due from him on those accounts in compliance with a requisition under clause (*d*) of that section, or

(*c*) *if a person who has ceased to be a guardian, or the representative of such a person,* fails to deliver any property or accounts in compliance with a requisition under section 41, sub-section (3),

the person, guardian, *or representative*, as the case may be, shall be liable, by order of the Court, to fine not exceeding one hundred rupees, and in case of recusancy to further fine not exceeding ten rupees for each day after the first during which the default continues, and not exceeding five hundred rupees in the aggregate, and to detention in the civil jail until he undertakes to produce the minor or cause him to be produced, or to compel his return, or to deliver the statement, or to exhibit the accounts, or to pay the balance, or to deliver the property or accounts, as the case may be.

(2) If a person who has been released from detention on giving an undertaking under sub-section (1) fails to carry out the undertaking within the time allowed by the Court, the Court may cause him to be arrested and re-committed to the civil jail.

Reports by Collectors and Subordinate Courts.

46. (1) The Court may call upon the Collector, or upon any Court subordinate to the Court, for a report on any matter arising in any proceeding under this Act and treat the report as evidence.

(2) For the purpose of preparing the report the Collector or the Judge of the subordinate Court, as the case may be, shall make such inquiry as he deems necessary, and may for the purposes of the inquiry exercise any power of compelling the attendance of a witness to give evidence or produce a document which is conferred on a Court by the Code of Civil Procedure.

Orders appealable.

47. An appeal shall lie to the High Court from an order made by a District Court,—

(*a*) under section 7, appointing or declaring or refusing to appoint or declare a guardian; or

(*b*) under section 9, sub-section (3), returning an application; or

(*c*) under section 25, making or refusing to make an order for the return of a ward to the custody of his guardian; or

(*d*) under section 26, refusing leave for the removal of a ward from the limits of the jurisdiction of the Court, or imposing conditions with respect thereto; or

(*e*) under section 28 or section 29, refusing permission to a guardian to do an act referred to in the section; or

(*f*) under section 32 defining, restricting or extending the powers of a guardian; or

(*g*) under section 39, removing a guardian; or

(*h*) under section 40, refusing to discharge a guardian; or

(*i*) under section 43, regulating the conduct or proceedings of a guardian or settling a matter in difference between joint guardians, or enforcing the order; or

(*j*) under section 44 or section 45, imposing a penalty.

Finality of other orders.

48. Save as provided by the last foregoing section and by section 622 of the Code of Civil Procedure, an order made under this Act shall be final, and shall not be liable to be contested by suit or otherwise.

Costs.

49. The costs of any proceeding under this Act, including the costs of maintaining a guardian or other person in the civil jail, shall, subject to any rules made by the High Court under this Act, be in the discretion of the Court in which the proceeding is had.

Power of High Court to make rules.

50. (1) In addition to any other power to make rules conferred expressly or impliedly by this Act, the High Court may from time to time make rules consistent with this Act—

(*a*) as to the matters respecting which, and the time at which, reports should be called for from Collectors and subordinate Courts;

(*b*) as to the allowances to be granted to, and the security to be required from, guardians, and the cases in which such allowances should be granted;

(*c*) as to the procedure to be followed with respect to applications of guardians for permission to do acts referred to in sections 28 and 29;

(*d*) as to the circumstances in which such requisitions as are mentioned in clauses (*a*), (*b*), (*c*) and (*d*) of section 34 should be made;

(*e*) as to the preservation of statements and accounts delivered and exhibited by guardians;

(*f*) as to the inspection of those statements and accounts by persons interested;

(*g*) as to the custody of money, and securities for money, belonging to wards;

(*h*) as to the securities on which money belonging to wards may be invested;

(*i*) as to the education of wards for whom guardians, *not being Collectors*, have been appointed or declared by the Court; and,

(*j*) generally, for the guidance of the Courts in carrying out the purposes of this Act.

(2) Rules under clauses (*a*) and (*i*) of sub-section (1) shall not have effect until they have been approved by the Local Government, *nor shall any rule under this section have effect until it has been published in the official Gazette.*

Applicability of Act to guardians already appointed by Court.

51. A guardian appointed by, or holding a certificate of administration from, a Civil Court under any enactment repealed by this Act shall, save as may be prescribed, be subject to the provisions of this Act, and of the rules made under it, as if he had been appointed or declared by the Court under Chapter II.

Amendment of Indian Majority Act.

52. In section 3 of the Indian Majority Act, 1875, for the words "every minor of whose person or property a guardian has been or shall be appointed by any Court of Justice, and every minor under the jurisdiction of any Court of Wards," the following shall be substituted, namely,—

"every minor of whose person or property, or both, a guardian, other than a guardian for a suit within the meaning of Chapter XXXI of the Code of Civil Procedure, has been or shall be appointed or declared by any Court of Justice before the minor has attained the age of eighteen years, and every minor of whose property the superintendence has been or shall be assumed by any Court of Wards before the minor has attained that age".

Amendment of Chapter XXXI of the Code of Civil Procedure.

53. Chapter XXXI of the Code of Civil Procedure shall be amended as follows, namely:—

A.—*To section* 440 *of the said Code the following shall be added, namely:—*

"*If a minor has a guardian appointed or declared by an authority competent in this behalf, a suit shall not be instituted on behalf of the minor by any person other than such guardian except with the leave of the Court granted after notice to such guardian and after hearing any objections which he may desire to make with respect to the institution of the suit, and the Court shall not grant such leave unless it is of opinion that it is for the welfare of the minor that the person proposing to institute the suit in the name of the minor should be permitted to do so.*

B.—To section 443 of the said Code the following shall be added, namely:—

"Where an authority competent in this behalf has appointed or declared a guardian or guardians of the person or property, or both, of the minor, the Court shall appoint him or one of them, as the case may be, to be the guardian for the suit under this section unless it considers, for reasons to be recorded by it, that some other person ought to be so appointed."

C.—After section 446 of the said Code the following shall be added, namely:—

"If the next friend is not a guardian appointed or declared by an authority competent in this behalf, and *an* application is made by a guardian so appointed or declared who desires to be himself appointed in the place of the next friend, the Court shall remove the next friend unless it considers, for reasons to be recorded by it, that the guardian ought not to be appointed the next friend of the minor."

D.—For section 461 of the said Code the following shall be substituted, namely:—

Receipt by next friend or guardian *ad litem* of property under decree for minor.

"461. (1) A next friend or guardian for the suit shall not, *without the leave of the Court*, receive any money or other movable property *on behalf of a minor*, either—

(*a*) *by way of compromise before decree or order, or*

(*b*) under a decree or order in favor of *the* minor.

"(2) Where the next friend or guardian for the suit has not been appointed or declared by competent authority to be guardian of the property of the minor, or, having been so appointed or declared, is under any disability known to the Court to receive the money or other movable property, the Court shall, if it grants him leave to receive the property, require such security and give such directions as will, in its opinion, sufficiently protect the property from waste and ensure its proper application."

E.—For section 464 of the said Code as amended by the Civil Procedure Code Amendment Act, 1888, the following shall be substituted, namely:—

Princes and Chiefs and wards of Court.

"464. Nothing in this chapter applies to a Sovereign Prince or ruling Chief suing or being sued in the name of his State or being sued, by direction of the Governor-General in Council or a Local Government, in the name of an agent or in any other name, or shall be construed to affect, or in any way derogate from, the provisions of any local law for the time being in force relating to suits by or against minors or by or against lunatics or other persons of unsound mind."

THE SCHEDULE.

ENACTMENTS REPEALED.

(*See section* 2.)

Number and year.	Title or subject.	Extent of repeal.
Acts of the Governor-General in Council.		
XIV of 1858 ..	Minors (Madras) ..	The whole.
XL of 1858 ..	Minors (Bengal) ..	So much as has not been repealed.
IX of 1861 ..	Minors	The whole.
XX of 1864 ..	Minors (Bombay).	The whole.
XIV of 1869 ..	Bombay Civil Courts Act, 1869.	So much of the last paragraph of section 16 as has not been repealed.
VII of 1870 ..	Court-fees Act, 1870.	Section 19H, and Article 10 of Schedule I.
IV of 1872 ..	Punjab Laws Act, 1872.	So far as it relates to Act XL of 1858.
XIX of 1873 ..	North-Western Provinces Land Revenue Act, 1873.	Section 258.
XIII of 1874 ..	European British Minors Act, 1874.	The whole.
XV of 1874 ..	Laws Local Extent Act, 1874.	So far as it relates to any enactment repealed by this Act.
XX of 1875 ..	Central Provinces Laws Act, 1875.	So far as it relates to Act XL of 1858.
XVIII of 1876..	Oudh Laws Act, 1876.	So far as it relates to Act XL of 1858.
Acts of the Governor-General in Council—cont.		
XIII of 1879 ..	Oudh Civil Courts Act, 1869.	Clause (1) of section 25 relating to proceedings under Acts XL of 1858 and IX of 1861.
XIV of 1882 ..	Code of Civil Procedure.	The second paragraph of section 443.
XVIII of 1884..	Punjab Courts Act, 1884.	So much of section 29 as has not been repealed.
XVII of 1885 ..	Central Provinces Government Wards Act, 1885.	Section 5.
XII of 1887 ..	Bengal, North-Western Provinces and Assam Civil Courts Act, 1887.	Clause (*b*) of section 23, sub-section (2).
XI of 1889 ..	Lower Burma Courts Act, 1889.	The words "to be and" in section 99, sub-section (1), *and section* 102, *so far as it relates to Act XIII of* 1874.
Madras Regulations.		
V of 1804 ..	Court of Wards ..	Section 20 and so much of sections 21 and 22 as relates to persons and property of minors not subject to the superintendence of the Court of Wards.
X of 1831 ..	Minors' Estates ..	Section 8.
Regulations under the Statute 33 *Victoria, Chapter* 3.		
IX of 1874 ..	*Arakan Hill District Laws.*	*So far as it relates to Acts XL of* 1858 *and IX of* 1861.

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

(Republished by order of the Right Honorable the Governor in Council.)

J. GROSE,
Ag. Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

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 1890 :—

No. 7 OF 1890.

A Bill to amend the Indian Evidence Act, 1872, and the Code of Criminal Procedure, 1882.

WHEREAS it is expedient to amend the Indian Evidence Act, 1872, and the Code of Criminal Procedure, 1882; It is hereby enacted as follows :—

Indian Evidence Act, 1872.

Amendment of section 14, Act I, 1872.

1. (1) For the *Explanation* to section 14 of the Indian Evidence Act, 1872, the following shall be substituted, namely :—

"*Explanation.*—Except in the cases hereinafter mentioned, a fact relevant as showing the existence of a relevant state of mind must show that the state of mind exists, not generally, but in reference to the particular matter in question. The cases above referred to as excepted are criminal proceedings in which—

(*a*) the fact so relevant is a previous conviction of the accused person, or

(*b*) the accused is tried under section 234 of the Code of Criminal Procedure, 1882, at one trial for three offences of the same kind, and the fact so relevant is otherwise relevant to prove any of the offences, or

(*c*) the accused is tried for an offence punishable under Chapter XII or Chapter XVIII of the Indian Penal Code."

(2) For *Illustration* (*b*) to the same section the following shall be substituted, namely :—

"(*b*) *A* is accused of fraudulently delivering to another person a counterfeit coin which, at the time when he delivered it, he knew to be counterfeit.

The fact that, at the time of its delivery, *A* was possessed of a number of other pieces of counterfeit coin is relevant.

The fact that *A* had on a previous or subsequent occasion delivered a counterfeit coin to another person is relevant.

The fact that *A* had been previously convicted of delivering to another person as genuine a counterfeit coin knowing it to be counterfeit is relevant."

Amendment of section 15, Act I, 1872.

2. In section 15 of the said Act, after the word "intentional" there shall be inserted the words "or whether an act was done with a particular knowledge or intention"; and for *Illustration* (*c*) to the same section the following shall be substituted, namely :—

"(*c*) *A* is charged with cheating *B* by pledging as diamonds articles which he knew were not diamonds.

The question is whether *A* knew that the articles were not diamonds.

The facts that *A*, soon before or soon after he pledged the diamonds to *B*, pledged counterfeit diamonds to *C*, *D* and *E* are relevant as showing that *A* knew that the articles he pledged to *B* were not diamonds."

Addition to section 26, Act I, 1872.

3. To section 26 of the said Act the following shall be added, namely :—

"*Explanation.*—In this section 'Magistrate' means a person exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure, 1882."

Amendment of section 43, Act I, 1872.

4. (1) For section 43 of the said Act the following shall be substituted, namely :—

"43. Convictions or sentences, and judgments, orders or decrees, other than the judgments, orders or decrees mentioned in sections 40, 41 and 42, are irrelevant, unless the existence of the conviction or sentence or of such judgment, order or decree is a fact in issue or is relevant under some other provision of this Act."

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

"(*e*) *A* is charged with theft and with having been previously convicted of theft. The previous conviction is relevant as a fact in issue.

(*f*) *A* is tried for the murder of *B*. The fact that *B* prosecuted *A* for libel and that *A* was convicted and sentenced is relevant under section 8 as showing the motive for the fact in issue."

Substitution of new section for section 54, Act I, 1872.

5. For section 54 of the said Act the following shall be substituted, namely :—

Previous bad character not relevant, except in reply.

"54. In criminal proceedings the fact that the accused person has a bad character is irrelevant, unless evidence has been given that he has a good character, in which case it becomes relevant.

"*Explanation* 1.—This section does not apply to cases in which the bad character of any person is itself a fact in issue.

"*Explanation* 2.—A previous conviction is relevant as evidence of bad character."

Amendment of *Explanation* to section 55, Act I, 1872.

6. In the *Explanation* to section 55, after the word "but" there shall be inserted the words and figures "except as provided in section 54".

7. In section 86 of the said Act, for the words "resident in" the words "in or for" shall be substituted, and to the same section the following shall be added, namely :—

Amendment of, and addition to, section 86, Act I, 1872.

"An officer who, with respect to any territory or place not forming part of Her Majesty's dominions, is a Political Agent therefor, as defined in section 3 of the Foreign Jurisdiction and Extradition Act, 1879, and section 190 of the Code of Criminal Procedure, 1882, shall, for the purposes of this section, be deemed to be a representative of the Government of India in and for the country comprising that territory or place."

Code of Criminal Procedure, 1882.

8. To section 310 of the Code of Criminal Procedure, 1882, the following shall be added, namely :—

Amendment of section 310, Act X, 1882.

"Notwithstanding anything in this section, evidence of the previous conviction may be given at the trial for the subsequent offence, if the fact of the previous conviction is relevant, under the provisions of the Indian Evidence Act, 1872."

STATEMENT OF OBJECTS AND REASONS.

The principal object of this Bill is to amend section 54 of the Indian Evidence Act, 1872, so as to render the previous conviction of an accused person irrelevant when it is sought to prove the conviction with the object merely of showing that the accused is a man of bad character and is therefore more likely to have committed the offence with which he is charged. The fact that a person has been previously convicted of an offence has of itself little probative force to establish the fact that he has committed another offence, and it is not expedient to admit evidence which can only prejudice the accused. By section 5 of the Bill, therefore, it is proposed to repeal so much of section 54 as provides that in criminal proceedings the fact that the accused person has been previously convicted of any offence is relevant. The result of this amendment of the law will be that the rule as to the relevancy of a previous conviction will be contained in section 43 of the Act. The existence of the judgment convicting the accused will be relevant only if the fact of the conviction is a fact in issue or is relevant under some provision of the Act.

2. It seems necessary also to amend the Act so as to show, first, that in criminal cases, where evidence of character is relevant, a previous conviction is relevant to prove bad character, and, secondly, that a previous conviction may be relevant to prove a relevant state of mind, for instance, guilty intention or knowledge. It is proposed to effect the first of these amendments by adding an *Explanation* to section 54 as amended by section 5 of the Bill. The second it is proposed to effect by section 1 of the Bill, which amends the *Explanation* to section 14 of the Act, so as to allow a previous conviction to be proved in order to show a guilty knowledge or intention.

3. In English law for the purpose of proving guilty knowlege evidence of other acts of a nature similar to that charged may be given in cases of uttering false coin or disposing of forged bank notes (I. Russell, 233). On the whole, evidence of this nature has been confined to cases of coining and forgery, but there is one case, *Reg.* v. *Francis* (43 L.J., M.C., 97), in which such evidence was admitted on a charge of obtaining money on false pretences. In that case Lord Coleridge, C.J., said :—"It seems clear, upon principle, that when the fact that the prisoner has done the thing charged is proved, and the only remaining question is, whether at the time he did it he had guilty knowledge of the quality of his act, or acted under a mistake, evidence of the class received must be admissible." This case of *Reg.* v. *Francis* probably goes further than any other case, and the amendment, which has been proposed, of section 15 seems to provide sufficiently for the class of cases in which the peculiar nature of the offence makes this question the crucial test. Section 1 of the Bill accordingly allows evidence of this class in the case of offences punishable under Chapter XII (OFFENCES RELATING TO COIN AND STAMPS) and Chapter XVIII (FORGERY) of the Indian Penal Code.

4. As regards the admission of evidence of other similar acts to prove guilty knowledge in cases other than offences under Chapter XII and Chapter XVIII of the Indian Penal Code, it is thought that such evidence might be admitted in cases in which an accused person is under section 234 of the Code of Criminal Procedure, 1882, charged with, and tried for, three offences of the same kind at one trial. That is to say, it is proposed to allow the evidence brought forward to prove one of the three offences to be relevant to prove guilty knowledge or intention in the case of the other offences. As the accused is charged with and is being tried for all three offences, he has an opportunity of disproving the evidence brought against him. Issues are not raised which are foreign to the charge, and the chief objections to the admission of evidence of this class do not exist. The provision in 34 and 35 Vic., c. 112, s. 19, as regards dishonestly receiving stolen property supports this proposal. In section 1, clause (*b*), an amendment of the *Explanation* to section 14 of the Act in order to admit evidence of this description has been made.

5. Section 310 of the Code of Criminal Procedure, 1882, seems to require amendment with reference to the question whether a previous conviction can be proved as relevant evidence of the subsequent offence. As the amendments proposed will prevent a previous conviction being proved in order merely to prejudice an accused person, it will be safe to provide that nothing in section 310 of the Code of Criminal Procedure, 1882, is intended to exclude the evidence of a previous conviction when such evidence is relevant under the Indian Evidence Act, 1872. The result will be that, if an accused person is charged with an offence committed after a previous conviction, the previous conviction will be relevant to prove guilty knowledge or intention, and also to rebut evidence of good character produced by the accused. Section 8 of the Bill contains the proposed amendment.

6. Briefly stated, the amendments proposed to be made in the Indian Evidence Act, 1872, by the Bill are as follows :—

(1) the provision allowing a previous conviction to be proved in all cases will be repealed ;

(2) a previous conviction will be relevant under section 43 when it is a fact in issue or otherwise relevant under the Act ;

(3) a previous conviction will be relevant as evidence of bad character, when such evidence is relevant ;

(4) a previous conviction will be relevant to prove guilty knowledge or intention ;

(5) in cases of offences relating to coining and forgery, facts showing the existence of any state of mind, such as intention or knowledge, will be relevant although those facts do not show the existence of the state of mind in reference to the particular matter in question ;

(6) in cases where the accused is tried under section 234 of the Code of Criminal Procedure, 1882, at one trial for three offences of the same kind, the evidence relevant to prove one offence may be used as showing guilty knowledge or intention in the case of either of the other offences ;

(7) the fact that an act formed part of a series of similar occurrences, in each of which the person doing the act was concerned, will be relevant to prove guilty knowledge or intention.

7. Sections 3 and 7 of the Bill have reference to the cases reported at I.L.R., 2 Mad., 5, and 14 Cal., 546, respectively.

ANDREW R. SCOBLE.

The 4th July 1890.

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

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS : PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

MADRAS RECORD OFFICE

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

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulation on the 3rd July 1890 :—

No. 8 OF 1890.

A Bill to amend the Cattle-trespass Act, 1871.

WHEREAS it is expedient to amend the Cattle-trespass Act, 1871; It is hereby enacted as follows :—

Substitution of new section for section 1, Act I, 1871.

1. For section 1 of the said Act the following shall be substituted, namely :—

Title and extent.

"1. (1) This Act may be called the Cattle-trespass Act, 1871, and

"(2) It extends to the whole of British India except the Presidency towns and such local areas as, with the previous sanction of the Governor-General in Council, the Local Government, by notification in the Official Gazette, may from time to time exclude from its operation.

"(3) The Local Government may at any time cancel or vary a notification under sub-section (2)."

Additions to section 12, Act I, 1871.

2. (1) To the first paragraph of section 12 of the said Act, prescribing the scale according to which the pound-keeper is to levy a fine for every head of cattle impounded, the following proviso shall be added, namely :—

"Provided that, when it appears to the Local Government from the report of a Magistrate of a district, or on the representation of a local authority as defined in Act No. XVIII of 1883 (*An Act to amnd the Cattle-trespass Act*, 1871), that, in any local area subject to the jurisdiction or control of such Magistrate or authority, cattle are habitually allowed to trespass on land and damage crops or other produce thereon, the Local Government may, by notification in the Official Gazette, direct that, for every head of cattle of any kind specified therein which may be seized within such local area and impounded as aforesaid, the pound-keeper shall levy such fine, not exceeding double the fine mentioned in the foregoing scale, as may be prescribed in the notification."

(2) After the third paragraph of the same section the following shall be added, namely :—

"Where a fine exceeding that mentioned in the scale set forth in the first paragraph of this section has been levied in pursuance of a notification under the proviso to that paragraph, the Magistrate of the district, or any Magistrate either generally or specially empowered by the Local Government in this behalf, may, on cause shown to his satisfaction by the person from whom the fine was levied, direct the refund of so much of the fine as is in excess of that leviable according to the scale aforesaid.

"The Local Government may at any time, by notification in the Official Gazette, cancel or vary a notification under the proviso to the first paragraph of this section."

Amendment of section 25, Act I, 1871.

3. In section 25 of the said Act the words "under the next following section or" shall be inserted between the words "Any fine imposed" and the words "for the offence of mischief".

Addition to section 26, Act I, 1871.

4. To section 26 of the said Act the following shall be added, namely :—

"The Local Government, by notification in the Official Gazette, may from time to time, with respect to any local area specified in the notification, direct that the foregoing portion of this section shall be read as if it had reference to cattle generally, or to cattle of a kind described in the notification, instead of to pigs only, or as if the words 'twenty-five rupees' were substituted for the words 'ten rupees,' or as if there were both such reference and such substitution.

"The Local Government may at any time, by notification in the Official Gazette, cancel or vary a notification under this section."

Commencement and effect.

5. This Act shall come into force on the first day of January 1891, and Act No. XVIII of 1883 (*An Act to amend the Cattle-trespass Act*, 1871) shall be read as if that Act had reference to the Cattle-trespass Act, 1871, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS.

It has been repeatedly represented to the Government of India that the provisions of the Cattle-trespass Act, 1871, are insufficient to meet the case of cattle which are not only not prevented from trespassing, but are actually, in some parts of the country, encouraged by their owners to do so.

Renewed representations from Southern India and Behar, as well as reports from Western India, have recently been received by the Government of India, and it has now been decided to introduce this Bill for the purpose of authorising Local Governments to prescribe the imposition, in special localities, of heavier penalties for cattle-trespass than are allowed by the general law.

PHIL. P. HUTCHINS.

The 30th June 1890.

S. HARVEY JAMES,
Secy. to the Govt. of India.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AT THE GOVERNMENT PRESS.

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

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 1890 :—

No. 9 OF 1890.

A Bill to provide for certain matters in connection with the taking of the Census.

WHEREAS it has been determined to take a census of British India during the year 1891, and it is expedient to provide for certain matters in connection with the taking of such census; It is hereby enacted as follows :—

Title and commencement.

1. (1) This Act may be called the Indian Census Act, 1890, and

(2) It shall come into force at once.

Extent.

2. (1) This section and sections 3, 4, 13 and 14 extend to the whole of British India.

(2) The remaining sections extend only to such parts of British India as the Local Government may, by notification in the official Gazette, direct.

Appointment of census officers.

3. (1) The Local Government may appoint any person, by name or by office, to take, or aid in or supervise the taking of, the census within any specified local area.

(2) Persons so appointed shall be called census officers.

(3) The Local Government may delegate to such authority as it thinks fit the power of appointing census officers which is conferred by this section.

Proof of appointment of census officers, and their status as public servants.

4. (1) A declaration in writing, signed by any officer authorized by the Local Government in this behalf, that any person has been duly appointed a census officer for any local area shall be conclusive proof of such appointment.

(2) All census officers shall be deemed to be public servants within the meaning of the Indian Penal Code.

Discharge of duties of census officers in certain cases.

5. (1) (*a*) Every military or naval officer in command of any body of men belonging to Her Majesty's military or naval forces or of any vessel of war,

(*b*) every person (except a pilot or harbour-master) having charge or control of a vessel,

(*c*) every person in charge of a lunatic asylum, hospital, workhouse, prison, reformatory or lock-up, or of any public, charitable, religious or educational institution,

(*d*) every keeper or manager of any sarai, hotel, boarding-house, lodging-house or club, and

(*e*) every occupant of immoveable property having at the time of the taking of the census not less than fifty persons employed under him on or in such property,

shall, if so required by the District Magistrate, or, in the towns of Calcutta, Madras and Bombay, by such officer as the Local Government may appoint in this behalf, perform such of the duties of a census officer in relation to the persons who at the time of the taking of the census are under his command or charge, or inmates of his house or present on or in such property, as such Magistrate or officer may, by written order, direct.

(2) All the provisions of this Act relating to census officers shall apply, so far as they can be made applicable, to all such persons while performing such duties, and any person refusing or neglecting to perform any duty which he is directed under this section to perform shall be deemed to have committed an offence under section 187 of the Indian Penal Code.

Power of District Magistrate to call upon certain persons to give assistance.

6. (1) The District Magistrate may, by written order, call upon all owners and occupiers of land, tenure-holders, farmers, assignees of land revenue and lessees of fisheries under the Burma Fisheries Act, 1875, in his district, or their agents, and upon all members of panchayats appointed in his district under the Village Chaukidari Act, 1870 (Bengal), or the Chota Nagpore Rural Police Act, 1887, to give such assistance as he needs towards the taking of a census of the persons who are at the time of the taking of the census on the lands of such owners, occupiers, holders, farmers and assignees, within the limits of such fisheries or in the villages for which such panchayats are appointed, as the case may be.

(2) Such order shall specify the nature of the assistance required, and such owners, occupiers, holders, farmers, assignees, lessees or their agents, and the members of such panchayats, shall be bound to obey it.

Asking of questions by census officers.

7. Every census officer may ask all such questions of all persons within the limits of the local area for which he is appointed as, by instructions issued in this behalf by the Local

Government and published in the official Gazette, he may be directed to ask.

8. Every person of whom any question is asked under the last foregoing section shall be legally bound to answer such question to the best of his knowledge or belief:

Obligation to answer questions.

Provided that no person shall be bound to state the name of any female member of his household, and that no woman shall be bound to state the name of her husband or deceased husband.

9. Every person occupying any house, enclosure, vessel or other place shall allow census officers such access thereto as they may require for the purposes of the census, and as, having regard to the customs of the country, may be reasonable, and shall allow them to paint on or affix to the place such letters or numbers as may be necessary for the purposes of the census.

Occupier to allow access, and permit affixing of numbers.

10. (1) Subject to such orders as the Local Government may issue in this behalf, any census officer may leave, or cause to be left, at any dwelling-house within the local area for which he is appointed, a schedule for the purpose of its being filled up by the occupier of such house or of any specified part thereof with such particulars as the Local Government may direct regarding the inmates of such house or part at the time of the taking of the census.

Occupier to fill up schedule.

(2) When any such schedule has been so left, the occupier of the house or part to which it relates shall fill it up to the best of his knowledge or belief, so far as regards the inmates of such house or part, as the case may be, at the time aforesaid, and shall sign his name thereto, and, when so required, shall deliver the schedule so filled up and signed to the census officer or to such person as he may direct.

Penalties.

11. In any of the following cases, namely:—

(*a*) if a census officer without sufficient cause refuses or neglects to act as such,

(*b*) if a census officer knowingly and without sufficient cause puts any offensive or improper question or makes any false return,

(*c*) if any person refuses to answer to the best of his knowledge or belief any question asked of him by a census officer which he is legally bound by section 8 so to answer,

(*d*) if any person occupying any house, enclosure, vessel or other place refuses to allow a census officer such access thereto as he is required by section 9 to allow,

(*e*) if any person removes, obliterates, alters or injures before the thirty-first day of March 1891, any letters or numbers which have been printed or affixed under section 9,

(*f*) if any occupier of a dwelling-house or part thereof knowingly and without sufficient cause fails to comply with the provisions of section 10 or makes any false return under that section,

he shall be punished with fine which may extend to fifty rupees.

Jurisdiction in prosecutions.

12. (1) The Local Government may, by notification in the official Gazette,—

(*a*) declare before what classes of Magistrates prosecutions under this Act, or for neglecting or refusing to do anything required by this Act to be done, may be instituted, and

(*b*) direct that no such prosecutions shall be instituted except with its previous sanction, or with the previous sanction of some officer authorized by it in this behalf.

(2) Unless and until a notification is published under clause (*a*) of this section, all prosecutions under this Act shall, in the towns of Calcutta, Madras and Bombay, be instituted before a Presidency Magistrate, and elsewhere before the District Magistrate.

Records of census not admissible in evidence in certain proceedings.

13. Notwithstanding anything to the contrary in the Indian Evidence Act, 1872, no entry in any book, register or record made by a census officer in the discharge of his duty as such officer shall be admissible as evidence in any civil proceeding or any proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1882.

Temporary suspension of local enactments and rules as to mode of taking census in municipalities.

14. Notwithstanding anything in any enactment or rule with respect to the mode in which a census is to be taken in any municipality, the municipal authority may, at the time appointed for the taking of the census of British India during the year 1891, cause a census of the municipality to be taken wholly or in part by any method authorised by this Act.

Statement of Objects and Reasons.

The main objects of this Bill, which generally follows the Indian Census Act, 1880, are to make provision, as regards those parts of the country where such provision may be deemed by Local Governments to be necessary, for (*a*) empowering enumerators to put questions in accordance with their instructions and to enter enclosures for the purpose of enumeration, (*b*) imposing penalties for refusal to give proper information, and (*c*) imposing penalties for misconduct of enumerators.

A new section (section 14) has been added for enabling municipal authorities with whom it may be arranged to have a municipal census taken simultaneously with, and in substitution for, the general census elsewhere, to adopt any of the methods authorised by the proposed Act in lieu of any method or methods enjoined by any local enactment or rule with respect to the mode in which a census is to be taken for purely municipal purposes.

PHIL. P. HUTCHINS.

The 10th July 1890.

S. HARVEY JAMES,
Secy. to the Govt. of India.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

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 1890:—

'No. 10 of 1890.

A Bill to amend the Indian Christian Marriage Act, 1872.

Whereas it is expedient to amend the Indian Christian Marriage Act, 1872; It is hereby enacted as follows:—

Addition to section 5 (1), Act XV, 1872.

1. To clause (1) of section 5 of the Indian Christian Marriage Act, 1872, the following shall be added, namely:—

"and that within the limits of a diocese the person be acting as a Minister with the previous consent in writing of the Bishop of the diocese."

Amendment of section 11, Act XV, 1872.

2. In section 11 of the said Act, after the words "other than a church" the words "belonging to the Church of England" shall be added, and between the word "no" and the word "church" in the expression "unless there is no church" the word "such" shall be inserted.

Substitution of new section for section 62, Act XV, 1872.

3. For section 62 of the said Act, the following shall be substituted, namely:—

"62. (1) Every person licensed under section 9 shall keep, in his own vernacular language and in such form as the Local Government by which he was licensed may from time to time prescribe, a register book of all marriages solemnized under this Part in his presence, and shall deposit in the office of the Registrar-General of Births, Deaths and Marriages for the territories under the administration of the said Local Government, in such form and at such intervals as that Government may prescribe, true and duly authenticated extracts from his register book of all entries made therein since the last of those intervals.

Keeping of register book and deposit of extracts therefrom with Registrar-General.

(2) Where the person keeping the register book was licensed as regards a Native State by the Governor-General in Council, references in sub-section (1) to the Local Government therein mentioned shall be read as references to the Local Government to whose Registrar-General of Births, Deaths and Marriages certified copies of entries in registers of births and deaths are for the time being required to be sent under section 24, sub-section (2) of the Births, Deaths and Marriages Registration Act, 1886.

(3) Clause (*e*) of section 30 of the Births, Deaths and Marriages Registration Act, 1886, is hereby repealed."

Substitution of new section for section 66, Act XV, 1872.

4. For section 66 of the said Act the following shall be substituted, namely:—

False oath, declaration, notice or certificate for procuring marriage.

"66. Whoever, for the purpose of procuring a marriage or license of marriage, intentionally,—

(*a*) where an oath or declaration is required by this Act, or by any rule or custom of a Church according to the rites and ceremonies of which a marriage is intended to be solemnized, such Church being the Church of England or of Scotland or of Rome, makes a false oath or declaration, or,

(*b*) where a notice or certificate is required by this Act, signs a false notice or certificate,

shall be deemed to have committed the offence punishable under section 193 of the Indian Penal Code with imprisonment of either description for a term which may extend to three years and, at the discretion of the Court, with fine."

Amendment of section 68, Act XV, 1872.

5. For the first forty-eight words of section 68 of the said Act, the following shall be substituted, namely:—

"Whoever, not being authorized by section 5 of this Act to solemnize marriages, knowingly solemnizes, in the absence of a Marriage Registrar of the district in which the solemnization takes place, a marriage between persons one or both of whom is or are a Christian or Christians, shall be punished."

Addition to section 74, Act XV, 1872.

6. To section 74 of the said Act, the following shall be added, namely:—

"Whoever, being licensed to grant certificates of marriage under Part VI of this Act, fails to perform any of the duties imposed upon him by that Part, shall be punished with fine which may extend to one hundred rupees."

Amendment of section 86, Act XV, 1872.

7. Section 86 of the said Act shall be read as if the words "situate within or bordering on" instead of the words "situate within the local limits of" had been enacted in that section when the Act was passed.

STATEMENT OF OBJECTS AND REASONS.

Section 1 of the accompanying Bill to amend the Indian Christian Marriage Act, 1872, follows a suggestion adopted at the conference of Anglican Bishops of India and Ceylon held in January 1888. Its object is to guard against the possibility of a marriage being solemnized by a person who, though episcopally ordained, does not hold the Bishop's license to officiate in the diocese.

2. By section 2 it is proposed to remove an ambiguity in the expression of section 11 of the Act.

3. The object of section 3 is to require a record to be made of every marriage solemnized between Native Christians under Part VI of the Act, whether a certificate of the marriage is applied for and granted or not.

4. Section 4, which follows a suggestion adopted at the conference held in January 1888, is primarily designed to render liable to punishment under the Indian Penal Code a person taking a false oath before a Surrogate appointed by a Bishop to issue marriage licenses.

5. The object of section 5 is to remove doubts which have arisen in regard to the intention of the legislature owing to the confused expression of the earlier part of section 68 of the Act.

6. By section 6 it is proposed to attach a penalty to failure to perform the duties imposed by Part VI of the Act on persons licensed to grant certificates of marriage under that Part.

7. Section 7 is designed to remove the objection which has been taken to such States as Travancore and Cochin being described in section 86 of the Act as being "situate within the local limits" of the Presidency of Fort St. George.

ANDREW R. SCOBLE.

The 9th July 1890.

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

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 24th July 1890 :—

No. 12 OF 1890.

A Bill to amend the Indian Paper Currency Act, 1882.

WHEREAS it is expedient to authorise an increase of the amount which may be invested in securities of the Government of India out of the coin and bullion received for currency notes under the law relating to the Government paper currency; It is hereby enacted as follows;—

Amendment of section 19, Act XX, 1882.

1. Section 19 of the Indian Paper Currency Act, 1882, shall be read as if for the words "sixty millions" the words "eighty millions" were substituted.

STATEMENT OF OBJECTS AND REASONS.

The minimum circulation of currency notes being now more than fifty per cent. in excess of the minimum in 1870, when by Act XV of that year the amount of the currency reserve which might lawfully be invested in Government securities was raised from forty millions to sixty millions of rupees, it is considered that power may now with safety be taken to raise that amount from sixty millions to eighty millions of rupees. The present Bill raises the legal limit from sixty millions to eighty millions of rupees, and, if it is passed the increase of investment will be made at such times and in such manner as may appear to the Governor-General in Council to be most expedient. An increase of the amount invested by twenty millions of rupees will increase the public revenue by eight lakhs of rupees yearly.

D. BARBOUR.

The 23rd July 1890.

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

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

FORT ST. GEORGE GAZETTE SUPPLEMENT.

TUESDAY EVENING, AUGUST 19, 1890.

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

A Bill to amend the Indian Emigration Act, 1883.

WHEREAS it is expedient to amend the Indian Emigration Act, 1883, in manner hereinafter appearing; It is hereby enacted as follows:—

Addition of proviso to section 56 (1), Act XXI, 1883.

1. To sub-section (1) of section 56 of the said Act the following proviso shall be added, namely:—

"Provided that, if the vessel is a steam-ship having a certificate of survey granted by the Board of Trade or any British Colonial Government or under the Indian Steam-ships Act, 1884, and in force and applicable to her intended voyage, the survey under this sub-section with a view to ascertain her sea-worthiness shall not extend to her hull or machinery unless the Protector of Emigrants has reason to believe that, since the grant of the certificate, her hull or machinery has sustained injury or damage or has otherwise become inefficient."

Substitution of new section for section 102, Act XXI, 1883.

2. For section 102 of the said Act as amended by Act XXI of 1884, the following shall be substituted, namely:—

"102. (1) On and from such a date as the Governor-General in Council may, by notification in the *Gazette of India*, fix in this behalf with respect to any protected Native State adjoining the Straits Settlements, or with respect to any British colony or possession for labor in which Natives of India are recruited exclusively through the agency of the Government of the Straits Settlements, a Native of India who departs by sea out of British India under an agreement to labor for hire in any such State, colony or possession shall not, so long as the notification continues to apply to the State, colony or possession, be deemed to emigrate within the meaning of this Act.

Provision supplementary to section 6 (1) of this Act.

"(2) The Governor-General in Council may, by notification in the *Gazette of India*, declare that from a date to be specified a notification under sub-section (1) shall no longer apply to a Native State or British colony or possession therein mentioned."

Saving of notifications under section 102, Act XXI, 1883, as amended by Act XXI, 1884.

3. Every notification made under section 102 of the said Act as amended by Act XXI of 1884 shall be deemed to have been made under sub-section (1) of section 102 of the said Act as amended by the last foregoing section of this Act.

STATEMENT OF OBJECTS AND REASONS.

The objects of this Bill are two, namely:—

(1) to save owners of steam-ships the expense and inconvenience of having the hulls and machinery of their vessels surveyed under the Indian Emigration Act, 1883, when valid and proper certificates as to their sufficiency and good condition have already been obtained under other Acts and are still in force, and

(2) to extend, in the first instance, to British North Borneo, which proposes to procure labor from India through the agency of the Government of the Straits Settlements, the same facilities for procuring such labor as have been conceded to the Straits Settlements and to protected States adjoining those Settlements.

PHIL. P. HUTCHINS.

The 28th July 1890.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 31st July 1890 :—

No. 15 OF 1890.

A Bill to amend the Indian Salt Act, 1882.

WHEREAS it is expedient to amend the Indian Salt Act, 1882, for the purpose of regulating the traffic in Kohat salt in the Punjab; It is hereby enacted as follows :—

Addition to section 3, Act XII, 1882.

1. To section 3 of the Indian Salt Act, 1882, the following shall be added, namely :—

"'Kohat salt' means salt produced in the district of Kohat in the Punjab."

"Kohat salt."

Insertion of new Chapter IIIA after Chapter III, Act XII, 1882.

2. After Chapter III of the said Act the following shall be inserted, namely :—

"CHAPTER IIIA.

INDUS PREVENTIVE LINE.

Power to define zones, and establish chains of posts.

"8A. (1) The Governor-General in Council may, from time to time, by rule,—

(*a*) define a zone of country not exceeding fifteen miles in breadth—

(i) along any portion of the river Indus and at such distance therefrom as he deems expedient, or

(ii) in any tract extending from that river to the western frontier of the Punjab,

(*b*) extend any such zone so as to include any ferry, or any portion of a railway, canal or navigable river entering the zone, or any place where goods are loaded or unloaded into wagons or boats for the purpose of entering or leaving the zone, and

(*c*) within such a zone establish a chain of posts extending along the zone.

"(2) The establishment of a chain of posts under clause (*c*) of sub-section (1) shall be deemed to be a public purpose within the meaning of the Land Acquisition Act, 1870.

Effect of defining a zone and establishing a chain of posts.

"8B. When a zone has been defined and a chain of posts established under section 8A, the Governor-General in Council may from time to time, by rule,—

(*a*) prohibit any person, except upon such conditions as may be prescribed in the rule, from having in his possession any Kohat salt within the limits of the zone,

(*b*) control and regulate the passage of traffic across the chain of posts so far as may be necessary for the prevention of the smuggling of Kohat salt across such chain, and

(*c*) provide for the searching of all persons and things crossing or being taken across the chain of posts."

Addition to section 25, Act XII, 1882.

3. The following shall be added to section 25 of the said Act, namely :—

"A Salt Revenue Officer shall not be deemed to search or detain any person, or to seize the moveable property of any person, vexatiously and unnecessarily within the meaning of clause (*b*) or clause (*c*) of the first paragraph of this section if the search is authorised by any rule under clause (*c*) of section 8B, and the detention or seizure is such as is necessary for the purposes of such search."

Addition to section 27, Act XII, 1882.

4. To section 27 of the said Act the following shall be added, namely :—

"Nothing in this section shall be deemed to affect Chapter IIIA of this Act or any rule under that Chapter."

And whereas the Madras Salt Excise Act, 1871, has been repealed by the Madras Salt Act,

1889, and section 31 of the Indian Salt Act, 1882, has become obsolete; It is hereby enacted as follows:—

Repeal of section 31, Act XII, 1882.

5. Section 31 of the Indian Salt Act, 1882, is hereby repealed.

STATEMENT OF OBJECTS AND REASONS.

The rate of duty on salt is much higher in Cis-Indus than in Trans-Indus tracts, and it has been found necessary to maintain a chain of posts for the prevention of the smuggling of salt from the latter tracts into the former. This chain of posts is known as the Indus Preventive Line, and legislation in the terms of sections 6 and 7 of the Inland Customs Act, 1875, such as is proposed in the accompanying Bill, is deemed essential to the efficiency of the Line.

D. BARBOUR.

The 30th July 1890.

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

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

A Bill to amend the Births, Deaths and Marriages Registration Act, 1886.

WHEREAS it is expedient to amend the Births, Deaths and Marriages Registration Act, 1886; It is hereby enacted as follows:—

Amendment of section 32, Act VI, 1886.

1. In section 32 of the said Act, for the words "within one year from the date on which this Act comes into force", the words "at any time before the first day of April, 1891," shall be substituted.

Addition of new section 35A, Act VI, 1886.

2. The following section shall be added to Chapter V of the said Act, namely:—

Constitution of additional commissions for purposes of this Chapter.

"35A. (1) The Governor-General in Council, if he thinks fit, may, by notification in the *Gazette of India*, appoint more commissions than one for the purposes of this Chapter, each such commission consisting of so many and such members as he may, by a like notification, nominate thereto by name or by office, and having its functions restricted to the disposal, under this Act and the rules thereunder, of the registers or records sent under section 32 to such Registrar-General or Registrars-General as the Governor-General in Council may, by a like notification, specify in this behalf.

"(2) If more commissions than one are appointed in exercise of the power conferred by sub-section (1), then references in this Act to the Commissioners shall be construed as references to the members constituting a commission so appointed."

STATEMENT OF OBJECTS AND REASONS.

The objects of this Bill are two—

(1) to extend till the 31st March, 1891, the period prescribed in section 32 of the Births, Deaths and Marriages Registration Act, 1886, for the transmission to Registrars-General of registers to which that section applies, and

(2) to enable the Governor-General in Council to appoint more than one body of Commissioners for the examination and verification of those registers.

There has been some misapprehension as to the classes of registers to which section 32 of the Act applies, and the consequence is that there are registers which should have been, but were not, submitted for examination and verification by the day specified in the section.

On the other hand, it seems desirable that there should be local commissions, and not one central body of Commissioners, for the examination and verification of the registers, but doubts have been raised whether this is allowable under the Act as it stands.

PHIL. P. HUTCHINS.

The 26th August, 1890.

S. HARVEY JAMES,
Secy. to the Govt. of India.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

A Bill to amend the Code of Criminal Procedure, 1882.

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1882; It is hereby enacted as follows:—

Repeal of section 250, Act X, 1882.

1. Section 250 of the said Code is hereby repealed.

Enactment of new section in place of repealed section 250, Act X, 1882.

2. To the said Code the following shall be added, namely:—

Frivolous or vexatious complaints.

"560. (1) If, in any case instituted by complaint or upon information, a person is accused before any Magistrate of any of the offences specified or referred to in clauses (*a*) to (*k*) of section 260, and the Magistrate discharges or acquits the accused and is satisfied that the accusation against him was frivolous or vexatious, the Magistrate may, in his discretion, by his order of discharge or acquittal, direct the person upon whose complaint or information the accusation was made, to pay to the accused, or to each of the accused where there are more than one, such compensation, not exceeding fifty rupees, as the Magistrate thinks fit:

Provided that, before making any such direction, the Magistrate shall—

(*a*) call upon the complainant or informant to show cause why the compensation which ought, in the opinion of the Magistrate, to be awarded should not be directed to be paid,

(*b*) record any objection which the complainant or informant may urge against the making of the direction, and,

(*c*) if the Magistrate directs any compensation to be paid, state in writing, in his order of discharge or acquittal, his reasons for awarding the compensation.

(2) Compensation of which a Magistrate has ordered payment under sub-section (1) shall be recoverable as if it were a fine:

Provided that, if it cannot be recovered, the imprisonment to be awarded shall be simple, and for such term, not exceeding thirty days, as the Magistrate directs.

(3) A complainant or informant who has been ordered under sub-section (1) by a Magistrate of the second or third class to pay compensation to an accused person may appeal from the order, in so far as the order relates to the payment of the compensation, as if such complainant or informant had been convicted on a trial held by such Magistrate.

(4) Where an order for payment of compensation to an accused person is made in a case which is subject to appeal under sub-section (3), the compensation shall not be paid to him before the period allowed for the presentation of the appeal has elapsed, or, if an appeal is presented, before the appeal has been decided.

(5) At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any compensation paid or recovered under this section."

Repeal of part of section 552, Act X, 1882.

3. The words "or complained against" in the second paragraph of section 552 of the said Code are hereby repealed.

STATEMENT OF OBJECTS AND REASONS.

The principal object of this Bill is to apply provisions similar to those in section 250 of the Code of Criminal Procedure, 1882, to certain cases instituted otherwise than by complaint. It is proposed by the Bill, in accordance with a suggestion originally made by the Hon'ble Judges of the High Court of Judicature for the North-Western Provinces, to authorise any Magistrate, in any case in which a person accused before him of any offence triable summarily under Chapter XXII of the Code is discharged or acquitted, to direct the payment by the accuser to the accused of compensation not exceeding fifty rupees, if the Magistrate is satisfied that the accusation was frivolous or vexatious. Before directing the payment the Magistrate is to hear and record anything which the accuser may have to say against the direction being made; and, if the direction is made by a Magistrate of the second or third class, an appeal is to lie therefrom to the District Magistrate or such competent subordinate Magistrate of the first class as is referred to in section 407 of the Code.

ANDREW R. SCOBLE.

The 1st October 1890.

S. HARVEY JAMES,
Secy. to the Govt. of India.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

MADRAS RECORD OFFICE

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

A Bill to repeal certain Obsolete Enactments and to amend certain other Enactments.

WHEREAS it is expedient that certain enactments specified in the first schedule to this Act which are superfluous or spent, or have ceased to be in force otherwise than by express specific repeal, or have by lapse of time or otherwise become unnecessary, should be expressly and specifically repealed;

And whereas it is also expedient that certain formal amendments should be made in the enactments specified in the second schedule to this Act;

It is hereby enacted as follows:—

Title, extent and commencement.

1. (1) This Act may be called the Repealing and Amending Act, 1891.

(2) Save in so far as it applies expressly or by necessary implication to particular territory only, it extends to the whole of British India, inclusive of Upper Burma and British Baluchistan; and

(3) It shall come into force at once.

Enactments in schedules repealed and amended respectively.

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

(2) The enactments specified in the second schedule shall be modified to the extent and in the manner mentioned in the fourth column thereof.

Savings.

3. The repeal by this Act of any enactment shall not affect any Statute, Act or Regulation in which such enactment has been applied, incorporated or referred to;

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognized or derived by, in or from any enactment hereby repealed;

nor shall the repeal by this Act of any enactment provide or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

A description or citation of a portion of an Act or Regulation includes the words, section or other part mentioned or referred to as forming the beginning or as forming the end of the portion comprised in the description or citation.

FIRST SCHEDULE.—*Part I.—Acts of the Governor-General in Council.*

1	2	3	4	5
Year.	No.	Subject or title.	Extent of repeal.	Explanation.
1836	XXVI	Camp Police ..	So much as has not been repealed.	Obsolete.
1838	V	Bengal Bonded Warehouse.	*The words* And it is hereby enacted that *wherever they occur*. In sections 3, 5, 7, 8, 9, 10, 17, 18, 20, 22, 23, 24 and 27, *the word* that *wherever it occurs after the word* and. In section 31, *the word* that *where it occurs after the word* but.	Surplusage.
,,	XXV	Wills ..	In sections 2 to 5, 7 to 29, and 31, *the words* And it is hereby enacted that. In section 6, *the words* and it is hereby enacted. In sections 3 and 31, *the word* that *wherever it occurs*. In section 4, *the word* that *where it occurs before the words* the power.	Surplusage. [The proposed repeals follow those made in 7 Wm. IV and 1 Vict., c. 26, by 51 and 52 Vict., c. 57.]
			Section 30	This section saves Act XX of 1837 (Immoveable Property, Straits Settlements), which is not in force either in British India or in the Straits.
1839	XXIV	Ganjam and Vizagapatam.	In section 7, *the word* fourth.	Mad. Reg. II of 1819, s. 4, is repealed by Act XVI of 1874.
,,	XXVII	Execution by the Court of Requests, Calcutta, of decrees of Courts of 24-Pergunnahs.	The whole	Superseded by Act XIV of 1882, s. 223 (see the penultimate para. of that section).
,,	XXIX	Dower ..	In sections 2 to 10 and 12 to 14, *the words* And it is hereby further enacted that. In section 11, *the words* and it is hereby further enacted. In section 15, *the words* And it is hereby.	Surplusage. [The proposed repeals follow those made in 3 and 4 Wm. IV., c. 105, by 51 and 52 Vict., c. 57.]
			Section 13	Obsolete. [The corresponding section (13) in 3 and 4 Wm. IV, c. 105, is repealed by 51 and 52 Vict., c. 57.]
,,	XXX	Inheritance ..	*The words* And it is hereby further enacted that *and* And it is hereby further enacted and declared that *wherever they occur*. In section 7, *the words* also that *and the word* that. In section 13, *the words* And it is hereby.	Surplusage. [The proposed repeals follow those made in 3 and 4 Wm. IV, c. 106, by 51 and 52 Vict., c. 57.]
1840	X	Temple of Jagannath.	In the title, *the words* and for the superintendence of the Temple of Jagannath.	Obsolete, since the repeal of s. 2 by Act XIV of 1882, s. 539.
1841	X	Registration of Ships.	In section 17, *the word* that *in both places in which it occurs after the word* and.	Necessitated by the repeal of the words "And it is hereby enacted that" by Act XVI of 1874.

FIRST SCHEDULE.—*Part I.—Acts of the Governor-General in Council*— cont.

1	2	3	4	5
Year.	No.	Subject or title.	Extent of repeal.	Explanation.
1841	XXIV	Illusory appointments, &c.	So much as has not been repealed.	Obsolete.
1842	IX	Lease and Release.	So far as it has not been repealed.	Obsolete.
1844	VI	Land-customs, Madras.	In the title, *the word* abolishing, *the words* transit or *and the words* for revising the duties on imports and exports by sea, and for determining the price at which salt shall be sold for home consumption.	These words refer to sections which have been repealed—see Madras Code, Ed. 1888, pp. 119, 121, 122.
1846	I	Pleaders ..	In section 6, *the words and figures* Section 25, Regulation XXVII, 1814, of the Bengal Code; Section 25, Regulation XIV, 1816, of the Madras Code; and.	Ben. Reg. XXVII of 1814 is repealed by Act XVI of 1874, but the reference to the Regulation in s. 7 of Act I of 1846 is saved by the proviso to Act XVI of 1874. Act I of 1846 is, however, itself repealed in Bengal by Act XVIII of 1879, s. 42. The reference to Ben. Reg. XXVII of 1814, s. 25, in Act I of 1846, ss. 6, 7, is therefore obsolete.
			In section 13, *the numerals* VII.	Mad. Reg. XIV of 1816 is repealed by Mad. Act II of 1882. Mad. Reg. VII of 1816 is repealed by Act III of 1873, which does not save references. This reference is therefore obsolete.
1847	IX	Assessment of new lands.	In section 1, *the words* and that all such investigations pending before the Collectors and Deputy Collectors in the said Provinces at the said date shall forthwith be discontinued.	Spent.
1848	X	Maudvee ..	So much as has not been repealed.	Repealed in part by Acts XV of 1874 and X of 1876. Only the title remains unrepealed.
,,	XVIII	Nawab of Surat ..	Section 2	Obsolete.
1850	XX	Boundaries, Tributary Mahals in Cuttack.	The whole	These Mahals are not British territory.
,,	XXV	Forfeited deposits.	In the title, *the words and figures* and Act IV, 1846. In the preamble, *the words* and judgment-debtors, *the words and figures* and in Section V, Act IV, 1846, *and the words* in execution of decrees or.	Act IV of 1846 is repealed by Act XII of 1873. The repeals proposed were virtually made by Act X of 1861. If made specifically as now proposed, the matter in question can be removed from the Bengal Code, Vol. I, pp. 284, 285.

FIRST SCHEDULE.—*Part I.—Acts of the Governor-General in Council*—cont.

1 Year.	2 No.	3 Subject or title.	4 Extent of repeal.	5 Explanation.
1850	XXXIV	State Prisoners ..	Section 3	Obsolete.
1853	VI.	Summary suits for arrears of rent, &c.	In the preamble, *the words and figures from* and whereas it is expedient *to* Act VIII, 1835, *and the words from* and to prevent *to* wrong district.	Obsolete. This matter refers to ss. 9 and 10, which are repealed.
,,	VIII	Colaba ..	So much as has not been repealed.	Repealed in part by Acts XV of 1874 and X of 1876. Only the title remains unrepealed.
,,	XIX	Evidence ..	In section 26, *the words* in addition to any proceedings under this Act.	Obsolete. The sections referred to are repealed.
1854	XX	Chutia Nagpur ..	The whole	This Act causes doubt as to whether the Chutia Nagpur Division is deregulationised. The Government of Bengal agree to its repeal (letter dated 14th Dec. 1888).
1855	X	Witnesses ..	In the title, *the words and figures* and to amend the provisions of Section XL, Act XIX of 1853.	Obsolete.
,,	XXIV	Penal Servitude ..	In the title, *the words* and to amend the law relating to the removal of such convicts. In the preamble, *the words* and to amend the law relating to the removal of European and American convicts for the purpose of imprisonment.	Obsolete. S. 8, relating to removals, is repealed by Act XII of 1867.
,,	XXXVII	Sonthal Districts..	In section 1, clause 1, *the words* extend to or affect any case now pending in any Court, nor.	Pending cases. Obsolete.
1856	XII	Civil Court Amins.	In the preamble, *the words and figures from* and whereas *to* other agency.	The Regulation referred to in the preamble is repealed. It seems unnecessary to retain the portion of the preamble proposed for repeal. The sections of the Act say nothing about Munsifs.
			Section 10, *from* whenever *to the end*.	Obsolete. This portion of s. 10 depends on s. 7, which is repealed by Act X of 1861.
,,	XIII	Police	In section 1, *the words and figures from* Sections XXII *to the end*.	Superseded by Mad. Act VIII of 1867, s. 81.
			In section 2, definition of "Local Government," *the words* in the possession and, *the words* the East, *and the word* Company.	Obsolete. [Cf. repeal of similar words in Act XXIV of 1855, s. 1, by Acts XVI of 1874 and XII of 1876.]
			In section 3, the *words and figure* except as is otherwise provided by Section I of this Act.	S. 1 is partially repealed, and the residue is proposed for repeal *supra*.

FIRST SCHEDULE.—*Part I.—Acts of the Governor-General in Council*—cont.

1 Year.	2 No.	3 Subject or title.	4 Extent of repeal.	5 Explanation.
1856	XIII—*cont.*	Police—*cont* ..	Form B in the schedule of Forms.	Obsolete. The section (110) prescribing this Form is repealed by Act IV of 1877.
,,	XVIII	Collector of Calcutta.	In the preamble, *the words* should have charge of the collection of the stamp duty within the town of Calcutta, and that he.	This repeal was virtually made by Act XVIII of 1869. If made specifically as now proposed, the matter in question can be removed from the Bengal Code, Vol. I, p. 305.
			Section 1	Obsolete. The Regulations mentioned are repealed by Act XXXVI of 1860.
			In section 3, *the words and figures* the said Regulation, or under Act XI of 1849 or.	The reference to Ben. Reg. XII of 1826 is obsolete, Act XVIII of 1856 having been repealed as to stamp-duty by Act XVIII of 1869. The reference to Act XI of 1849 is obsolete.
,,	XX	Chaukidars ..	Section 60	Obsolete. The Act is repealed in the rest of Bengal by Ben. Act V of 1876.
,,	XXII	Tolls, Karatoya River.	In section 5, *the words and figures* Regulation I of 1824, or of.	Obsolete. Ben. Reg. I of 1824 is repealed by Act VIII of 1868.
1857	II	Calcutta University	In section 1, *the words* in the possession and, *the words* the East, *and the word* Company.	Obsolete. [See note opposite Act XIII of 1856, s. 2, *supra*, p. 4.]
,,	IV	Tobacco, Bombay Town.	Section 2, *from* and such duty *to the end*. Section 5, *from* The import-duty *to the end*.	Obsolete. Refers to customs import-duty on tobacco, which is abolished.
,,	XIII	Opium	In the preamble, *the words* that certain obsolete Regulations relating to the provision of opium should be formally repealed, and.	Refers to s. 1, which is repealed by Act XIV of 1870.
,,	XXI	Howrah ..	Section 54, the second proviso.	Obsolete, s. 49 having been repealed by Ben. Act V of 1876.
			Section 58	Spent [Act XXI of 1841 is repealed by Act XVII of 1862.]
,,	XXII	Bombay University	In section 1, *the words* in the possession and, *the words* the East, *and the word* Company.	Obsolete. [See note opposite Act XIII of 1856, s. 2, *supra*, p. 4.]
,,	XXV	Forfeiture of property.	In the title, *the words* to render officers and soldiers in the Native Army liable to forfeiture of property for mutiny and. In the preamble, *the words* to render officers and soldiers in the Native Army, who shall be convicted of mutiny, subject to the forfeiture of all their property, and.	Obsolete. S 1, to which these words referred, is repealed by Act V of 1869, Part I (*c*).

FIRST SCHEDULE.—*Part I.—Acts of the Governor-General in Council*—cont.

1	2	3	4	5
Year.	No.	Subject or title.	Extent of repeal.	Explanation.
1857	XXVII	Madras University.	In section 1, *the words* in the possession and, *the words* the East, *and the words* Company.	Obsolete. [See note opposite Act XIII of 1856, s. 2, *supra*, p. 4.]
1858	III	State Prisoners ..	Section 4	Obsolete.
1859	IX	Claims to property seized as forfeited.	In the preamble, *the words from* to make provision *to* also expedient.	Obsolete. Ss. 1–15, to which these words refer, are repealed by Act VIII of 1868.
,,	X	Rent	The schedule, Forms E and F.	Referred to only in s. 86, which is repealed by Ben. Act VI of 1862.
,,	XI	Sales of land for arrears of revenue.	Section 4	Refers to Sylhet only, where the Act is repealed by Reg. I of 1886.
			In section 53, *the words and figures* sharers in estates under butwarrah who may have saved their shares from sale under Sections XXXIII and XXXIV, Regulation XIX, 1814, and.	Obsolete. Ben. Reg. XIX of 1814 is repealed by Ben. Act VIII of 1876, which does not save references.
1860	XIV	King of Oudh ..	The whole	Obsolete.
,,	XXII	Hill Tracts of Chittagong.	Section 1, the proviso ..	Pending cases. Obsolete.
,,	XXIII	Amending Act XXI of 1856 (Abkári).	The whole Act, so far as it applies to Assam.	Act XXI of 1856 is repealed in Bengal and Assam by Ben. Act VII of 1878, and elsewhere by Act X of 1871. Act XXIII of 1860 is repealed in Bengal by Ben. Act II of 1876. and elsewhere (except in Assam) by Act X of 1871. It is superseded in Assam by Ben. Act VII of 1878.
,,	XLV	Indian Penal Code.	In section 1, *the words and figures* on and from the first day of May 1861.	This date was altered by Act VI of 1861; but that Act is repealed by Act VIII of 1868. The repeal of the words mentioned in column 4 (which are spent) will remove the awkwardness thus arising.
			In sections 2 and 4, *the words and figures* on or after the said first day of May 1861.	
			In sections 1 and 15, *the words* except the Settlement of Prince of Wales' Island, Singapore and Malacca.	The Straits no longer form part of British India.
			In section 410, *the word* the *where it occurs after the word* which.	Act VIII of 1882, s. 9, repealed the words "offence of", but should have repealed the whole phrase "the offence of".
1862	VIII	King of Oudh ..	So much as has not been repealed.	Expired—see s. 10.
1863	XVI	Spirits used in Manufactures, &c.	Section 8	Act III of 1852 is repealed by Bom. Act V of 1878 (which has been brought into force in the whole of the Presidency of Bombay — see *Bombay Government Gazette*, 1878, Part I, page 708), and references to Act III of 1852 are not saved. Act XVI of 1863, s. 8, is therefore obsolete.

FIRST SCHEDULE.—*Part I.—Acts of the Governor-General in Council*—cont.

1	2	3	4	5
Year.	No.	Subject or title.	Extent of repeal.	Explanation.
1864	XVII	Official Trustees ..	Section 3	Obsolete.
				Repealed in Bombay, Bengal, the N.-W. Provinces, the Punjab (except the Hazara District), Oudh, the Central Provinces, Assam and Coorg, by Act VII of 1878, and in Lower Burma by Act XIX of 1881.
				Not in force in the Sonthal Pergunnahs—see Regs. III of 1872 and III of 1886, Sch.
				For the Hazara District, Madras, Ajmere-Merwara, Upper Burma and British Baluchistan there are special forest laws (viz., Reg. II of 1879, Mad. Act V of 1882, Reg. VI of 1874, Reg. VI of 1887, and Reg. V of 1890), and Act VII of 1865 is not likely to be required for these places.
1865	VII	Government Forests Act. 1865.	The whole Act, so far as it has not been repealed by the Indian Forest Act, 1878, and the Lower Burma Forest Act, 1881.	The only places in which Act VII of 1865 can now be in force are the Andamans and the Pargana of Manpur (see s. 18), and the Act does not seem to be in practical operation in either of those places.
				[Act VII of 1865 was in 1876 declared in force in the N.-W. P. Tarai Parganas, under section 3 of the Scheduled Districts Act (N.-W.P. Code, Ed. 1886, page 549 ; but this declaration is superseded by Act VII of 1878, s. 1, which Act does not appear to be barred by Reg. IV of 1876.]
,,	X	Indian Succession Act, 1865.	In section 3, *the words* other than the Settlement of Prince of Wales' Island, Singapore and Malacca.	The Straits no longer form part of British India.
1866	XXI	Native Converts' Marriage Dissolution Act, 1866.	In section 35, *the words* except the Settlement of Prince of Wales' Island, Singapore and Malacca.	The Straits no longer form part of British India.
			In the first schedule, *the words* Rs. two.	The fee is now Rs. 5—see Act VII of 1870, Sch. II, Art. 14.
,,	XXV	Transfer to Government of deposits in High Courts.	In the preamble, *the words* or in the late Supreme Courts at Calcutta, Madras and Bombay, respectively, *and the words* now or hereafter.	The references to the Supreme Courts are obsolete, more than 20 years having elapsed since those Courts ceased to exist.
			In section 1, *the words* or of the late Supreme Courts of Calcutta, Madras and Bombay, *and the words* now or hereafter.	The words "now or hereafter" are surplusage.

FIRST SCHEDULE.—*Part I.—Acts of the Governor-General in Council*—cont.

1	2	3	4	5
Year.	No.	Subject or title.	Extent of repeal.	Explanation.
1867	XXII	Sarais Act, 1867..	Section 1	Repealing Ben. Reg. XIV of 1807 in part. Spent. [Ben. Reg. XIV of 1807 is entirely repealed by Act XXIX of 1871.]
			In section 17, *the words* and the Settlement of Prince of Wales' Island, Singapore and Malacca.	The Straits no longer form part of British India.
,,	XXIII	Murderous Outrages, Punjab.	Section 17	Virtually repealed by Act IX of 1877.
,,	XXV	Printing Presses and Books.	In section 1, *the words* other than the Settlement of Prince of Wales' Island, Singapore and Malacca.	The Straits no longer form part of British India.
1868	I	General Clauses Act, 1868.	In section 2, clause (8), *the words* other than the Settlement of Prince of Wales' Island, Singapore and Malacca.	The Straits no longer form part of British India.
,,	V	Commissioner in Sindh.	The schedule, so far as it relates to Act XXVI of 1850.	Act XXVI of 1850 is repealed in the Bombay Presidency by Bom. Act VI of 1873, and in Sindh by Bom. Act I of 1879.
,,	XVIII	Small Cause Jurisdiction, Nilgiris.	So much as has not been repealed.	Virtually repealed by Mad. Act II of 1881.
,,	XXI	An Act to appoint a Receiver of the property of the late Nawab of the Carnatic.	The whole	Obsolete.
1869	XI	Land-customs (Madras and Bombay) Act, 1869.	The whole Act, so far as it applies to Aden.	Repealed by Act XI of 1882, which however does not extend to Aden.
,,	XIV	Bombay Civil Courts Act, 1869.	In section 32, proviso, clause (*b*) (added by Act XV of 1880, section 3), *the words and figures* or selected under Act No. XX of 1864 (*for making better provision for the care of the persons and property of minors in the Presidency of Bombay*), section 9, *and the words* or selection.	Act XX of 1864 is repealed by Act VIII of 1890.
1870	VII	Court-fees Act, 1870.	In section 3, *the word* sixteen. In section 7, paragraph iv, last clause, *the words* and the provisions of the Code of Civil Procedure, section thirty-one, shall apply as if for the word 'claim' the words 'relief sought' were substituted.	Sch. II, Art. 16, is repealed by Act VI of 1889, s 18 (1). The reference is to Act VIII of 1859. It is superseded by Act XIV of 1882, s. 54.

FIRST SCHEDULE.—*Part I.—Acts of the Governor-General in Council*—cont.

1	2	3	4	5
Year.	No.	Subject or title.	Extent of repeal.	Explanation.
1870	VII—*cont.*	Court-fees Act, 1870—*cont.*	Section 10, clause iii ..	Superseded by Act XIV of 1882, s. 392.
			Section 19, clause ii ..	There is nothing corresponding to ss. 118 and 164 of Act VIII of 1859 in Act XIV of 1882, Chs. VII and XIV.
			In section 19C (inserted by Act XIII of 1875, section 6), first line, *the word* such.	Meaningless.
			In section 19G (inserted by Act XIII of 1875, section 6), *the words and figures* after the first day of April 1875, or.	Obsolete.
			Section 24	Superseded by Act XIV of 1882, Ch. XVIII.
			Section 32 ..	This section amends Act VIII of 1859. It is made unnecessary by Act XIV of 1882 (see, *e.g.*, ss. 410 and 411 of the latter Act). See also Act VII of 1870, Sch. II, Arts. 2 and 3.
			Schedule II, Nos. 8 and 9.	These refer to the Income-tax Act of 1870, which is repealed. [The references are not revived by Act II of 1886.]
,,	XXI	Hindu Wills Act, 1870.	In section 6, *the words* and Parts.	Obsolete. The amendment made by Act V of 1881, s. 154, removes "Parts" from s. 2 of Act XXI of 1870 and leaves only "sections".
,,	XXVI	Prisons Act, 1870.	In section 9, *the words* (subject to the approval of the Governor-General of India in Council).	Unnecessary now that prisons are a Provincial charge.
,,	XXVII	Amending the Indian Penal Code.	Section 7	Virtually repealed by Act IX of 1890, s. 149.
			Section 9	Virtually repealed by Act X of 1886, s. 24 (1).
			Section 14	Superseded by Act X of 1882, s. 196.
1871	II	Extending the Prisons Act, 1870, to Coorg.	So much as has not been repealed.	Superseded by the proposed amendments in Act XXVI of 1870, preamble and s. 6, *infra*, p. 33.
,,	IV	Coroners' Act, 1871.	Section 4, the second paragraph.	Validation clause.
,,	XXI	Dehra Dun ..	Section 1, *from* and no judgment *to the end*. In section 2, *the words* and shall be deemed to have been heretofore authorized to exercise. In section 3, *the words* shall be deemed to have been heretofore the District Court of the said district of Dehra Dun, and, *and the words and figures* and may, subject to the provisions of Act VI of 1871, hear appeals from decisions given in the said district before the passing of this Act.	Validation clauses. Obsolete.

FIRST SCHEDULE.—*Part I.—Acts of the Governor-General in Council*—cont.

1	2	3	4	5
Year.	Number.	Subject or title.	Extent of repeal.	Explanation.
1871	XXI—*cont.*	Dehra Dun—*cont.*	In section 4, *the words and figures* and referred to in section eleven of Act XXIV of 1864.	Unnecessary. [Act XXIV of 1864 is repealed by Act XV of 1874.]
	XXII	Amending Act XX of 1856 (Chaukidars).	Section 5	Repealing clause.
			In section 6, *the words* but shall not take effect within the territories subject to the Lieutenant-Governor of Bengal.	Obsolete. Act XX of 1856 having been repealed in Bengal by Ben. Act V of 1876.
	XXIII	Pensions Act, 1871.	Section 1, *from* but not so as to affect *to the end.*	Pending suits. Obsolete.
	XXVI	Land Improvement Act, 1871.	The whole Act, so far as it applies to Assam, the Andaman and Nicobar Islands and the Pargana of Manpur.	Acts XXVI of 1871 and XXI of 1876 extended to the whole of British India (see Act XXVI of 1871, s. 1). They are repealed by Act XIX of 1883, but only in areas in which that Act is brought into force. Act XIX of 1883 has been brought into force throughout British India excepting only Assam, the Andamans and the Pargana of Manpur. Acts XXVI of 1871 and XXI of 1876 are apparently not in practical operation in the Andamans and Manpur. As to Assam, the Chief Commissioner will be consulted.
1872	IV	Punjab Laws Act, 1872.	Section 33	Validation clause. Pending cases.
			Section 39G (inserted by Act XV of 1875, section 2).	Validation clause.
			The first schedule, so far as it relates to Act XVII of 1861.	Act XVII of 1861 is repealed by Act VIII of 1875.
	XV	Indian Christian Marriage Act, 1872.	In section 68, *the words "and to amend the law relating to the removal of such convicts."*	This portion of the title of Act XXIV of 1855 is proposed for repeal, *supra*, p. 4.
1873	III	Madras Civil Courts Act, 1873.	In section 13, *the words and figures* or appeals under Madras Regulation XI of 1832, section nine.	Mad. Reg. XI of 1832 is repealed by Act VI of 1878.
			Section 29, the second and third paragraphs.	Virtually repealed by Mad. Act II of 1881.

FIRST SCHEDULE.—*Part I.—Acts of the Governor-General in Council*—cont.

1	2	3	4	5
Year.	No.	Subject or title.	Extent of repeal.	Explanation.
1873	IV	Punjab Municipal Act, 1873.	So much as has not been repealed.	Act IV of 1873 has "ceased to apply" in many areas [see Act XIII of 1884, s. 12 (*a*); also Punjab Code, Ed. 1888, pp. 195 and 198 (footnotes), and preface, para. 8], and is apparently not in force anywhere. The Punjab Government will be consulted.
,,	V	Government Savings Banks Act, 1873.	In section 5, *the words* the said.	Obsolete. S. 2, in which Act XXVI of 1855 was before referred to, is repealed by Act XII of 1873.
,,	XVI	North-Western Provinces Village and Road Police Act, 1873.	In section 1, *the words and figures* So far as regards the repeal of Act No. III of 1869, this Act extends to the whole of British India: the rest of.	S. 2, which repealed Act III of 1869, is repealed by Act XVI of 1874.
,,	XIX	North-Western Provinces Land-revenue Act, 1873.	Section 2, the third paragraph.	Pending proceedings. Obsolete.
1874	I	Quieting of Titles, North-Western Provinces.	The whole	Validation Act.
,,	III	Married Women's Property Act, 1874.	In section 9, *the words* affect any suit instituted before the passing of this Act, nor.	Pending suits. Obsolete.
,,	VIII	Exercise of Powers in Assam.	Section 3	Pending proceedings. Spent. [Act XXII of 1869 is repealed by Act XIV of 1874.]
,,	XIV	Scheduled Districts Act, 1874.	In section 10, *the words and figures* and No. XXV of 1869.	Act XXV of 1869 is repealed by Act VIII of 1875.
			The first schedule, Part XIII.	Morar has been ceded to Gwalior.
,,	XV	Laws Local Extent Act, 1874.	Section 8, clause (*f*). ..	The enactments mentioned are all repealed by Mad. Act IV of 1889.
			The first schedule, so far as it relates to Acts XVIII of 1854 (1), VIII of 1859 (2), XIV of 1859, section 15 (3), XV of 1859 (4), XXIII of 1861 (5), VI of 1863 (6), X of 1866 (7) and X of 1868 (8).	(1) Rep. by Act IV of 1879. (2) Rep. by Act X of 1877. (3) Rep. by Act I of 1877. (4) Rep. by Act V of 1888. (5) Rep. by Act VIII of 1878. (6) Rep. by Act VI of 1882.
			The second schedule, so far as it relates to Madras Regulations III of 1802, section 11 (1), I of 1805 (2), II of 1807 (3), IV of 1816 (3), IX of 1816 (4) and XIV of 1816 (5) and Acts XVII of 1840 (3), VII of 1852 (3) and XI of 1869 (6).	(1) Rep. by Act XII of 1876. (2) Rep. by Mad. Act IV of 1889. (3) Rep. by Mad. Act I of 1889. (4) Rep. by Act XVI of 1874. (5) Rep. by Mad. Act II of 1882. (6) Rep. by Act XI of 1882.

First Schedule.—*Part I.—Acts of the Governor-General in Council*—cont.

1	2	3	4	5
Year.	No.	Subject or title.	Extent of repeal.	Explanation.
1874	XV—*cont.*	Laws Local Extent Act, 1874—*cont.*	The third schedule, so far as it relates to Bombay Regulations IV of 1827, sec. 69 (1), XII of 1827, preamble (2), XVI of 1827 (1), XXI of 1827 (3), V of 1830 (1), XV of 1831 (1), II of 1832 (1) and V of 1833 (1), and Acts XVIII of 1838 (1), XIII of 1842 (1), XVII of 1842 (1), XI of 1843 (4), III of 1846 (1), III of 1852 (5), and XXI of 1852 (1).	(1) Rep. by Bom. Act V of 1879. (2) Rep. by Act XVII of 1862. (3) Ss. 1–16 of Bom. Reg. XXI of 1827 are repealed by Act I of 1878, and ss. 46 and 54–73 by Bom. Act V of 1878. (4) Rep. by Bom. Act III of 1874. (5) Rep. by Bom. Act V of 1878.
			The fourth schedule, so far as it relates to Bengal Regulations XLVIII of 1793 (1), III of 1794, section 12 (2), XV of 1797 (1), I of 1798 (3), XVII of 1806 (3), XI of 1811 (4), XIX of 1814 (4), XX of 1817, sections 28 and 32 (5), and VI of 1819 (6) and Acts XX of 1836 (4), XI of 1838 (4), XX of 1856 (7), XXI of 1856 (5) and XXIII of 1860 (9).	(1) Rep. by Ben. Act VII of 1876. (2) Rep. by Ben. Act VII of 1880. (3) Rep. by Act IV of 1882. (4) Rep. by Ben. Act VIII of 1876. (5) Rep. by Act XII of 1876. (6) Rep. by Ben. Act I of 1885. (7) Rep. by Ben. Act V of 1876. (8) Rep. by Ben. Act VII of 1878. (9) Rep. by Ben. Act II of 1876.
			The fifth schedule, so far as it relates to Bengal Regulations I of 1798 (1), XVII of 1806 (1), XIX of 1810 (2), V of 1817 (3), VI of 1819 (4) and XI of 1831, sections 4 (5) and 8 (6).	(1) Rep. by Act IV of 1882. (2) Rep. by Act VIII of 1884. (3) Rep. by Act VI of 1878. (4) Rep. by Act XVII of 1878. (5) Rep. by Act XII of 1876. (6) Rep. by Act XVI of 1874.
			The sixth schedule, Part XIII.	Morar has been ceded to Gwalior.
1875	XIII	Probates and Letters of Administration.	Section 1	Superseded by Act II of 1877.
			So much of section 6 as directs the insertion of section 19 H in the Court-fees Act, 1870.	Act VII of 1870, s. 19H, is repealed by Act VIII of 1890.
,,	XV	Punjab Laws Amendment Act, 1875.	Section 2, so far as it applies to the Punjab and relates to section 39A (1) and section 39B (1).	(1) Superseded in the Punjab by Act XXIV of 1881, s. 2. [Act XV of 1875 was extended to Ajmere-Merwara by notification No. 171J, dated the 19th Oct. 1877; but Act XXIV of 1881 is not in force there.]
			Section 2, so far as it relates to section 39G.	Section 39G is proposed for repeal—see *supra*, p. 10.
,,	XX	Central Provinces Laws Act, 1875.	Section 2, proviso ..	As to land-revenue, virtually repealed by Act XVIII of 1881, s. 2. As to Court of Wards, superseded by Act XVII of 1885.
			Section 7	Unnecessary.
			The schedule, so far as it relates to Bengal Regulation VI of 1819 (1) and Act XVIII of 1853 (2).	(1) Rep. by Act XVII of 1878. (2) Rep. by Act XIII of 1889.

First Schedule.—*Part I.—Acts of the Governor-General in Council*—cont.

1	2	3	4	5
Year.	No.	Subject or title.	Extent of repeal.	Explanation.
1876	II	Burma Land and Revenue Act, 1876.	Section 2	Repealing clause.
,,	X	Bombay Revenue Jurisdiction Act, 1876.	Section 2, and the schedule referred to therein.	Repealing clause.
	XII	Repealing Act, 1876.	The whole	Spent.
	XVII	Oudh Land-revenue Act, 1876.	In section 150, *the words* stamped or.	Inconsistent with Act I of 1879, Sch. I, Art. 16.
			Section 178, clause (*p*) ..	Obsolete. [Ss. 206–212 of Act XVII of 1876 are repealed by Act XIII of 1882. See now Act IX of 1889, ss. 11 and 12.]
	XVIII	Oudh Laws Act, 1876.	Section 16	Validation clause.
			Section 17	Spent. Refers to Act XXXII of 1871, s. 28, which is repealed by Act XIII of 1879.
			Section 18	This section substitutes a new section for s. 17 of Act VIII of 1859. The first two paragraphs of the new section are superseded by Act XIV of 1882, s. 37, last paragraph, and the notification No. 522A, dated 18th July 1878, published in N.W.P. and Oudh Gazette, 1878, p. 1058. The third paragraph of the new section is merely a copy of the concluding paragraph of s. 17 of Act VIII of 1859, and is superseded by ss. 36 and 38 of Act XIV of 1882.
			Section 41	Expired.
			The second schedule, so far as it relates to Bengal Regulation VI of 1819 (1) and Act XIII of 1857, section 2 (2).	(1) Rep. by Act XVII of 1878. (2) Rep. by Act I of 1878.
	XXI	Amending the Land Improvement Act, 1871.	The whole Act, so far as it applies to Assam, the Andaman and Nicobar Islands and the Pargana of Manpur.	See note opposite Act XXVI of 1871, *supra*, p. 10.
	XXIII	Opium Act, 1876.	The whole Act, so far as it applies to the Andaman and Nicobar Islands and the Pargana of Manpur.	Acts XXIII of 1876 and VI of 1877 extended to the whole of British India (see Act XXIII of 1876, s. 1). They are repealed by Act I of 1878, but only in areas in which that Act is brought into force. Act I of 1878 has been brought into force throughout British India, excepting only the Andamans and the Pargana of Manpur. Acts XXIII of 1876 and VI of 1877 are not in practical operation in these two places, and might be formally repealed as to them.

FIRST SCHEDULE.—*Part I.—Acts of the Governor-General in Council*—cont.

1	2	3	4	5
Year.	No.	Subject or title.	Extent of repeal.	Explanation.
1877	I	Specific Relief Act, 1877.	Section 2	Repealing clause.
			In section 9, *the words* instituted within six months from the date of the dispossession.	Superseded by Act XV of 1877 Sch. II, Art. 3.
			The schedule ..	Enactments repealed.
,,	II	Amending Act XIII of 1875 (Probates and Letters of Administration).	Section 2	Saving of past grants.
,,	III	Indian Registration Act, 1877.	Section 84, the last paragraph.	Virtually repealed by Act X of 1882, s. 483.
,,	VI	Postponing operation of the Opium Act, 1876.	The whole Act, so far as it applies to the Andaman and Nicobar Islands and the Pargana of Manpur.	See note opposite Act XXIII of 1876, *supra*.
,,	XI	Military Lunatics' Act, 1877.	Section 2	Repealing clause.
			Section 9	Validation clause.
,,	XIV	Broach and Kaira Incumbered Estates Act, 1877.	Section 41	Validation clause.
,,	XV	Indian Limitation Act, 1877.	Section 2, *down to the word* But.	Repealing clause.
			Section 2, the third paragraph.	Temporary provisions. Expired.
			The first schedule ..	Enactments repealed.
,,	XIX	District Judges ..	In the preamble, *the words* the District Judges of the Lower and the North-Western Provinces of the Presidency of Fort William and.	S. 1, which alone referred to Bengal, is repealed by Act XII of 1887, s. 2.
1878	I	Opium Act, 1878..	Section 2, the first (1) and second (2) paragraphs.	(1) Repealing clause. (2) Act XI of 1849 is repealed by Ben. Act VII of 1878; Act XXI of 1856 by Act X of 1871 and Ben. Act VII of 1878; Act X of 1871 by Act XXII of 1881; and Ben. Act II of 1876 (except s. 12) by Ben. Act VII of 1878.
			The schedule	Enactments repealed.
,,	V	Punjab Local Rates Act, 1878.	The whole Act, so far as it applies to Simla.	Repealed by Act XX of 1883, except in Simla. The Act is omitted from the Punjab Code, Ed. 1888, as being "not enforced" in Simla (see preface, para. 8). The Punjab Government will be asked whether it can be repealed as to Simla.
,,	VI	Indian Treasure-trove Act, 1878.	Section 2	Repealing clause.
			The schedule	Enactments repealed.

FIRST SCHEDULE.—*Part I.—Acts of the Governor-General in Council*—cont.

1	2	3	4	5
Year.	No.	Subject or title.	Extent of repeal.	Explanation.
1878	XI	Indian Arms Act, 1878.	Sections 8 and 9 ..	S. 8 has already been repealed by Act XI of 1882, but doubts have been expressed as to whether the section remains in force in Aden, and it does not seem to be needed there. S. 9 is to a certain extent superseded by Act XI of 1882, s. 5; but the latter Act does not apply to Aden. S. 9 refers to Sch. II, but that schedule was repealed by Act XI of 1882 (except as to Aden) — see foot-notes on p. 262 of the General Acts, 1877–81, Ed. 1884. If s. 9 is repealed, the second schedule might also be repealed unequivocally.
			Section 14, the last three paragraphs.	Expired.
			In section 29, *the words and figures from* within three months *to* such a district, province or place.	Expired.
			The second schedule ..	See note opposite ss. 8 and 9, *supra*.
,,	XII	Amending the Punjab Laws Act, 1872.	Section 6	Repealing clause.
			Section 7, *from* All penalties *to the end*.	Validation clause.
,,	XIV	Assimilation of Powers, North-Western Provinces and Oudh.	In the preamble, *the words* and whereas doubts have arisen as to the validity of certain acts done since the said union, and it is expedient to remove such doubts.	Validation clause.
			Section 4, the first paragraph.	Repealing clauses.
			Section 5, the first paragraph.	
			Section 7	Validation clause.
			Section 8	Obsolete.
,,	XVII	Northern India Ferries Act, 1878.	Section 36	Validation clause.
1879	I	Indian Stamp Act, 1879.	Section 2, *down to the word* But.	Repealing clause.
			Schedule II, Article 2, clause (*e*).	This clause refers to Bom. Act I of 1865. That Act (except ss. 37 and 38) is repealed by Bom. Act V of 1879, but the reference in Sch. II, Art. 2, cl. (*e*), of the Stamp Act, 1879, is not saved. The clause seems entirely superseded by clause 1 (*d*) of the second schedule to notification No. 5855, dated 22nd Nov. 1889 (consolidating notifications under the Stamp Act, s. 8).

FIRST SCHEDULE.—*Part I.—Acts of the Governor-General in Council*—cont.

1	2	3	4	5
Year.	No.	Subject or title.	Extent of repeal.	Explanation.
1879	I—*cont.*	Indian Stamp Act, 1879—*cont.*	Schedule II, Article 10 ..	Act VII of 1871 is repealed by Act XXI of 1883, which does not save references to the former Act. See also first footnote on General Acts, 1877-81, Ed. 1884, p. 306.
			Schedule II, Article 11, clause (*b*).	Obsolete.
			Schedule III	Enactments repealed.
,,	III	Destruction of Records Act, 1879.	Section 9	Repealing clause.
			The schedule	Enactments repealed.
,,	VII	Punjab Additional Financial Commissioner's Act, 1879.	The whole	Expired—see s. 2, proviso.
,,	XII	Amending the Code of Civil Procedure, the Registration Act, 1877, and the Limitation Act, 1877.	In the title, *the words* the Code of Civil Procedure. The first preamble ..	These refer to ss. 1-103, which are repealed by Act XIV of 1882.
			Section 108, so far as it refers to Nos. 171, 171A, 171B, and 171C of the second schedule to the Indian Limitation Act, 1877.	Nos. 171, 171A and 171B are repealed by Act VII of 1888, s. 66 (2), and for No. 171C a new No. is substituted by the same Act, s. 66 (3).
,,	XIII	Oudh Civil Courts Act, 1879.	Section 2	Repealing clause.
			Section 6, proviso ..	Obsolete.
			Section 39	Pending proceedings. Obsolete.
			The schedule	Enactments repealed.
,,	XVII	Dekkhan Agriculturists' Relief Act, 1879.	Section 48, the second paragraph (inserted by Act XXIII of 1881, section 10).	Temporary provision. Expired.
,,	XIX	Raipur and Khattra Laws Act, 1879.	Section 3	Pending proceedings. Obsolete.
,,	XX	Glanders and Farcy Act, 1879.	Section 15	Validation clause.
1880	VII	Indian Merchant Shipping Act, 1880.	In section 72, *the word* But.	Necessitated by the repeal of the first para. of s. 72 by Act X of 1889.
,,	IX	Bombay Civil Courts Act, 1880.	Section 3	Validation clause.
,,	XIV	Indian Census Act, 1880.	The whole	Spent.
,,	XV	Bombay Revenue Jurisdiction Act, 1880.	The preamble *from* and to make *to* 1871.	Refers to ss. 4 and 5, which are repealed by Act XII of 1884.
1881	II	Pegu and Sittang Canal Act, 1881.	Section 22	Validation clause.
,,	V	Probate and Administration Act, 1881.	In section 152, *the words* the said.	Obsolete. S. 151, in which Act XXVII of 1860 was before referred to, is repealed by Act VII of 1889.

FIRST SCHEDULE.—*Part I.—Acts of the Governor-General in Council*—cont.

1	2	3	4	5
Year.	No.	Subject or title.	Extent of repeal.	Explanation.
1881	IX	Administrator-General's Act, 1881.	So much of section 5 as has not been repealed. Section 6, *from* and the words *to the end*.	Repealing clauses.
,,	XIII	Fort William Act, 1881.	Section 9	Validation clause.
,,	XIV	Benares Family Domains Act, 1881.	Sections 2 and 14 ..	Repealing clauses.
,,	XVIII	Central Provinces Land-revenue Act, 1881.	Section 2	Repealing clause.
			Section 3	Pending proceedings. Spent.
			Section 136W (inserted by Act XVI of 1889, section 26).	Repealing clause.
			The schedule	Enactments repealed.
,,	XIX	Lower Burma Forest Act, 1881.	Section 2	Repealing clause.
			The schedule	Enactments repealed.
,,	XXIII	Dekkhan Agriculturists' Relief Act, 1881.	Section 4	Virtually repealed by Act XXII of 1882, s. 3.
			Sections 5 and 16 ..	Repealing clauses.
,,	XXV	Banki Laws Act, 1881.	Section 3	Pending proceedings. Obsolete.
			In section 4, *the words and figures from* And in the following Bengal Regulations *to the end*.	Repealing clause.
,,	XXVI	Negotiable Instruments Act, 1881.	Section 2	Repealing clause.
			The schedule	Enactments repealed.
1882	I	Inland Emigration Act, 1882.	Section 2, the first paragraph.	Repealing clause.
			In section 2, second paragraph, *the words* the said.	Necessitated by the proposed repeal of s. 2, para. 1.
			Section 193	Validation clause.
,,	II	Indian Trusts Act, 1882.	Section 36, the second paragraph.	Refers to Act XXVI of 1871, as to repeal of which see *supra*, p. 10.
			In the schedule, *the figures* 39.	Act XXVIII of 1866, s. 39, is entirely repealed, throughout British India, by Act VII of 1882, s. 6.
,,	III	Seditious Publications Act, 1882.	Section 2	Repealing clause.
,,	VII	Powers-of-Attorney Act, 1882.	Section 6	Repealing clause.
,,	X	Code of Criminal Procedure, 1882.	Section 311	Obsolete: cf. s. 313.
			In section 549, *the figures* 1881 *in both places in which they occur*.	This part of the title to the Army Act is repealed by 53 Viet., c. 4, s. 4.
			Section 558	Pending cases. Obsolete.
,,	XII	Indian Salt Act, 1882.	In section 11, *the words and figures* or under section 11 of the Inland Customs Act, 1875.	Obsolete: see Act XII of 1882, s. 11, second clause.
,,	XIV	Code of Civil Procedure.	Section 539, the last paragraph.	Repealing clause.

FIRST SCHEDULE.—*Part I.—Acts of the Governor-General in Council*—cont.

1	2	3	4	5
Year.	No.	Subject or title.	Extent of repeal.	Explanation.
1882	XIX	Punjab University Act, 1882.	Section 22	Expired or obsolete.
,,	XXII	Dekkhan Agriculturists' Relief Act, 1882.	Section 17	Repealing clause.
			Section 19	Temporary provision. Expired.
1883	III	Repealing Act XXVII of 1854 (Nazim of Bengal).	The whole	Spent.
,,	V	Indian Merchant Shipping Act, 1883.	In section 2, sub-section (2), *the words* proceedings commenced *and the word* commenced.	Obsolete.
,,	VII	Repealing the Lower Burma Labour Law, 1876.	The whole	Spent.
,,	VIII	Little Cocos and Preparis Islands Laws Act, 1883.	Section 3	Pending proceedings. Obsolete.
,,	IX	Central Provinces Tenancy Act, 1883.	Section 1, the last paragraph, *beginning with* Nevertheless.	Preliminary action. Obsolete.
			Section 2	Repealing clause.
			The schedule	Enactments repealed.
,,	XIII	Indus Valley State Railway Lands.	Section 1	Repealing clause.
,,	XIV	North-Western Provinces and Oudh Local Boards Act, 1883.	Sections 57 and 60 ..	Repealing clauses.
,,	XV	North-Western Provinces and Oudh Municipalities Act, 1883.	Section 5, *from* and shall *to the end*.	Obsolete.
,,	XIX	Land Improvement Loans Act, 1883.	Section 12, sub-section (2).	Virtually repealed by Act VII of 1886, s. 3 (2).
1884	I	Honorary Degrees.	Section 1	Repealing clause.
,,	II	Unregistered Instruments of Partition, Madras.	In section 2, proviso, *the words* within three years after the date on which this Act comes into force, or *and the words* if the transfer is made after this Act comes into force.	Obsolete.
,,	III	Criminal Procedure Code Amendment Act, 1884.	Section 6	Repealing clause.
,,	IV	Indian Explosives Act, 1884.	Section 2, sub-section (2).	Preliminary action. Obsolete.
,,	V	Amending the Chutia Nagpur Encumbered Estates Act, 1876.	Section 8, clause (*a*) ..	Repealing clauses.
			Section 10	

FIRST SCHEDULE.—*Part I.—Acts of the Governor-General in Council*—cont.

1	2	3	4	5
Year.	No.	Subject or title.	Extent of repeal.	Explanation.
1884	VI	Inland Steam-vessels Act, 1884.	In section 3, sub-section (2), *the words* proceedings commenced *and the word* commenced.	Pending proceedings. Obsolete.
,,	VII	Indian Steamships Act, 1884.	Section 2, sub-section (2).	Preliminary action. Obsolete.
,,	VIII	Repealing Bengal Regulation XIX of 1810 in the North-Western Provinces.	The whole	Spent.
,,	IX	Legal Practitioners' Act, 1884.	Section 10, sub-section (2).	Repealing clause.
,,	XIII	Punjab Municipal Act, 1884.	Section 4, sub-section (1), *from* and shall *to the end*.	Obsolete, if Act IV of 1873 is not now in force in any local area. See note opposite that Act, *supra*, p. 11.
			Section 4, sub-section (3).	Apparently expired. The Punjab Government will be consulted.
			Section 12, clauses (*a*) and (*b*).	See note opposite Act IV of 1873, *supra*, p. 11.
			Section 177, sub-section (1).	Obsolete, a Municipal Committee having come into existence for Simla—see *Punjab Gazette*, 1884, Part I, p. 992.
			Section 177, sub-section (2), *down to* local area.	
,,	XIV	Validation of Settlement-officers' Decisions, Punjab.	The whole	Validation Act.
,,	XVII	Lower Burma Municipal Act, 1884.	Section 5, *from* and shall *to the end of* clause (*b*).	Obsolete—see footnote on Burma Code, Ed. 1889, p. 237.
			Section 14, clauses (*a*) and (*b*).	
,,	XVIII	Punjab Courts Act, 1884.	Section 1, sub-section (4).	Preliminary action. Obsolete.
			Section 2	Repealing clause.
			Section 68	Pending proceedings. Obsolete.
			Section 69	Appeals from prior decrees, &c. Obsolete.
			The schedule	Enactments repealed.
,,	XIX	Rangoon Waterworks Act, 1884.	Section 1, sub-section (3).	Validation clause.
,,	XXI	Straits Settlements Emigration.	The whole	S. 1 is spent. S. 2 is superseded by the Emigration Act of 1890, s. 7.
1885	II	Negotiable Instruments Act, 1885.	Section 7	Repealing clauses.
			Section 8, clause (*b*) *and the word* and *at the end of clause* (*a*).	
,,	VII	Panch Mahals Laws Act, 1885.	Section 3	Pending proceedings. Obsolete.
			Section 4, *from* and in Part II *to the end*.	Repealing clause.

FIRST SCHEDULE.—*Part I.—Acts of the Governor-General in Council*—cont.

1	2	3	4	5
Year.	No.	Subject or title.	Extent of repeal.	Explanation.
1885	IX	Tariff; Excise; Sea-customs.	In the title and preamble, *the words and figures* to repeal part of section 6 of the Indian Tariff Act, 1882, and. Section 1	Repealing clauses.
,,	XII	Indian Sea Passengers' Act, 1885.	Section 2	Repealing clause.
,,	XVI	Central Provinces Civil Courts Act, 1885.	Section 1, sub-section (4). Section 24 .. .. Section 25	Preliminary action. Obsolete. Pending proceedings. Obsolete. Appeals from prior decrees and orders. Obsolete.
,,	XVII	Central Provinces Government Wards Act, 1885.	Section 2	Repealing clause.
,,	XX	Postponing temporarily certain parts of the Bengal Tenancy Act, 1885.	The whole	Expired.
1886	II	License-tax Amendment.	Section 1, sub-section (3). The second schedule, Part III, clause (*b*).	Preliminary action. Obsolete. Inoperative.
,,	IV	Amending the Indian Contract Act, 1872.	Section 2	Repealing clause.
,,	V	Mirzapur Stone Mahal Act, 1886.	Section 1, sub-section (3). Section 2 .. .. In section 19, *the words* continue to be levied until the Act comes into force, and shall then.	Preliminary action. Obsolete. Repealing clause. Obsolete.
,,	VI	Births, Deaths and Marriages Registration Act, 1886.	Section 1, sub-section (3).	Preliminary action. Obsolete.
,,	X	Amending the Code of Criminal Procedure, 1882, &c.	Section 20 and section 24, sub-section (2).	Repealing clauses.
,,	XIII	Indian Securities Act, 1886.	Section 1, sub-section (3).	Preliminary action. Obsolete.
,,	XIV	North-Western Provinces Rent Act, 1886.	Section 6 .. .. In section 7, *the words* the word "other" is repealed; and in *and the words* of the same section.	Repealing clauses.
,,	XVIII	Amending Act XXXVI of 1858 (Lunatic Asylums).	Section 3, so far as it relates to section 17A.	Virtually repealed by Act XX of 1889, s. 1.

FIRST SCHEDULE.—*Part I.—Acts of the Governor-General in Council*—cont.

1	2	3	4	5
Year.	No.	Subject or title.	Extent of repeal.	Explanation.
1886	XX	Upper Burma Laws Act, 1886.	In section 1, sub-section (2), *the words* within four months from the passing of the Act. Section 5 .. .. The first schedule .. The second schedule, first part, so far as it relates to Act V of 1881, section 153.	Obsolete. Repealing clause. Enactments repealed. Act V of 1881, s. 153, is repealed by Act VII of 1889.
,,	XXII	Oudh Rent Act, 1886	Section 1, sub-section (4).	Preliminary action. Obsolete.
,,	XXIII	Dekkhan Agriculturists' Relief Act, 1886.	Section 10, sub-sections (1) and (2). Section 12, sub-section (2). Section 13	Repealing clauses. Temporary provision. Expired.
,,	XXIV	Extension of the Glanders and Farcy Act, 1879, to Bombay.	The whole	Practically a repealing Act. Spent.
1887	II	Amending the Sea Customs Act, &c.	Section 7 .. .. Section 9	Repealing clause. Virtually repealed by Act XII of 1890.
,,	IV	Indian Museum Act, 1887.	Section 2	Repealing clause.
,,	VII	Suits Valuation Act, 1887.	Section 10	Repealing clause.
,,	VIII	Abolishing Military Courts of Requests.	The whole	Spent.
,,	IX	Provincial Small Cause Courts Act, 1887.	Section 2, sub-section (1). In section 2, sub-section (2), *the word* but. In section 17, sub-section (1), *the words* as amended by this Act. The first schedule ..	Repealing clause. Necessitated by the proposed repeal of s. 2 (1), *supra*. S. 26, which made the amendment, is repealed by Act X of 1888, s. 4. Enactments repealed.
,,	XII	Bengal, North-Western Provinces and Assam Civil Courts Act, 1887.	Section 2, sub-section (1). In section 2, sub-section (2), *the word* But.	Repealing clause. Necessitated by the proposed repeal of s. 2 (1), *supra*.
,,	XVI	Punjab Tenancy Act, 1887.	Section 2 .. .. Section 3 .. .. Section 4, clause (11), sub-clause (*a*). The schedule	Preliminary action. Obsolete. Repealing clause. As to repeal of Act V of 1878, see notes *supra*, p. 14. The retention of Act XVI of 1887, s. 4, cl. (11) (*a*), seems unnecessary in view of the universal application of Act XX of 1883—see Act XX of 1883, s. 2, and Act XVI of 1887, s. 4, cl. (11) (*b*). Enactments repealed.
,,	XVII	Punjab Land-revenue Act, 1887.	Section 1, sub-section (4).	Preliminary action. Obsolete.

FIRST SCHEDULE.—*Part I.—Acts of the Governor-General in Council*—cont.

1	2	3	4	5
Year.	No.	Subject or title.	Extent of repeal.	Explanation.
1887	XVII—*cont.*	Punjab Land-revenue Act, 1887—*cont.*	Section 3, clause (9), sub-clause (*a*).	As to repeal of Act V of 1878, see notes *supra*, p. 14. The retention of Act XVII of 1887, s. 3, cl. (9) (*a*), seems unnecessary in view of the universal application of Act XX of 1883—see Act XX of 1883, s. 2, and Act XVII of 1887, s. 3. cl. (9) (*b*).
1888	VI	Debtors' Act, 1888.	Section 9	Repealing clause.
,,	VII	Civil Procedure Code Amendment Act, 1888.	Sections 4, 25 and 29 ..	Repealing clauses.
			Section 41	Virtually repealed by Act VIII of 1890, s. 53, cl. E.
			Sections 49, sub-section (1), 50, 52, sub-section (1), 56 and 57.	Repealing clauses.
			In section 65, sub-section (3), *the words "the Code of Civil Procedure."*	Follows the proposed repeal of portion of the title to Act XII of 1879 (*supra*, p. 16).
			Section 66, sub-section (2).	Repealing clause.
,,	VIII	Tolls	In section 5, *the words* the words "and the Governor of the Presidency of Bombay in Council" are hereby repealed, and.	Repealing clause.
,,	IX	Repealing enactments relating to contagious diseases.	The whole	Spent.
,,	X	Amending the Code of Civil Procedure and the Presidency Small Cause Courts Act, 1882.	Section 4	Repealing clause.
,,	XIII	Punjab Courts Act, 1888.	Section 3	Repealing clause.
,,	XVI	Repealing Act VII of 1867 and Madras Regulation XIV of 1832.	The whole	Spent.
,,	XIX	Amending the Lower Burma Municipal Act, 1884.	Section 3	Repealing clause.
1889	IV	Indian Merchandise Marks Act, 1889.	Section 19	Transitory provision. Expired.
,,	V	Coroner of Madras.	Section 3, sub-section (2). Section 4, sub-section (1).	Repealing clauses.
,,	VI	Probate and Administration Act, 1889.	Section 9, sub-section (2), section 18, sub-section (1), and section 21.	Repealing clauses.
,,	XI	Lower Burma Courts Act, 1889.	The first and second schedules, so far as they relate to Regulation VII of 1886.	Superseded by Reg. VI of 1890, s 3.

FIRST SCHEDULE.—*Part I.—Acts of the Governor-General in Council*—cont.

1	2	3	4	5
Year.	No.	Subject or title.	Extent of repeal.	Explanation.
1889	XII	Amending the Indian Merchandise Marks Act, 1889.	The whole	Expired.
,,	XVI	Central Provinces Land-revenue Act, 1889.	Section 3	Repealing clause.
			In section 26, *the words and figures* Section 136 is hereby repealed, and.	Repealing clause.
			Section 26, so far as it relates to section 136W.	Act XVIII of 1881, s. 136W, is proposed for repeal—see *supra*, p. 27.
			Section 29, sub-section (2), *from* and the last *to the end*.	Repealing clauses.
			Sections 30, 31 and 36 ..	
,,	XVII	Central Provinces Tenancy Act, 1889.	Section 3	Repealing clause.
,,	XX	Amending Act XXXVI of 1858 (Lunatic Asylums).	Section 3	Repealing clause.
1890	II	Amending Act XVII of 1864, &c.	Section 11, sub-section (2).	Repealing clause.
,,	III	Amending the Inland Steam-vessels Act, 1884, and the Indian Steam-ships Act, 1884.	Sections 3, 4, sub-section (1), 5, 16, 17, sub-section (1), and 18.	Repealing clauses.
,,	V	Forest Act, 1890 ..	Section 21	Repealing clause.
,,	X	Amending Act XXV of 1867 (Printing-presses and books).	Sections 1, 2 and 7 ..	Repealing clauses.

Part II.—Acts of the Lieutenant-Governor of Bengal in Council.

1	2	3	4	5
Year.	No.	Subject or title.	Extent of repeal.	Explanation.
1866	I	Amending Bengal Regulation VI of 1819 (Ferries).	The whole Act, so far as it applies to Assam.	Repealed in Bengal by Ben. Act I of 1885. Superseded in Assam by Act XVII of 1878.
,,	V	Hackney Carriages.	The whole Act, so far as it applies to Assam.	Superseded in Assam by Act XIV of 1879.
1867	II	Gambling ..	The whole Act, so far as it applies to Assam.	Superseded in Assam by Act III of 1867.

FIRST SCHEDULE.—*Part II.—Acts of the Lieutenant-Governor of Bengal in Council*—cont.

1	2	3	4	5
Year.	No.	Subject or title.	Extent of repeal.	Explanation.
1870	IV	Court of Wards Act, 1870.	The whole Act, so far as it applies to Assam.	Repealed by Ben. Act IX of of 1879. Ben. Act IV of 1870 was declared in force in the districts of Kamrup, Nowgong, Darrang, Sibsagar, Lakhimpur, Goalpara (excluding the Eastern Dvars), Cachar (excluding the North Cachar Hills) and Sylhet, while Ben. Act IX of 1879 has been extended only to the districts of Goalpara, Cachar and Sylhet. Ben. Act IV of 1870 is therefore nominally in force in Kamrup, Nowgong, Darrang, Sibsagar and Lakhimpur, but the Chief Commissioner of Assam (letter No. 3135, dated 30th October 1888) thinks it unnecessary to print it in the Assam Code.

Part III.—Regulations of the Bengal Code.

1	2	3	4	5
Year.	No.	Subject or title.	Extent of repeal.	Explanation.
1793	VIII	Decennial Settlement.	In section 14, *the words and figures* in consequence of the rules in Sections V and IX.	Ss. 5 and 9 of Ben. Reg. VIII of 1793 are repealed by Act XVI of 1874. This reference is saved by the proviso to that Act, but *qu.* whether it need be retained.
			In section 26, *the words and figures* under the restrictions specified in Section XXIII, *and the word* also.	S. 23 being repealed by Ben. Reg. XVII of 1805 without a saving, *qu.* whether this reference has now any legal effect.
			In section 49, *the word* however (1) *and the words* of the nature of those described in Section XVIII (2).	(1) Apparently unnecessary since the repeal of s. 48. (2) S. 18 is repealed by Act XII of 1876. This reference is saved by the proviso to that Act, but *qu.* whether it need be retained.
			Section 54	*Qu.* expired (see concluding clause). [Already repealed in the greater part of Bengal by Act VIII of 1885.]
			In section 62, clause fourth, *the words and figures* printed and published in the manner directed in Regulation XLI, 1793.	Ben. Reg. XLI of 1793 is repealed by Act VIII of 1868. This reference is saved by the proviso to that Act, but *qu.* whether it need be retained.
,,	XIX	Title to Non-Badshahi Lakhiraj Grants.	In section 4, *the word and figures* and XXI.	S. 31 is repealed by Ben. Act VII of 1876.
,,	XXXVII	Title to Badshahi Lakhiraj Grants.	In section 2, clause second, *the words and figures* and proceeded in it as required by Section XIV, Regulation III, 1793.	Ben. Reg. III of 1793, s. 14, is repealed by Act VIII of 1868. This reference is saved by the proviso to that Act, but *qu.* whether it should not be repealed. The similar words in Ben. Reg. XIX of 1793, s. 2, cl. 2, were repealed by Act XVI of 1874.

FIRST SCHEDULE.—*Part III.—Regulations of the Bengal Code*—cont.

1	2	3	4	5
Year.	No.	Subject or title.	Extent of repeal.	Explanation.
1793	XXXVIII	Loans by Civil Servants.	The title, *from* and for re-enacting *to the end*. Section 1, *from* From a regard *to* remained in force.	Obsolete. Refers to ss. 3–6, which are repealed by Act VIII of 1868.
1794	III	Revenue arrears ..	In the title, *the words* for exempting proprietors of land (with certain exceptions) from being confined for arrears of revenue; and (1) *and the words* and for expediting the trial of causes relating to the public revenue or the rents of individuals (2).	(1) Refers to s. 3, which is repealed by Act XVI of 1874. (2) Refers to s. 22, which is repealed by Act XII of 1873.
1799	V	Wills and Intestacies.	In the title, *the words* and City.	References to City Courts in the body of the Regulation are repealed by Act XVI of 1874.
1800	VIII	Registers of estates.	The title, *from* preparing *to* prescribed.	Refers to ss. 1–18, which are repealed.
1801	I	Division of joint estates.	The title, *from* to explain and amend part *to* such sales (1), *from* contained in Regulation XXV, 1793, *to* Regulation XXVI, 1795 (2), *and from* and to fix *to the end* (3).	(1) Refers to sections which have been repealed. (2) The Regulations referred to are repealed by Ben. Reg. XIX of 1814. (3) Refers to the earlier part of s. 14, which is proposed for repeal, *infra*.
			In section 8, *the words and figures* by clause first of Section XXIX, Regulation VII, 1799, or any other Regulation.	Ben. Reg. VII of 1799, s. 29, cl. first, is repealed by Act XVI of 1874, and see note to the clause on p. 518 of Clarke's Bengal Regulations, Vol. I.
			In section 14, *the words and figures from* The rules contained in *to* affected by this Regulation (1); *the words* It is further hereby declared that (2); *and the words and figures from* This declaration *to* portions thereof (3).	(1) Expired. [Ben. Reg. VIII of 1793, s. 5, is repealed by Act XVI of 1874.] (2) Surplusage. (3) Ben. Reg. XXV of 1793 is repealed by Ben. Reg. XIX of 1814.
1804	X	State-offences ..	In section 2, *the words* declared to be. In section 3, *the words* It is hereby further declared that.	Surplusage.
1805	XII	Settlement, Cuttack.	In section 30, *the words and figures from* The rules to this Regulation (1), *the words* Provided however that (2), *the words and figures* under Section IV, Regulation XXIV, 1793 (3). *and the word* likewise (3).	(1) Ben. Reg. XXIV of 1793 is repealed and replaced by Act XXIII of 1871, which extends to the whole of British India. (2) Meaningless, if the earlier part of s. 30 is repealed as proposed. (3) Unnecessary. [Ben. Reg. XXIV of 1793 is repealed by Act XXIII of 1871, and this reference is not saved.]

FIRST SCHEDULE.—*Part III.—Regulations of the Bengal Code*—cont.

2	2	3	4	5
Year.	No.	Subject or title.	Extent of repeal.	Explanation.
1805	XII—*cont.*	Settlement, Cuttack—*cont.*	Section 31, *from* and the rules contained in Regulation XXVII, 1793, *to the end.*	Ben. Reg. XXVII of 1793 is repealed by Act XXIX of 1871. The references to that Regulation are saved by the proviso to the Act, but *qu.* whether they need be retained. (The concluding clause of s. 31 is doubtless obsolete.)
			Section 36, *from* Provided also that *to the end.* Section 37	This matter refers to the Tributary Mahals of Orissa. Those Mahals (except Angul) are not British territory.
,,	XIII	Police, Cuttack ..	In the title, *the words* and for amending certain provisions contained in Regulation IV, 1804.	Ben. Reg. IV of 1804 is repealed by Act VIII of 1868.
			In section 4, clause second, *the words and figures* under the responsibility stated in Section VI, Regulation IV, 1804.	Ben. Reg. IV of 1804 is repealed by Act VIII of 1868. This reference is saved by the proviso to that Act, but *qu.* whether it need be retained.
			In section 5, *the words and figures* by Regulation V, 1804.	Ben. Reg. V of 1804 is repealed by Act XVI of 1874. This reference is saved by the proviso to that Act, but *qu.* whether it need be retained.
			Section 13, *from* Provided, however, that *to the end.*	This refers to the Tributary Mahals of Orissa. Those Mahals (except Angul) are not British territory.
1806	XI	Assistance to marching troops and to travellers.	The title, *from* and for extending *to the end.* Section 1, *from* and whereas it is further necessary *to* Section XII, Regulation I, 1804.	The matter proposed for repeal referred to ss. 9—20 of the Regulation. Those sections are repealed—see Bengal Code, Ed. 1889, Vol. I, p. 102.
			In section 8, *the words and figures* (under the rules prescribed by Regulation V, 1804).	Ben. Reg. V of 1804 is repealed by Act XVI of 1874. This reference is saved by the proviso to that Act, but *qu.* whether it need be retained.
1812	XVIII	Leases; Apportionment of Assessment on Partition.	In section 3, clause second, *the words and figures* and Section VII, Regulation XXVII, 1795 (1) *and the words and figures* (excepting the dependent talukdars described in Section VII, Regulation XLIV, 1793) (2).	(1) Ben. Reg. XXVII of 1795 applies to Benares, and is printed in the N.-W. P. Code, Ed. 1886. Ben. Reg. XVIII of 1812 has however been repealed as to the N.-W.P. by Act XIX of 1873. This reference is therefore obsolete. (2) Ben. Reg. XLIV of 1793 is repealed by Act XXIX of 1871. This reference is saved by the proviso to that Act, but *qu.* whether it need be retained.
,,	XXII	Territories bordering on Bandelkhand.	Sections 1, 3 and 4 .. In section 2, *the words* the territory of Raja Kassari Singh, the Raja of Jaitpur.	Obsolete. This territory is now in British India.
1816	XI	Succession, Tributary Estates in Cuttack.	So much as has not been repealed.	These estates (except Angul) are not British territory.

FIRST SCHEDULE.—*Part III.—Regulations of the Bengal Code*—cont.

1	2	3	4	5
Year.	No.	Subject or title.	Extent of repeal.	Explanation.
1817	XII	Patwaris ..	In section 35, *the words* or Commissioner.	Necessitated by the repeal of the words "or the Commissioner in Behar and Benares" by Act XVI of 1874.
,,	XX	Police ..	The title, *from* for modifying *to the end.*	Refers to ss. 26 and 33, which are repealed by Acts XVII of 1862 and XVI of 1874, respectively.
			In the heading prefixed to section 30, *the word* badges *and the words* and insane persons.	These words refer to clauses fourth and sixth, which are repealed.
			Forms Nos. 1, 4, 5, 7, 9 to 12 and 15 to 21 in the Appendix.	These forms are obsolete in consequence of the repeal of the sections (7–10, 13, 16, 23–25, 27 and 31), in which they were referred to. [Forms 2, 3, 8 and 14 are repealed by Ben. Reg. VII of 1829, and Form 6 (in the North-Western Provinces) by Act XVI of 1873. Forms 6 (as to Bengal) and 13 alone are now operative.]
1819	I	Kanungos and Patwaris.	The title, *from* for replacing *to* Gorakhpur. Section 4, clause fifth, *from* anything *to the end.*	Refers to ss. 1–3, which are repealed by Act XII of 1873. Ben. Reg. IV of 1808 is repealed by Act XIX of 1873, and Ben. Reg. I of 1819 is repealed in the N.-W. Provinces by the same Act.
			Section 4, clause sixth ..	*Qu.* expired. The Government of Bengal will be asked.
			Section 6	Refers to Ben. Reg. XII of 1817, s. 4, which is repealed by Act XVI of 1874. [The reference to that section in s. 11 of Ben. Reg. XII of 1817 is repealed by the same Act.]
,,	II	Resumption of Revenue-free Lands.	In section 4, *the words and figures* and Regulations XLI and XLII of 1795, Regulations XXXI and XXXVI of 1803, Regulation VIII (1), *and the words and figures from* nor to alter *to the end* (2).	(1) These Regulations are all repealed by Act XIX of 1873, which also repeals Ben. Reg. II of 1819 as to the N.-W. Provinces. (2) Ben. Reg. I of 1815 is repealed by Act XXIX of 1871. This reference is saved by the proviso to that Act, but it seems unnecessary to retain it.
			In section 12, *the figures* XXVI.	Ben. Reg. XII of 1817, s. 26, is repealed by Act XII of 1876. This reference is saved by the proviso to that Act, but *qu.* whether it need be retained.
			Section 29	*Qu.* whether this section might not be repealed as being out of date. If not repealed, *qu.* whether the reference to Ben. Regs. XXIV of 1803 and VI of 1817 should not be amended. Those Regulations are repealed by Act XXIII of 1871, which does not save references.

FIRST SCHEDULE.—*Part III.—Regulations of the Bengal Code*—cont.

1 Year.	2 No.	3 Subject or title.	4 Extent of repeal.	5 Explanation.
1819	VIII	Patni Taluks	The title, *from* and to explain *to the end*. The preamble, *from* It has been likewise deemed advisable *to* defaulters.	This matter refers to ss. 18 and 19, which are repealed by Act X of 1859.
1821	IV	Powers of Collectors and Magistrates.	The title, *from* for authorising a Collector *to* Also.	Refers to s. 2, which is repealed by Act XII of 1873. [The similar words in the preamble were repealed by Act XII of 1876.]
1822	VII	Settlement, Cuttack, &c.	The title, *from* for continuing *to* five years.	Refers to s. 2, clauses first to fourth, which are repealed by Act XVI of 1874.
,,	XI	Non-liability of Government for errors of Courts, &c.	The title, *from* for modifying *to* arrears of revenue.	Refers to sections which are repealed by Act XII of 1841.
1823	VII	Prohibition of Loans.	Section 7	Depends on Ben. Reg XXI of 1814, which is repealed by Act XXIX of 1871. The reference to the Regulation is saved by the proviso to that Act, but it seems unnecessary to retain the section.
1825	IX	Defaulting Malguzars.	In the preamble, *the words and figures* and the provision contained in Section XXXIX, Regulation IX, 1810.	Ben. Reg. IX of 1810 is repealed by Act VI of 1863. The whole sentence *from* "and whereas the rules" *to* "sanctioned by Government" might be removed if s. 9 is repealed as suggested *infra*.
			In section 2, clause first, *the words and figures* and Regulations II and XXII, 1795.	Ben. Regs. II and XXII of 1795 are repealed by Acts XIX of 1873 and VIII of 1868 respectively, and Ben. Reg. IX of 1825 is itself repealed, as to the North-Western Provinces, by Act XIX of 1873. It seems unnecessary to retain these references.
			In section 3, *the words* and Benares (1). Section 8, *from* Section XI, Regulation XXXI, 1803 (2) *to* Conquered Provinces (1).	(1) Ben. Reg. IX of 1825 is repealed as to the North-Western Provinces by Act XIX of 1873. (2) Ben. Reg. XXXI of 1803 is repealed by Act XIX of 1873, which does not save references.
			In Section 9, *the words and figures* and the provision contained in Section XXXIX, Regulation IX, 1810.	Ben. Reg. IX of 1810 is repealed by Act VI of 1863. *Qu* whether the whole section might not be repealed as obsolete. The Government of Bengal will be asked.

FIRST SCHEDULE.—*Part III.—Regulations of the Bengal Code*—cont.

1 Year.	2 No.	3 Subject or title.	4 Extent of repeal.	5 Explanation.
1825	XIII	Settlement of resumed Lakhiraj land.	In section 2, *the words and figures* IV, 1808, Regulations II and.	Ben. Regs. IV of 1808 and II of 1816 are repealed by Acts XIX of 1873 and VIII of 1868, respectively. [Ben. Reg. XIII of 1825 is itself repealed, as to the N.-W. Provinces, by Act XIX of 1873.]
			In section 4, *the words and figures* or the second clause of Section VIII, Regulation XLI, 1795, in the province of Benares.	Ben. Reg. XLI of 1795 is repealed by Act XIX of 1873. This reference is not saved.
			In section 5, *the figures and word* XLII, 1795, and XXXVI, 1803.	These Regulations are repealed by Act XIX of 1873.

THE SECOND SCHEDULE.

ENACTMENTS AMENDED.

A description or citation of a portion of an Act or Regulation includes the words, section or other part mentioned or referred to as forming the beginning or as forming the end of the portion comprised in the description or citation.

Part I.—Acts of the Governor-General in Council.

1 Year.	2 No.	3 Subject or title.	4 Amendment.	5 Explanation.
1835	XIX	Assistant to Agent for Sardars, Dekkhan.	In section 1, ..	Bom. Reg. IV of 1827, Ch. XXII, is repealed by Act X of 1861, and the reference to the Regulation in this section is not saved. The Government of Bombay will be asked what amendment should be made.
1839	VII	Tahsildars, Madras.	In section 4, *for* Section 10, Regulation IX of 1822 of the Madras Code, in cases in which they conduct sales under the provisions of that Regulation, *read*	The portion of s. 10 of Mad. Reg. IX of 1822 here referred to is repealed by Act XII of 1876, but this reference is saved by the proviso to that Act. Mad. Reg. XXVIII of 1802, referred to in Mad. Reg. IX of 1822, s. 10, is repealed by Mad. Act VIII of 1865, s. 89. The Government of Madras will be asked how the reference in Act VII of 1839, s. 4, should be amended, or whether the section should not be formally repealed as unnecessary.

SECOND SCHEDULE.—*Part I.—Acts of the Governor-General in Council*—cont.

1	2	3	4	5
Year.	No.	Subject or title.	Amendment.	Explanation.
1840	X	Temple of Jagannath.	In section 3, *for* the said Rajah of Khoorda *read* the Rajah of Khoorda for the time being, *and for* the said Temple, *in the first place in which those words occur, read* the Temple of Jagannath.	Necessitated by the repeal of s. 2 by Act XIV of 1882, s. 539.
1841	X	Registration of ships.	In section 18, *for* Act No. II of 1839 *read* the law for the time being in force for the recovery of fines imposed by Criminal Courts.	Act II of 1839 is repealed by Act XVII of 1862, and s. 1 is replaced by Act X of 1882, ss. 386-389, but this reference is not saved.
1846	I	Pleaders ..	In section 7, *for* the sections of the Regulations *read* the section of the Regulation.	Necessitated by the proposed repeal of part of s. 6, *supra*, p. 3.
1850	XIX	Binding Apprentices.	In section 11, *for* section VIII *read* section 9. In section 20, *for* and, *where the word occurs before* administrators, *read* or.	Clerical errors.
1851	XII	Land revenue, Madras Town.	In the preamble and section 1, *for* Section 12, Regulation II of 1802 of the Madras Code, *read*.	Mad. Reg. II of 1802 is repealed by Act III of 1873, which does not save references. The Government of Madras will be asked how the references in Act XII of 1851 should be amended. See 55 Geo. 3, c. 84.
1856	VIII	Control of Gaols..	In the title and preamble, *for* Presidencies of Fort St. George and Bombay *read* Presidency of Bombay. In section 2, *for* each of the said Presidencies *read* the said Presidency.	Act VIII of 1856 is repealed, as to Madras, by Mad. Act V of 1869.
,,	XX	Chaukidars ..	In section 38 (as amended by Act XXII of 1871, section 3), *for* Commissioners *read* Commissioner.	Clerical error.
1857	XXV	Forfeiture of property.	In section 2, *for* by this Act (1), or Act XI of 1857 (2), or Act XIV of 1857 (3), or Act XVI of 1857 (4), *read* by the Indian Penal Code, section 121 or section 122, or the Indian Articles of War, Article 24.	(1) This reference is to Act XXV of 1857, s. 1, which is repealed by Act V of 1869, Pt. I, cl. (*c*). That section is replaced by Act V of 1869, Arts. 7 and 24, but the reference is not saved. (2) This reference is to Act XI of 1857, s. 1, which is repealed by Act XVII of 1862. The corresponding provisions in the present law are ss. 121 and 121A of Act XLV of 1860. S. 121A does not provide forfeiture, and it should therefore not be noted. S. 122 has no exact counterpart in Act XI of 1857, but it should be noted as it provides forfeiture.

SECOND SCHEDULE.—*Part I.—Acts of the Governor-General in Council*—cont.

1	2	3	4	5
Year.	No.	Subject or title.	Amendment.	Explanation.
1857	XXV —*cont.*	Forfeiture of property—*cont.*	In section 2, *for* by this Act (1), or Act XI of 1857 (2), or Act XIV of 1857 (3), or Act XVI of 1857 (4), *read* by the Indian Penal Code, section 121 or section 122, or the Indian Articles of War, Article 24.	(3) This reference is to Act XIV of 1857, s. 1. That Act is repealed by Act VIII of 1868. Corresponding provisions are to be found in Act XLV of 1860, Chapter VII, but, as that Chapter does not provide forfeiture, it should not be noted. (4) This reference is to Act XVI of 1857, s. 1. That Act was a temporary one (see s. 5), and is repealed by Act VIII of 1868.
1859	I	Merchant Seamen.	In section 62, *for* Act XX of 1841 (*for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*) *read* the Succession Certificate Act, 1889.	Act XX of 1841 is repealed by Act XXVII of 1860, and the latter Act by Act VII of 1889. This reference is not saved.
			In section 115, *for* Sections XXI and XXII of this Act *read* Chapter IV of the Indian Merchant Shipping Act, 1883, and section 22 of this Act.	S. 21 is repealed by Act XV of 1863. It is reproduced, with modifications, in Act V of 1883, Ch. IV.
1860	XXVIII	Boundary-marks, Madras.	In section 4, *for the words and figures from* in the same manner *to the end, read* in the manner provided by the law for the time being in force for the recovery of fines imposed by Criminal Courts.	Act II of 1839 is repealed by Act XVII of 1862, and replaced by Act X of 1882, sections 386—389, 33; but this reference is not saved.
,,	XLV	Indian Penal Code.	In section 307, Illustration (*c*), *after* of *insert* the first paragraph of.	Necessitated by the addition of a clause to s. 307 by Act XXVII of 1870, s. 11.
1863	XX	Religious Endowments.	In section 3, *for* Section I *read* the preamble to this Act.	S. 1 is repealed by Act XIV of 1870.
1864	III	Foreigners ..	In section 24, *for the words and figures from* according *to the end, read* be recovered in the manner provided by the law for the time being in force for the recovery of fines imposed by Criminal Courts.	Act XLVIII of 1860, s. 26, Ben. Act IV of 1866, s. 93, and Mad. Act VIII of 1867, s. 69, are repealed by Act IV of 1877, and the latter Act (except s. 57) by Act X of 1882. This reference is not saved.
1865	X	Indian Succession Act, 1865.	In section 242, *after* is *insert* or are.	Clerical error.
1867	III	Gambling ..	In the preamble, *after* Fort William *insert* and. In section 2, *for* Sections 13, 17 and 18 *read* Sections 13 and 17.	Clerical error. S. 18 is repealed by Act XVI of 1874.

SECOND SCHEDULE.—*Part I.—Acts of the Governor-General in Council*—cont.

1	2	3	4	5
Year.	No.	Subject or title.	Amendment.	Explanation.
1867	XXIII	Murderous Outrages, Punjab.	In section 10, *for* the Punjab Chief Court Act, 1866, *read* in any other enactment for the time being in force.	Act IV of 1866 is repealed by Act XVII of 1877, and the latter Act (except s. 18) by Act XVIII of 1884. This reference is not saved.
,,	XXV	Printing Presses and Books.	In section 3, *before* of the publisher *insert* the name.	Clerical error.
1868	V	Commissioner in Sindh.	In the schedule, *for* Act VII of 1854 (for the apprehension, within the territories under the Government of the East India Company, of persons charged with the commission of heinous offences beyond the limits of the said territories, and for delivering them up to justice, and to provide for the execution of warrants in places out of the jurisdiction of the authorities issuing them) *read* The Foreign Jurisdiction and Extradition Act, 1879; *and for* Act VII of 1865 (to give effect to rules for the management and preservation of Government forests) *read* The Indian Forest Act, 1878.	Act VII of 1854 is repealed by Act XI of 1872, and Act XI of 1872 by Act XXI of 1879. This reference is not saved. Act VII of 1865 is repealed by Act VII of 1878, and this reference is not saved.
1869	V	Indian Articles of War.	In Part I, clause (*o*), *for* or any Act *read* in any Act. In Article 24, *for* section *read* Article. In the heading to Article 170, *for* "*committed*" *read* "*of which any person is accused.*"	Clerical error. Clerical error. In consistent with the Article.
,,	XX	Indian Volunteers Act, 1869.	In section 22, *for the words from* if for offences committed outside *to the end, read* in the manner provided by the law for the time being in force for the recovery of fines imposed by Criminal Courts.	See note opposite Act III of 1864, s. 24, *supra*, p. 31.
1870	VII	Court-fees Act, 1870.	*For* section 34 *read the following*:— 34. (1) The Local Government may from time to time make rules for regulating the sale of stamps to be used under this Act, the persons by whom alone such sale is to be conducted, and the duties and remuneration of such persons. Sale of stamps. (2) All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.	Act XVIII of 1869 is repealed by Act I of 1879, and the reference in s. 34 of Act VII of 1870 to the Act of 1869 cannot be applied to Act I of 1879. S 34 of Act VII of 1870 is therefore inoperative, and there is no law to regulate the sale of court-fee stamps. The proposed section is taken from ss. 36 (*a*) and 41 of the Court-fees Bill drawn in the Legislative Department in 1881.

SECOND SCHEDULE.—*Part I.—Acts of the Governor-General in Council*—cont.

1	2	3	4	5
Year.	No.	Subject or title.	Amendment.	Explanation.
1870	VII—*cont.*	Court-fees Act, 1870—*cont.*	(3) Any person appointed to sell stamps who disobeys any rule made under this section, and any person not so appointed who sells or offers for sale any stamp, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.	Act XVIII of 1869 is repealed by Act I of 1879, and the reference in s. 34 of Act VII of 1870 to the Act of 1869 cannot be applied to Act I of 1879. S. 34 of Act VII of 1870 is therefore inoperative, and there is no law to regulate the sale of court-fee stamps. The proposed section is taken from ss. 36 (*a*) and 41 of the Court-fees Bill drawn in the Legislative Department in 1881.
			In Schedule I, Article 2, *for* Act No. XIV of 1859 (*to provide for the limitation of suits*), section 15, *read* the Specific Relief Act, 1877, section 9.	Act XIV of 1859, s. 15, is repealed by Act I of 1877 (except as to scheduled districts), but the latter Act does not save references to the former. [This amendment will supersede cl. (5) of the consolidated notification under Act VII of 1870, s. 35, No. 4650, dated 10th September 1889.]
			In Schedule II, Article 4, *for* Bombay Act No. V of 1864 (*to give Mamlatdars' Courts jurisdiction in certain cases to maintain existing possession or to restore possession to any party dispossessed otherwise than by course of law*) *read* the Mamlatdars' Courts Act, 1876.	Bom. Act V of 1864 is repealed by Bom. Act III of 1876, but the latter Act does not save this reference in Act VII of 1870. [This Amendment will supersede cl. (25) of the consolidated notification under Act VII of 1870, s. 35, No. 4650, dated 10th September 1889.]
	XXIV	Oudh Taluqdars' Relief Act.	In section 12, *for the words* section three *in the second place in which they occur, read* section 4.	Clerical error.
	XXVI	Prisons Act, 1870.	In the preamble, *for* and British Burma *read* Coorg and Burma. In section 6, first paragraph (as amended by Act XIV of 1878), *for* and British Burma *read* Coorg and Burma. In section 47, clause (2), *for* assaults *read* assault.	Act XIV of 1878, s. 2, was evidently not intended to override Act II of 1871, but this appears to be its effect. As to Upper Burma, see Act XX of 1886, Schedule II, First Part. Clerical error.
,,	XXVII	Amending the Indian Penal Code.	In section 13, *for* the said sections 124A and 225A *read* sections 124A, 225A and 225B.	The s. 225A referred to is superseded by the ss. 225A and 225B inserted by Act X of 1886, s. 24 (*f*).
1871	V	Prisoners' Act, 1871.	In section 13, *for* section eight of Act No. XXIII of 1861 (*to amend Act VIII of* 1859) *read* section 350 of the Code of Civil Procedure, *and s for* the provisions as to deposit of fees and as to release on security contained in the same section *read* the provisions as to release on security contained in section 349 of the same Code.	It is difficult to read the first para. of s. 13 into Act XIV of 1882 without some modification, because s. 349 of the latter Act (1) contains no reference to fees, and (2) itself provides for commitment to jail by order of the Court. *Qu.* whether the second amendment proposed will do.

SECOND SCHEDULE.—*Part I.—Acts of the Governor-General in Council*—cont.

1	2	3	4	5
Year.	No.	Subject or title.	Amendment.	Explanation.
1872	IV	Punjab Laws Act, 1872.	In section 12 (as amended by Act XII of 1878, section 2), *for* the Punjab Tenancy Act, 1868, section 34, *read* the Punjab Tenancy Act, 1887, section 53.	Act XXVIII of 1868 is repealed by Act XVI of 1887, and this reference is not saved.
			In section 50, *for* sections forty-three to forty-nine *read* sections 43 to 48.	S. 49 is repealed by Act I of 1878.
,,	V	Jurisdiction over Sindh.	In section 2 (added by Act XX of 1872), *for* the Administrator-General's Act, 1867, *read* the Administrator-General's Act, 1874.	Act XXIV of 1867 is repealed by Act II of 1874, and this reference is not saved.
,,	IX	Indian Contract Act, 1872.	In section 25, clause (1), *for* assurances *read* documents.	Clerical error. Cf. titles to Acts XX of 1866, VIII of 1871 and III of 1877; also last three words of Act IX of 1872, s. 10.
,,			In section 43, first paragraph, *for* one *read* one or more.	Apparently an accidental omission. The amendment is suggested by Mr. Whitley Stokes—see "Anglo-Indian Codes," Vol. I, p. 573, first footnote.
			In section 63, Illustration (*e*), *for* compensation *read* composition.	Clerical error.
,,	XV	Indian Christian Marriage Act, 1872.	In section 4, *after* is *insert* or are.	Clerical error.
1873	VIII	Northern India Canal and Drainage Act, 1873.	In section 75, clause (3), *after* whom *insert* and.	Clerical error.
1874	II	Administrator-General's Act, 1874.	In section 15, *after* hereafter *insert* to.	Clerical error.
,,	IX	European Vagrancy Act, 1874.	In section 26, *for the words from* if for offences committed outside *to* time being, *read* in the manner provided by the law for the time being in force for the recovery of fines imposed by Criminal Courts.	See note opposite Act III of 1864, s. 24, *supra*, p. 31.
,,	XIV	Scheduled Districts Act, 1874.	*After* section 5 *insert the following section*:—	
			5A. In delaring an enactment in force in a scheduled district or part thereof under section 3 of this Act, or in extending an enactment to a scheduled district or part thereof under section 5 of this Act, the Local Government, with the previous sanction of the Governor-General in Council, may declare the operation of the enactment to be subject to such restrictions and modifications as that Government thinks fit.	Cf. Act XV of 1886, s. 5.
			Modification of enactments in their application to scheduled districts.	

SECOND SCHEDULE.—*Part I.—Acts of the Governor-General in Council*—cont.

1		3	4	5
Year.	No.	Subject or title.	Amendment.	Explanation.
,,	XIV—*cont.*	Scheduled Districts Act, 1874—*cont.*	In the first schedule, Part III, No. I, *for* Divisions *read* Districts.	Clerical error.
,,	XV	Laws Local Extent Act, 1874.	In the second schedule, Part (*a*), in the entry relating to Madras Regulation II of 1806, *for* (parts of ss. 1 & 7) *read* (section 7, clause second).	The whole Regulation, except s. 7, cl. 2, is repealed by Act XII of 1876.
			In the sixth schedule, Part III, No. I, *for* Divisions *read* Districts.	Clerical error.
1876	X	Bombay Revenue Jurisdiction Act, 1876.	In section 1, clause (*b*), *for* Act XV of 1871 *read* Act XXI of 1881.	Act XV of 1871 is repealed by Act XIV of 1877, and the latter Act (except three sections) by Act XXI of 1881. This reference is not saved.
,,	XIII	Indian Merchant Seamen's Act, 1876.	In section 8, last paragraph, *for* to imprisonment *read* with imprisonment.	Clerical error.
,,	XVII	Oudh Land-revenue Act, 1876.	In section 105, *for* field *read* fields.	Clerical error.
,,	XVIII	Oudh Laws Act, 1876.	In section 39, clause (*f*), *for* Oudh Revenue Act *read* Oudh Land-revenue Act, 1876.	Clerical error.
1877	III	Indian Registration Act, 1877.	To section 1 *add* The Local Government may, with the previous sanction of the Governor-General in Council, cancel any order excluding districts or tracts of country from the operation of this Act.	
			In section 83, *for the words from* if for offences committed outside *to the end, read* in the manner provided by the law for the time being in force for the recovery of fines imposed by Criminal Courts.	See note opposite Act III of 1864, s. 24, *supra*, p. 31.
			In section 90, clause (*c*), *for* or filed *read* are filed.	Clerical error.
1878	I	Opium Act, 1878.	In section 24, *for* Deputy Collector *read* Deputy Commissioner.	Clerical error—see the first para. of the section.
,,	VII	Indian Forest Act, 1878.	In section 41, clause (*c*), *for* depôt *read* depôts.	Clerical error.
,,	VIII	Sea-customs Act, 1878.	In section 2, *for* the first schedule *read* Part I of the schedule.	Clerical error.
			In the schedule appended to section 167,—	
			in the first column of the entry numbered 3, *for* No. 2 *read* No. 4, *and for* landing or shipment *read* shipment and landing;	Clerical error. Clerical error—see s. 11 (*a*).
			in the second column of the entry numbered 59, *for* 141 *read* 142.	Clerical error.

SECOND SCHEDULE.—*Part I.—Acts of the Governor-General in Council*—cont.

1	2	3	4	5
Year.	No.	Subject or title.	Amendment.	Explanation.
1878	XVII	Northern India Ferries Act, 1878.	In section 17, clause (*c*), *for* first *read* in the first instance, *and for the words and figures from* and then *to the end of the clause, read* and shall then, at the discretion of the Local Government— (*i*) be placed at the disposal of any District Board or District Boards established under the Punjab District Boards Act, 1883, or, (*ii*) be applied to any of the purposes specified in the second clause of section 5 of the Central Provinces Additional Rates Act, 1878, as the case may be; and.	As to the repeal of Act V of 1878, see notes *supra*, p. 14. The reference to Act V of 1878 in Act XVII of 1878, s. 17, is not saved by Act XX of 1883. The Punjab Government will be asked whether the proposed amendment is right—cf. Act XX of 1883, ss. 20, 34 and 35, cls. (*a*), (*e*), (*g*) and (*i*).
1879	I	Indian Stamp Act, 1879.	In Schedule I, Article 5, clause (*b*), *for* right *read* rights.	Clerical error.
			In Schedule II, Article 13, clause (*b*), *for* annual rent *read* average annual rent.	For greater clearness.
,,	XVI	Transport of Salt Act, 1879.	In section 3, clause (*a*), *for* section twenty-eight or section thirty-one of the Act of the Governor of Bombay in Council No. VII of 1873, or by a rawana granted under Madras Regulation I of 1805, section eleven, clause third, *read* Chapter V of the Madras Salt Act, 1889, or Chapter V of the Bombay Salt Act, 1890, or the corresponding law for the time being in force in the territories administered by the Governor of Fort St. George in Council or the Governor of Bombay in Council, as the case may be.	Bom. Act VII of 1873 is repealed by Bom. Act II of 1890, and Mad. Reg. I of 1805 by Mad. Act IV of 1889, but these references are not saved. The Governments of Madras and Bombay will be asked whether the proposed amendments are right.
1880	VII	Indian Merchant Shipping Act, 1880.	In section 68, *for* purposes *read* purpose.	Clerical error.
1881	V	Probate and Administration Act, 1881.	In section 59, *after* is *insert* or are.	Clerical error.
			In section 83, *for* proceeding *read* proceedings.	Clerical error (cf. Act X of 1865, s. 261).
,,	XII	North-Western Provinces Rent Act, 1881.	In section 94, *for* of village-expenses *read* for village-expenses.	Clerical error.

SECOND SCHEDULE.—*Part I.—Acts of the Governor-General in Council*—cont.

1	2	3	4	5
Year.	No.	Subject or title.	Amendment.	Explanation.
1881	XVIII	Central Provinces Land-revenue Act, 1881.	In section 33, *for* the first five grades *read* the last five classes; *for* the Central Provinces Courts Act, 1865, *read* the Central Provinces Civil Courts Act, 1885; *and for* sections twelve, nineteen and twenty *read* section 7. In section 34, *for* the Central Provinces Courts Act, 1865, sections twelve, nineteen and twenty, *read* the Central Provinces Civil Courts Act, 1885, section 16 and section 17, sub-section (1), and the powers of a Court of a Commissioner described in the same Act, section 15, sub-section (1). In section 35, *for* the first four grades *read* the last four classes.	Act XVI of 1885, s. 2 (2), saves these references to Act XIV of 1865, but it is not possible in every case to fit them into the Act of 1885. In amending s. 33, the references to ss. 19 and 20 of Act XIV of 1865 are dropped out, as s. 34, as amended, will cover them.
	XIX	Lower Burma Forest Act, 1881.	In section 43, clause (*g*), *for* station *read* stations.	Clerical error.
	XXII	Excise Act, 1881.	In sections 13 and 55, *for* Chief Controlling Revenue-authority *read* Chief Revenue-authority.	Clerical errors. Cf. s. 3 (*a*).
			In the heading to Chapter V, *after* spirit *insert* and fermented liquor.	Follows the amendments made in s. 23 by Act II of 1887.
1882	V	Indian Easements Act, 1882.	In section 14, *for* right *read* a right.	Clerical error.
,,	VI	Indian Companies Act, 1882.	In section 66, *after the word* cheque *where it first occurs, insert* or: In section 88, *after* dates *insert* of. In section 127, *for* prove *read* proof. In section 144, clause (*f*), *after the word* bill, *in the last place in which it occurs, insert* hundi.	Clerical errors.
	X	Code of Criminal Procedure, 1882.	In section 191, *between* District Magistrate *and* Subdivisional Magistrate *insert* or. In section 206, *after* Subdivisional Magistrate *insert* or.	Clerical errors.
			In Schedule III, the part entitled "*I. Ordinary Powers of a Magistrate of the third class.*" *before the first entry, insert* (1A) Power to arrest, or direct the arrest, and to commit to custody, a person committing an offence in his presence, section 64.	Accidental omission.

SECOND SCHEDULE.—*Part I.—Acts of the Governor-General in Council*—cont.

1	2	3	4	5
Year.	No.	Subject or title.	Amendment.	Explanation.
1882	XIV	Code of Civil Procedure.	In section 6, clause (*d*), *for* Maulmain. Akyab or Basse.n *read* or Maulmain. In section 266, clause (*i*), *for* Native *read* Indian. In section 484, *for* the sum *read* the same. In section 568, clause (*b*), *for* for *read* or.	The Recorder's insolvency jurisdiction in Akyab and Bassein is abolished. Clerical error—see title to Act V of 1869. Clerical error. Clerical error.
1883	XIV	North-Western Provinces and Oudh Local Boards Act, 1883.	In sections 36 and 37, *for* Government Civil Pension and Leave Codes *read* Civil Service Regulations.	The Codes are now so called.
,,	XV	North-Western Provinces and Oudh Municipalities Act, 1883.	In sections 37 and 38, *for* Government Civil Pension and Leave Codes *read* Civil Service Regulations.	The Codes are now so called.
,,	XX	Punjab District Boards Act, 1883.	In sections 28 and 29, *for* Government Civil Pension and Leave Codes *read* Civil Service Regulations.	The Codes are now so called.
1884	VI	Inland Steam-vessels Act, 1884.	In section 56, *for* to simple imprisonment *read* with simple imprisonment.	Clerical error.
,,	XIII	Punjab Municipal Act, 1884.	In sections 31 and 32, *for* Government Civil Pension and Leave Codes, *and* in section 32 *for* Government Civil Pension Code, *read* Civil Service Regulations.	The Codes are now so called.
,,	XVII	Lower Burma Municipal Act, 1884.	In sections 34 and 35, *for* Government Civil Pension and Leave Codes *read* Civil Service Regulations.	The Codes are now so called.
1886	XII	Petroleum Act, 1886.	In section 1, sub-section (3), *for* The provisions of this Act *read* Sections 1 to 4 of this Act and the provisions.	This amendment will remove doubts as to the repeal of Act VIII of 1881 and the operation of ss. 3 and 4 in places not notified under s. 1 (3).
,,	XXIII	Dekkhan Agriculturists' Relief Act, 1886.	In section 10, sub-section (3), *for* the same section *read* section 58.	Necessitated by the proposed repeal of s. 10 (1) and (2), *supra*, p. 21.
1888	III	Police Act, 1888.	In section 2, sub-section (1), *for* the Bombay District Police Act, 1867, *read* or the corresponding law for the time being in force in the territories administered by the Governor of Bombay in Council.	Bom. Act VII of 1867 (except ss. 33 and 34) is repealed by Bom. Act IV of 1890, but the latter Act does not (yet) extend to Sindh, Aden or Perim.
,,	VII	Civil Procedure Code Amendment Act, 1888.	In section 49, sub section (2), *for* the same section *read* section 562. In section 52, sub-section (2), *for* the same section *read* section 566.	Necessitated by the proposed repeal of ss. 49 (1) and 52 (1) [*supra*, p. 22].

SECOND SCHEDULE.—*Part I.—Acts of the Governor-General in Council*—cont.

1	2	3	4	5
Year.	No.	Subject or title.	Amendment.	Explanation.
1889	V	Coroner of Madras.	In section 4, sub-section (2), *for* that Code *read* the Code of Criminal Procedure, 1882.	Necessitated by the proposed repeal of s. 4 (1), *supra*, p. 22.
,,	XI	Lower Burma Courts Act, 1889.	*For* section 87 *read the following:*— 87. For the purposes of Appeals from orders under the Guardians and Wards Act, 1890, section 47 of the Guardians and Wards Act, 1890, the Special Court constituted under Chapter V of this Act shall be deemed to be the High Court in respect of appeals from orders made by the Judge of the Town of Maulmain.	Necessitated by the repeal of Act XIII of 1874 by Act VIII of 1890.
,,	XVIII	Central Provinces Municipal Act, 1889.	In section 29, clause (*f*), *for* used *read* use.	Clerical error.
1890	III	Amending the Inland Steam-vessels Act, 1884, and the Indian Steamships Act, 1884.	In section 4, sub-section (2), *for* the same section *read* section 11 of the said Act. In section 17, sub-section (2), *for* the same section *read* section 18 of the said Act.	Necessitated by the proposed repeal of s. 4 (1), *supra*, p. 23. Necessitated by the proposed repeal of s. 17 (1), *supra*, p. 23.

Part II.—Regulations of the Bengal Code.

1	2	3	4	5
Year.	No.	Subject or title.	Amendment.	Explanation.
1793	II	Collection of land-revenue.	In section 41, *for* Regulation XIV, 1793, *read*	Ben. Reg. XIV of 1793 is repealed by Act XVI of 1874. This reference is saved by the proviso to that Act, but *qu.* whether a reference to some corresponding unrepealed enactment should not be substituted. The Government of Bengal will be asked.
,,	VIII	Decennial Settlement.	In section 62, clause fourth, *for* in the suits described in Section XXXIII, Regulation XIV, 1793, *read*	Ben. Reg. XIV of 1793 is repealed by Act XVI of 1874. This reference is saved by the proviso to that Act; but *qu.* whether it might not be repealed, or at any rate amended. The Government of Bengal will be asked.
,,	XI	Inheritance ..	In section 3 *for* that section *read* section 2 (1), *and for* Regulation XXV, 1793, *read* the Estates' Partition Act, 1876 (2).	(1) Necessitated by the repeal of the former reference to s. 2 by Act XVI of 1874. (2) Ben. Reg. XXV of 1793 is repealed by Ben. Reg. XIX of 1814, and the latter Regulation by Ben. Act VIII of 1876. This reference is not saved.

SECOND SCHEDULE.—*Part II.*—*Regulations of the Bengal Code*—cont.

1	2	3	4	5
Year.	No.	Subject or title.	Amendment.	Explanation.
1793	XIX	Title to Non-badshahi Lakhiraj Grants.	In section 15, *for* all the rules, &c., *read*	See note opposite Ben. Reg. II of 1793, *supra*.
,,	XXXVII	Title to Badshahi Lakhiraj Grants.	In section 10, *for* all the rules, &c., *read*	The Government of Bengal will be asked how much of each of these sections can be repealed as obsolete.
1794	III	Revenue arrears ..	In section 16, *for* and the rules, &c., *read*	
1817	XII	Patwaris ..	In section 31, *for* Boards are *read* Board is.	Necessitated by the repeal of the words "the Board of Commissioners" by Act XVI of 1874.
,,	XX	Police	In the heading prefixed to section 29, *for* Commercial, Salt and Opium Departments *read* Opium Department, *and for* those Departments *read* that Department.	Necessitated by the repeal of references in the section to the Commercial and Salt Departments by Acts XVI of 1874 and XII of 1876, respectively.
			In section 29, clause twelfth, *for* Section XXXI, Regulation XIII, 1816, *read* Act XIII of 1857, section 21.	Ben. Reg. XIII of 1816, s. 31, is repealed by Act XIII of 1857, and this reference is not saved.
1818	III	State Prisoners ..	In section 9, *after* situated *insert* and.	The word "and" was inadvertently repealed by Act XVI of 1874.
1819	II	Resumption of revenue-free lands.	In section 12, *after* belong *insert* he.	Clerical error.
			In section 26, clause second, *for* a appeal *read* an appeal.	Necessitated by the repeal of the word "special" by Act XVI of 1874.
1828	VI	Indigo contracts ..	In section 6, *for* a investigation *read* an investigation.	Necessitated by the repeal of the word "summary" by Act XVI of 1874.
1825	XIII	Settlement of resumed lakhiraj land.	In section 4, *for* the Regulations *read* the Regulation.	Necessitated by the proposed repeal of the reference to Ben. Reg. XLI of 1795, *supra*, p. 29.
			In section 5, *for* Regulations *read* Regulation.	Necessitated by the proposed repeal of the references to Ben. Regs. XLII of 1795 and XXXVI of 1803, *supra*, p. 29.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to repeal certain obsolete enactments and to make formal amendments in certain other enactments, with a view to the publication of revised editions of the General Acts and local Codes by the Legislative Department.

ANDREW R. SCOBLE.

The 15th October 1890.

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

(Republished by order of the Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

FORT ST. GEORGE GAZETTE SUPPLEMENT.

TUESDAY EVENING, JANUARY 13, 1891.

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

A Bill to amend the Indian Merchant Shipping Act, 1880.

WHEREAS it is expedient to amend and add to the provisions of Chapter II of the Indian Merchant Shipping Act, 1880, respecting Unseaworthy and Unsafe Ships; It is hereby enacted as follows:—

Title and commencement.

1. (1) This Act may be called the Deck and Load Lines Act, 1891: and

(2) It shall come into force on the ninth day of June, 1891.

Addition to section 4, Act VII, 1880.

2. To section 4 of the Indian Merchant Shipping Act, 1880, the following shall be added, namely:—

"'Amidships' means the middle of the length of the load water-line as measured from the fore side of the stem to the aft side of the stern-post."

Substitution of new sections for sections 33 to 43, Act VII, 1880.

3. For sections 33 to 43, both inclusive, of the Indian Merchant Shipping Act, 1880, the following sections shall be substituted, namely:—

"*Deck and Load-lines.*

Marking of deck-lines.

33. (1) Every British Indian ship shall be permanently and conspicuously marked outside with lines of not less than twelve inches in length and one inch in breadth painted longitudinally on each side amidships, or as near thereto as is practicable, and indicating the position of each deck which is above water.

(2) The upper edge of each of these lines shall be level with the upper side of the deck-plank next the waterway at the place of marking.

(3) The lines shall be white or yellow on a dark ground, or black on a light ground.

Marking of load-lines in case of vessels which are not coasting vessels.

34. (1) The master of every British ship not being a coasting vessel within the meaning of the Sea Customs Act, 1878, shall, before his ship is entered outwards from any port in British India upon any voyage, or if that is not practicable, as soon after as may be, mark outside upon each of her sides amidships, or as near thereto as is practicable, in white or yellow on a dark ground, or in black on a light ground, a circular disc twelve inches in diameter, with a horizontal line eighteen inches in length drawn through its centre.

(2) The centre of the disc shall be placed at such level below the deck-line marked under the provisions of this Chapter or of the Merchant Shipping Act, 1876, as may be approved by the Local Government, and shall indicate the maximum load-line in perfectly smooth salt water to which it shall be lawful to load the ship.

(3) When a ship has been marked as by this section required, she shall be kept so marked until she next returns to a port of discharge in British India or arrives at a port in the United Kingdom.

Statement in application to Customs-officer for entry outwards of such vessel as aforesaid.

35. (1) The person applying for entry of any such ship outwards shall insert, in the form of application made to the Customs-Collector, a statement in writing of the distance in feet and inches between the centre of such disc and the upper edge of each of the lines indicating the position of the ship's decks which is above such centre; and if default is made in delivering this statement, the Customs-Collector may refuse to enter the ship outwards.

Copy of such statement to be entered in agreement with the crew and in log-book.

(2) A copy of this statement shall be entered in the agreement with the crew before it is signed by any member of the crew, and a shipping-master shall not proceed with the engagement of the crew until this entry is made.

(3) The master shall enter a copy of this statement in the official log-book (if any).

Marking of load-lines in case of coasting vessels.

36. (1) The master of every British ship which is a coasting vessel within the meaning of the Sea Customs Act, 1878, shall, before proceeding to sea from any port, mark outside upon each of her sides amidships, or as near thereto as is practicable, in white or yellow on a dark ground, or in black on a light ground, a circular disc twelve inches in diameter, with a horizontal line eighteen inches in length drawn through its centre.

(2) The centre of the disc shall be placed at such level below the deck-line marked under the provisions of this Chapter or of the Merchant Shipping Act, 1876, as may be approved by the Local Government, and shall indicate the maximum load-line in perfectly smooth salt water to which it shall be lawful to load the ship.

(3) When a ship has been marked as required by this section, she shall be kept so marked until notice is given of an alteration.

37. (1) The master of every such ship shall also once in every twelve months, immediately before the ship proceeds to sea, send or deliver to the Collector, or other principal officer of Customs of such port as the Local Government may, from time to time, appoint in this behalf, a statement in writing of the distance in feet and inches between the centre of the disc and the upper edge of each of the lines indicating the position of the ship's decks which is above that centre.

Annual statement as to position of load-line on coasting vessel.

(2) The master, before the ship proceeds to sea after any renewal or alteration of the disc, shall send or deliver to the Collector or other principal officer of Customs aforesaid notice in writing of such renewal or alteration, together with such statement in writing as before mentioned of the distance between the centre of the disc and the upper edge of each of the deck-lines.

(3) If default is made in sending or delivering any notice or statement required by this section to be sent or delivered, the master shall be punished with fine which may extend to one thousand rupees.

38. The foregoing provisions of this Chapter with respect to deck and load-lines are subject to the provisions of the two next following sections.

Modification of certain foregoing provisions.

39. (1) The position of the disc mentioned in section 34 and section 36 shall be fixed in accordance with the tables framed by the Load-line Committee appointed in the United Kingdom before the passing of the Merchant Shipping Act, 1890, subject to such allowance as may be made necessary by any difference between the position of the deck-line marked under the provisions of this Chapter or of the Merchant Shipping Act, 1876, and the position of the line from which free-board is measured under the said tables, and subject also to such modifications, if any, of the tables, and the application thereof as may from time to time, with the previous approval of the Governor-General in Council, be sanctioned by the Local Government.

Position of disc and approval of and certificate as to position thereof.

(2) The Local Government shall appoint either a Surveyor employed by Lloyds' Register of British and Foreign Shipping, or an officer specially selected by the Local Government for the purpose, to approve and certify on its behalf from time to time the position of any such disc as aforesaid, and any alteration thereof, and may fix fees to be taken in respect of any such approval or certificate.

40. (1) The Local Government may from time to time make rules—

Rules.

(a) determining the lines or marks to be used in connection with any such disc as aforesaid, in order to indicate the maximum load-line under different circumstances and at different seasons, and declaring that the provisions of this Chapter are to have effect as if any such line were drawn through the centre of the disc;

(b) as to the mode in which the disc and the lines or marks to be used in connection therewith are to be marked or affixed on the ship, whether by painting, cutting or otherwise;

(c) as to the mode of application for, and form of, certificates under this Chapter; and

(d) requiring the entry of such certificates, and other particulars as to the draught of water and freeboard of the ship, in the official log (if any) of the ship, or other publication thereof on board the ship, and as to delivering copies of such entries.

(2) All such rules shall, while in force, have effect as if enacted by this Act.

41. Any master of a ship who neglects to cause his ship to be marked as by this Chapter required, or to keep her so marked, or who allows the ship to be so loaded that when in perfectly smooth salt water the centre of the disc is submerged,

Penalty for neglecting to mark, or submerging load-line.

and any person who conceals, removes, alters, defaces, or obliterates, or suffers any person under his control to conceal, remove, alter, deface, or obliterate, any of the lines or marks prescribed by or under this Chapter, except in the event of the particulars thereby denoted being lawfully altered, or except for the purpose of escaping capture by an enemy,

shall be punished for each such offence with fine which may extend to one thousand rupees.

42. If any of the lines or marks prescribed by or under this Chapter is in any respect inaccurately set out, to be likely to mislead, the master of the ship shall be punished with fine which may extend to one thousand rupees.

Penalty on master for having misleading marks.

43. The provisions of this Chapter as to load-lines shall not apply to ships coming from ports in the United Kingdom and marked with such lines in accordance with the provisions of the law for the time being there in force."

Saving of ships marked in the United Kingdom.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to apply to British India (subject to the exceptions set forth in Act VII of 1860, sections 3 and 43) those provisions of the Statute 58 Vict., cap. 9, sections 1 and 2, respecting load-lines, which apply to ships about to enter outwards from ports in the United Kingdom and to ships employed in the coasting trade on the coasts of that Kingdom.

D. BARBOUR.

The 14th December 1890.

(Republished by order of His Excellency the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AT THE SUPERINTENDENT, GOVERNMENT PRESS.

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

A Bill to amend Act X of 1841.

WHEREAS it is expedient to amend the Act of the Governor-General in Council, No. X of 1841 (*an Act for prescribing the rules to be observed in order that ships or vessels belonging to ports within the territories of the East India Company, or belonging to Native Princes or States, or their subjects, may become entitled to the privileges of British ships under a proclamation of the Governor-General of India in Council made in pursuance of the Statute* 3 & 4 *Vict.*, c. 85); It is hereby enacted as follows:—

Repeal of a word in section 2, Act X of 1841.

1. In section 2 of the said Act, the word "Singapore" is hereby repealed.

Amendment of section 3, Act X of 1841.

2. For that portion of section 3 of the said Act, beginning with the words "the persons now authorized" and ending with the words "such other or different persons," the words "such persons" shall be substituted.

Substitution of new sections for sections 8 to 12, Act X of 1841.

3. For sections 8 to 12, both inclusive, of the said Act the following shall be substituted, namely:—

Certificate of surveying officer.

"8. The certificate of the surveying officer shall be in the form marked A in the Schedule to the Merchant Shipping Act, 1854, specifying the tonnage and build of the ship or vessel and such other particulars descriptive of her identity as may from time to time be required by the Local Government; and such certificate shall be delivered to the registering officer before registry.

Rules of measurement of tonnage for purpose of registry.

"9. The tonnage of a ship or vessel required by law to be registered shall, previous to her being registered, be measured and ascertained according to such of the rules contained in the Merchant Shipping Act, 1854, as amended by subsequent Acts (including the Merchant Shipping (Tonnage) Act, 1889) as apply to measurement of tonnage for the purpose of registry.

Rules for measurement of tonnage for purpose other than registry.

"10. The tonnage of a ship or vessel requiring to be measured for any purpose other than registry shall be measured and ascertained according to such of the rules contained in the Merchant Shipping Act, 1854, amended as aforesaid, as apply to measurement of tonnage for a purpose other than registry.

Substitution of Local Government for Board of Trade in application of rules aforesaid.

"11. The rules referred to in section 9 and section 10 of this Act shall, in their application to measurement of tonnage for the purposes of this Act, or of any enactment, rule, or order referring to this Act, be read and construed as if the Local Government were therein named instead of the Board of Trade or the authority for which the Board of Trade has been substituted by section 3 of the Merchant Shipping Act, 1872.

Marking of register tonnage on ship or vessel.

"12. The true amount of the register tonnage of every ship or vessel to be measured and ascertained according to the rules referred to in section 9 of this Act shall be deeply carved or cut in figures of at least three inches in length on the main beam of every such ship or vessel prior to her being registered."

Amendment of section 14, Act X of 1841.

4. In section 14 of the said Act, to the word "tonnage," wherever it occurs, the word "register" shall be prefixed, and for the words "rules herein prescribed," the word "said rules" shall be substituted.

Amendment of section 15, Act X of 1841.

5. In section 15 of the said Act, for the words "in manner provided by Act No. II of 1839," the words and figures "in the manner in which a fine is recoverable under the provisions of the Indian Penal Code and the Code of Criminal Procedure, 1882," shall be substituted.

Repeal of words in section 17, Act X of 1841.

6. (1) In section 17 of the said Act the word "that," where it occurs before the words "the owner or owners" and before the words "if such owner or owners," is hereby repealed.

(2) To the same section the words "recoverable as aforesaid" shall be added.

Amendment of section 23, Act X of 1841.

7. In section 23 of the said Act, after the words "ten thousand rupees" the words "recoverable as aforesaid" shall be inserted.

STATEMENT OF OBJECTS AND REASONS.

The tonnage of ships or vessels to be registered under Act X of 1841 is ascertained by methods

which were based on those prescribed by English law at the time the Act was passed. These methods have been superseded by those prescribed in the English Merchant Shipping Act, 1854, and Merchant Shipping (Tonnage) Act, 1889.

It is desirable on general grounds that rules as to measurement of tonnage should, so far as possible, be uniform in the United Kingdom and in British possessions; and it is specially desirable that ships owned by British subjects, wherever the ships may have been registered, should, as regards payment of coast-light and port dues, be subject in India to like liabilities in proportion to their respective tonnage.

The object of the Bill is to bring about this uniformity in the treatment of British and British Indian ships.

D. BARBOUR.

The 13th December 1890.

(Republished by order of the His Excellency the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

MADRAS RECORD OFFICE

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

A Bill to amend the Inland Steam-vessels Act, 1884.

WHEREAS it is expedient to amend the Inland Steam-vessels Act, 1884; It is hereby enacted as follows:—

Substitution of new Chapter for Chapter III, Act VI, 1884.

1. For Chapter III of the said Act the following shall be substituted, namely:—

"CHAPTER III.

MASTERS AND ENGINEERS OF INLAND STEAM-VESSELS.

Appointment of examiners.

"22. The Local Government may, from time to time, appoint persons for the purpose of examining the qualifications of persons desirous of obtaining certificates of competency as masters or as engineers or engine-drivers of inland steam-vessels.

Grant of masters' certificates of competency.

"23. (1) The Local Government shall grant to every person who is reported by the examiners to possess the necessary qualifications a certificate of competency to the effect that he is competent to act as a first-class, second-class or third-class master, as the case may be, of an inland steam-vessel.

"(2) Every certificate granted under this section shall be in the prescribed form.

Grant of engineers' and engine-drivers' certificates of competency.

"24. (1) The Local Government shall grant to every person who is reported by the examiners to possess the necessary qualifications a certificate of competency to the effect that he is competent to act as an engineer or first-class or second-class engine-driver, as the case may be, of an inland steam-vessel.

"(2) Every certificate granted under this section shall be in the prescribed form.

Power for Local Government to require re-examination or further inquiry.

"25. Before granting a certificate under either of the two last foregoing sections, the Local Government may, if it has reason to believe that the report of the examiners regarding any applicant has been unduly made, require a re-examination of the applicant or a further inquiry into his testimonials and character.

Grant of certificates of service.

"25A. (1) The Local Government may in its discretion grant without examination to any person who has served as a master, or as an engineer or engine-driver, of an inland steam-vessel before the first day of April 1890, a certificate of service to the effect that he may act as a first-class, second-class or third-class master, or as an engineer or first or second class engine-driver, as the case may be, of an inland steam-vessel.

"(2) A certificate of service so granted shall have the same effect as a certificate of competency granted under this Act after examination.

Certificates to be made in duplicate.

"26. Every certificate of competency or service granted under this Act shall be made in duplicate, and one copy shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded in the prescribed manner.

Copy of certificate to be granted in certain cases.

"27. Whenever a master or an engineer or an engine-driver proves, to the satisfaction of the Local Government which granted his certificate, that he has, without fault on his part, lost or been deprived of it, a copy of the certificate to which, by the record kept as provided by law, he appears to be entitled, shall be granted to him, and shall have all the effect of the original.

Nature of certificates necessary in case of different steam-vessels.

"28. (1) An inland steam-vessel having engines of eighty nominal horse-power or upwards shall not proceed on any voyage unless she has—

(*a*) as her master a person possessing a first-class master's certificate granted under this Act or a master's certificate granted under Act I of 1859 *(for the amendment of the law relating to Merchant Seamen)*, or the Merchant Shipping Acts, 1854 to 1889, or to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869, and

(*b*) as her engineer a person possessing an engineer's certificate granted under this Act or the Indian Steam-ships Act, 1884, or the Merchant Shipping Acts, 1854 to 1889, or to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869.

"(2) An inland steam-vessel having engines of thirty nominal horse-power or upwards, but of less than eighty nominal horse-power, shall not proceed on any voyage unless she has—

(*a*) as her master a person possessing a second-class master's certificate granted under this Act or a certificate of the higher grade of the nature referred to in clause (*a*) of sub-section (1), and

(*b*) as her engineer a person possessing a first class engine-driver's certificate granted

under this Act or an engine-driver's certificate granted under the Indian Steamships Act, 1884, or a certificate of the higher grade of the nature referred to in clause (*b*) of sub-section (1):

Provided that a steam-vessel shall be deemed to have complied with this sub-section if she has as her master and engineer a person possessing both a second-class master's certificate and a first-class engine-driver's certificate granted under this Act.

"(3) An inland steam-vessel having engines of less than thirty nominal horse-power shall not proceed on any voyage unless she has—

(*a*) as her master a person possessing a third-class master's certificate granted under this Act, or a certificate of the higher grade of the nature referred to in clause (*a*) of sub-section (1) or sub-section (2), and

(*b*) as her engineer a person possessing a second-class engine-driver's certificate granted under this Act, or an engine-driver's certificate granted under the Indian Steamships Act, 1884, or a certificate of the higher grade of the nature referred to in clause (*b*) of sub-section (1) or sub-section (2):

Provided that a steam-vessel shall be deemed to have complied with this sub-section if she has as her master and engineer a person possessing both a third-class master's certificate and a second-class engine-driver's certificate granted under this Act.

"(4) Notwithstanding anything in sub-section (1), sub-section (2) or sub-section (3), the Local Government may, by general or special order, direct that a person possessing a master's certificate granted under Act I of 1859 (*for the amendment of the law relating to Merchant Seamen*) or the Merchant Shipping Acts, 1854 to 1889, or to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869, or possessing an engineer's certificate granted under the Indian Steam-ships Act, 1884, or the Merchant Shipping Acts, 1854 to 1889, or to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869, shall not act as master or engineer, as the case may be, of an inland steam-vessel unless he also possesses, in the case of a master, such a master's certificate granted under this Act as qualifies him under this section to act as master of the vessel, or, in the case of an engineer, such an engineer's or engine-driver's certificate granted under this Act as qualifies him under this section to act as engineer of the vessel:

"Provided that, for the purposes of this sub-section, the Local Government may, in its discretion, grant without examination a master's, engineer's or engine-driver's certificate of competency under this Act, and that a certificate of competency so granted without examination shall have the same effect as a certificate of competency granted under this Act after examination.

Power for Local Government to make rules as to grant of certificates of competency and certificates of service.

"29. (1) The Local Government may make rules to regulate the granting of certificates of competency under this Act, and may by such rules—

(*a*) provide for the conduct of the examination of persons desirous of obtaining certificates of competency as masters, engineers or engine-drivers under this Act;

(*b*) prescribe the qualifications to be respectively required of persons desirous of obtaining first-class masters' certificates, second-class masters' certificates, third-class masters' certificates, engineers' certificates, first-class engine-drivers' certificates and second-class engine-drivers' certificates, respectively;

(*c*) fix the fees to be paid by all applicants for examination; and

(*d*) prescribe the form in which certificates are to be framed, and the manner in which the copy of the certificate which is kept by the Local Government is to be recorded.

"(2) The Local Government may also make rules with respect to the grant of certificates of service under this Act, and may by such rules—

(*a*) fix the fees to be paid for such certificates, and

(*b*) prescribe the form in which such certificates are to be framed and the manner in which the copy of the certificate which is kept by the Local Government is to be recorded."

Substitution of new clause for clause (*c*), section 43, Act VI, 1884.

2. For clause (*c*) of section 43 of the said Act the following shall be substituted, namely:—

"(*c*) if, in the case of a second-class or third-class master or an engine-driver, the master or engine-driver is, or has become, in the opinion of the Local Government, unfit to act as a second-class or third-class master or an engine-driver, as the case may be."

Repeal of sections 9, 10 and 11, Act III, 1890.

3. Sections 9, 10 and 11 of Act III of 1890 (*An Act to amend Acts VI and VII of* 1884) are hereby repealed.

STATEMENT OF OBJECTS AND REASONS.

The objects of this Bill are two—

(1) to authorise a third class of masters and a second class of engine-drivers, and

(2) to enable Local Governments to assure themselves that holders of Board of Trade, Colonial and local certificates for sea-going ships are qualified to act as masters or engineers, as the case may be, of inland steam-vessels.

As regards the first object, it is obviously in the interest of the owners of inland steam-vessels that there should be a third class of masters and a second class of engine-drivers for the working of small steam-vessels. For the navigation of such vessels persons with qualifications inferior to those which must be required from masters and engineers of steam-vessels having engines up to seventy-nine horse-power may, it is considered, be permitted to act as masters and engineers.

As regards the second object of the Bill, experience has shown that a competent navigator of a sea-going ship is not necessarily a competent navigator of an inland steam-vessel in waters where some local and special knowledge may be absolutely essential for the safe conduct of the vessel.

D. BARBOUR.

The 21st January 1891.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

FORT ST. GEORGE GAZETTE SUPPLEMENT.

TUESDAY EVENING, FEBRUARY 17, 1891.

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

A Bill to amend the Law of Evidence with respect to Bankers' Books.

WHEREAS it is expedient to amend the Law of Evidence with respect to Bankers' Books; It is hereby enacted as follows:—

Title, extent and commencement.

1. (1) This Act may be called the Bankers' Books Evidence Act, 1891.

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

(3) It shall come into force at once.

Definitions.

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

(1) "company" means a company registered under any of the enactments relating to companies from time to time in force in British India, or formed in pursuance of an Act of Parliament or by Royal Charter or Letters Patent:

(2) "bank" and "banker" mean any company carrying on the business of bankers and include a Government Savings Bank:

(3) "bankers' books" includes ledgers, day-books, cash-books, account-books, and all other books used in the ordinary business of a bank:

(4) "legal proceeding" means any civil or criminal proceeding or inquiry in which evidence is or may be given, and includes an arbitration:

(5) "Court" means the person or persons before whom a legal proceeding is held or taken: and

(6) "Judge" means a Judge of a High Court.

Mode of proof of entries in bankers' books.

3. Subject to the provisions of this Act, a copy of any entry in a banker's book shall in all legal proceedings be received as *prima facie* evidence of such entry and of the matters, transactions and accounts therein recorded.

Proof of book being a banker's book.

4. (1) A copy of an entry in a banker's book shall not be received in evidence under this Act unless it be first proved that the book was at the time of the making of the entry one of the ordinary books of the bank and that the entry was made in the usual and ordinary course of business and that the book is in the custody or control of the bank.

(2) Such proof may be given by an officer of the bank and may be given orally or by an affidavit sworn before any commissioner or person authorized to take affidavits.

Verification of copy.

5. (1) A copy of an entry in a banker's book shall not be received in evidence under this Act unless it be further proved that the copy has been examined with the original entry and is correct.

(2) Such proof shall be given by some person who has examined the copy with the original entry, and may be given either orally or by an affidavit sworn before any commissioner or person authorized to take affidavits.

Case in which officer of bank not compellable to produce books.

6. An officer of a bank shall not in any legal proceedings to which the bank is not a party be compellable to produce any banker's book, the contents of which can be proved under this Act, or to appear as a witness to prove the matters, transactions and accounts therein recorded, unless by order of a Judge made for special cause.

Inspection of books by order of Court or Judge.

7. (1) On the application of any party to a legal proceeding, the Court or a Judge may order that such party be at liberty to inspect and take copies of any entries in a banker's book for any of the purposes of such proceeding.

(2) An order under this section may be made either with or without summoning the bank or any other party, and shall be served on the bank three clear days before the same is to be obeyed, unless the Court or Judge otherwise directs.

Costs.

8. (1) The costs of any application to the Court or a Judge under or for the purposes of this Act and the costs of anything done or to be done under an order of the Court or a Judge made under or for the purposes of this Act shall be in the discretion of the Court or Judge, who may order the same

or any part thereof to be paid to any party by the bank where the same have been occasioned by any fault or delay on the part of the bank.

(2) Any such order against a bank may be enforced as if the bank was a party to the proceeding.

(3) An order under this section awarding costs to a party may, on the application of the party to any Court of Civil Judicature designated in the order, be executed by such Court as if the order were a decree for money passed by itself:

Provided that nothing in this sub-section shall be construed to derogate from any power which the Court or Judge making the order may possess for the enforcement of its or his directions with respect to the payment of costs.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to apply to British India the provisions of the English Bankers' Books Evidence Act, 1879, under which copies of entries in bankers' books are made receivable in evidence under certain conditions.

ANDREW R. SCOBLE.

The 6th February 1891.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

FORT ST. GEORGE GAZETTE SUPPLEMENT.

TUESDAY EVENING, AUGUST 4, 1891.

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

A Bill to validate certain marriages solemnized under Part VI of the Indian Christian Marriage Act, 1872.

WHEREAS provision is made in Part VI of the Indian Christian Marriage Act, 1872, for the solemnization of marriages between persons of whom both are Native Christians, but not of marriages between persons of whom one only is a Native Christian;

And whereas persons licensed under section 9 of the said Act have in divers parts of British India, through ignorance of the law, permitted marriages to be solemnized in their presence under the said Part between persons of whom one is a Native Christian and the other is not a Native Christian;

And whereas it is expedient that such marriages, having been solemnized in good faith, should be validated;

It is hereby enacted as follows:—

Commencement. 1. This Act shall come into force at once.

Definition. 2. In this Act the expression "Native Christian" has the same meaning as in the Indian Christian Marriage Act, 1872.

Validation of irregular marriages. 3. All marriages which have already been solemnized under Part VI of the Indian Christian Marriage Act, 1872, or which may, within three months after the commencement of this Act, be solemnized under that Part, between persons of whom one only was, or shall have been a Native Christian, shall be as good and valid in law as if such marriages had been solemnized between persons of whom both were Native Christians.

Validation of records of irregular marriages. 4. Certificates of marriages which are declared by the last foregoing section to be good and valid in law, and register-books, and certified copies of true and duly authenticated extracts therefrom, deposited in compliance with the law for the time being in force, in so far as the register-books and extracts relate to such marriages as aforesaid, shall be received as evidence of such marriages as if such marriages had been solemnized between persons of whom both were Native Christians.

Application of Act to marriages under Act V of 1865. 5. References in this Act to the Indian Christian Marriage Act, 1872, shall, so far as may be requisite, be construed as applying also to the corresponding portions of the Indian Marriage Act, 1865.

Penalty for solemnizing irregular marriages. 6. If any person licensed under section 9 of the said Act to grant certificates of marriage between Native Christians shall at any time after the passing of this Act solemnize or affect to solemnize any marriage under Part VI of the said Act or grant any such certificate as therein mentioned, knowing that one of the parties to such marriage or affected marriage was at the date of such solemnization not a Christian, he shall be liable to have his license cancelled, and, in addition thereto, he shall be deemed to have been guilty of an offence prohibited by section 73 of the said Act, and shall be punishable accordingly.

STATEMENT OF OBJECTS AND REASONS.

The objects and reasons of this Bill are set forth in its preamble. Marriages between persons who are Christians and persons who are not Christians must be solemnized under some other Part of the Indian Christian Marriage Act, 1872, than Part VI.

ALEX. EDW. MILLER.

The 15th July 1891.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 23rd July 1891 :—

No. 11 OF 1891.

A Bill to extend the jurisdiction of the Court of Small Causes of Madras.

WHEREAS it is expedient to extend the jurisdiction of the Court of Small Causes of Madras; It is hereby enacted as follows :—

Title and commencement.

1. (1) This Act may be called the Madras Small Cause Court Act, 1891; and

(2) It shall come into force on such day as the Governor of Fort St. George in Council may, by notification in the local official Gazette, appoint in this behalf.

Definitions.

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

(1) "High Court" means the High Court of Judicature at Madras: and

(2) "Small Cause Court" means the Court of Small Causes of Madras.

Extension of original civil jurisdiction of Small Cause Court.

3. (1) The Small Cause Court shall, in addition to the jurisdiction which it already possesses, have jurisdiction to receive and try all suits except—

(i) suits of classes mentioned in clauses (*a*), (*b*), (*c*), (*l*), (*m*), (*r*) and (*u*) of section 19 of the Presidency Small Cause Courts Act, 1882, and

(ii) suits of value exceeding five thousand rupees, or of such higher value exceeding five thousand and not exceeding ten thousand rupees as the Governor of Fort St. George in Council may, with the previous sanction of the Governor-General in Council, direct by notification in the local official Gazette.

(2) Such a direction as is referred to in exception (ii) to sub-section (1) may be revoked or varied by the Governor of Fort St. George in Council with such sanction and by such a notification as in that exception described.

(3) The provisions of the Code of Civil Procedure and of chapter X of the Presidency Small Cause Courts Act, 1882, shall apply to all proceedings before the Small Cause Court or any Judge or Judges thereof exercising the extended jurisdiction conferred or conferable under sub-section (1), and appeals from decrees and orders passed in the exercise of such jurisdiction shall, when such appeals are allowed by law, lie to the High Court.

(4) The Presidency Small Cause Courts Act, 1882, shall, in relation to the Small Cause Court, be read as if—

(*a*) the words "in the High Court" were omitted from sections 47, 49 and 61;

(*b*) the words "any Judge having jurisdiction with respect to the suit" had been enacted instead of the words "any Judge of the High Court" where these latter words occur in section 61; and

(*c*) the figures "10,000" were substituted for the figures "2,000" in the second column of the fourth schedule.

Repeal of sections 21 and 22, Act XV, 1882.

4. Sections 21 and 22 of the Presidency Small Cause Courts Act, 1882, are, in relation to the Small Cause Court, hereby repealed.

Suits by and against officers of Small Cause Court.

5. All suits to which an officer of the Small Cause Court is, as such, a party, except suits in respect of property taken in execution of its process, or the proceeds or value thereof, may be instituted in the High Court at the election of the plaintiff.

Rule as to costs of plaintiff suing in High Court in cases cognizable by Small Cause Court.

6. (1) If any suit cognizable by the Small Cause Court, other than a suit to which the last foregoing section applies, is instituted in the High Court, no costs shall be allowed to the plaintiff;

and, if in any such suit the plaintiff does not obtain a decree, the defendant shall be entitled to his costs as between attorney and client.

(2) The provisions of sub-section (1) shall not apply to any suit in which the Judge who tries the same certifies that it was one fit to be brought in the High Court.

Allowance for fees paid in Small Cause Court in cases removed to High Court.

7. When under section 13 of the Letters Patent for the High Court, dated the twenty-eighth day of December 1866, or under section 25 of the Code of Civil Procedure, the High Court has removed for trial by itself any suit from the Small Cause Court, fees on the scale for the time being in force in the High Court as a Court of ordinary original civil jurisdiction shall be payable in that Court in respect of the suit and proceedings therein:

Provided that in the levy of any such fees which, according to the practice of the Court, are credited to the Government, credit shall be given to the plaintiff in the suit for any fee which, in the Small Cause Court, he has already paid under chapter X of the Presidency Small Cause Courts Act, 1882, on the plaint.

Attachment before judgment in Small Cause Court.

8. Notwithstanding anything to the contrary in section 23 of, or the second schedule to, the Presidency Small Cause Courts Act, 1882, sections 483 to 489 (both inclusive) and section 491 of the Code of Civil Procedure, respecting the attachment of immoveable property before judgment, shall extend, and shall, so far as the same may, in the judgment of the Court, be applicable, be applied, to the Small Cause Court when exercising the jurisdiction conferred upon it by section 18 of the said Act.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to constitute what may be called a *regular* side of the Madras Court of Small Causes for the trial (1) of suits of the nature of small causes, but of a value exceeding the limit of Rs. 2,000 fixed by section 18 of the Presidency Small Cause Courts Act, 1882, and (2) of suits not of the nature of small causes. At present all such suits have to be instituted in the High Court, and the result has been found to be not only a great waste of judicial power, but also a practical denial of justice to suitors who are unable to bear the expense of a trial in the High Court. It is therefore proposed to confer on the Small Cause Court jurisdiction in all such suits (with the exception of a few defined classes) of value not exceeding five thousand rupees; and it is further proposed to give power to the Governor in Council, with the previous sanction of the Governor-General in Council, to raise this limit of value from time to time to any sum not exceeding ten thousand rupees.

2. The provisions of the Code of Civil Procedure are to apply to all these cases, and appeals from the decrees and orders passed by the *regular* side of the Small Cause Court, where appeals are ordinarily allowed by law, will lie to the High Court.

3. It is not proposed to abrogate the jurisdiction vested in the High Court with regard to such cases, but if a suit cognizable by the Small Cause Court is unnecessarily instituted in the High Court, the plaintiff will be debarred from recovering costs from the defendant, while, if his suit fails, he will have to pay costs to the defendant on the most liberal scale.

4. Of the other provisions of the Bill, the only one calling for notice is that in section 8, which applies to the Small Cause Court, even when exercising jurisdiction under section 18 of the Presidency Small Cause Courts Act, 1882, the provisions of the Code of Civil Procedure respecting the attachment of immoveable property before judgment.

PHIL. P. HUTCHINS.

The 23rd July 1891.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

FORT ST. GEORGE GAZETTE SUPPLEMENT.

TUESDAY EVENING, AUGUST 25, 1891.

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

The following report of the Select Committee on the Bill to amend the Indian Merchant Shipping Act, 1880, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 6th August 1891:—

From High Court, Calcutta, No. 223, dated 28th January 1891 [Paper No. 1].
From Government, Bengal, No. 280, Marine, dated 29th January 1891, and enclosure [Paper No. 2].
From Government, Madras, No. 193, Judicial, dated 29th January 1891, and enclosures [Papers No. 3].
From Chief Commissioner, Burma, No. 162—11M.S., dated 7th February 1891, and enclosures [Papers No. 4].
From Government, Bombay, No. 47, dated 17th February 1891, and enclosures [Papers No. 5].
From ditto, No. 66, dated 9th March 1891, and enclosure [Papers No. 6].
To Her Majesty's Secretary of State for India, No. 40, dated 31st December 1890:
From ditto, No. 3, dated 5th March 1891, and enclosure [Papers No. 7].

WE, the undersigned, Members of the Select Committee to which the Bill to amend the Indian Merchant Shipping Act, 1880, 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. The Bill, as introduced, has been generally approved by the Board of Trade; but we have deemed it expedient to recommend the adoption of the following suggestions which have been made by Local Governments, namely:—

(1) that section 43 in the revised portion of the Indian Merchant Shipping Act, 1880, relating to deck and load-lines, should provide for the recognition of marks attached in Colonies which have legislated on the model of the English Act of 1890, and whose legislation has been approved by Order in Council, that is to say, that Colonial marks which are recognised in the United Kingdom should also be recognised in India;

(2) that the Bill should contain a section, like section 4 of the English Act of 1890, bringing foreign ships under the law unless the countries to which they belong have a law or laws on the subject of deck and load-lines equally effective with the English (or Indian) law;

(3) that the Bill should give power to the Local Government to exempt Native craft not square-rigged, such craft being not really concerned with deck and load-line laws; and

(4) that surveyors employed by any society, corporation or association for the survey or registry of shipping approved by the Board of Trade should be authorised, on appointment in this behalf by the Local Government, to approve and certify the position of discs.

3. We have also provided for the making of rules (with the previous sanction of the Governor-General in Council) for the definition of fair and foul seasons and for the modification of tables of free board in the case of any class or classes of vessels. This provision will enable the Government to deal, as occasion may arise, with vessels in the coasting or exclusively Eastern trade to which it may be unnecessary to apply to their full extent the rules of the Board of Trade.

4. The other alterations which we have made in the Bill are not such as to call for remark.

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

In English.

Gazette.	Date.
Gazette of India	20th December 1890.
Fort St. George Gazette	13th January 1891.
Bombay Government Gazette	1st January 1891.
Calcutta Gazette	24th December 1891.
Burma Gazette	3rd January 1891.

In the Vernaculars.

Province.	Language.	Date.
Bombay	Marathi	28th January 1891.
	Gujarathi	28th January 1891.

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

The 6th August 1891.

D. BARBOUR.
ALEX. EDW. MILLER.

No. II.

A Bill to amend the Indian Merchant Shipping Act, 1880.

WHEREAS it is expedient to amend and add to the provisions of the Indian Merchant Shipping Act, 1880 (*hereinafter called the said Act*), respecting unseaworthy and unsafe ships; It is hereby enacted as follows:—

Title and commencement.

1. (1) This Act may be called the Deck and Load Lines Act, 1891: and

(2) It shall come into force on the *first* day of *September*, 1891.

Addition to section 3, Act VII, 1880.

2. *To section 3 of the said Act the following shall be added, namely:—*

"The Local Government, with the previous sanction of the Governor-General in Council, may from time to time, by notification in the local official Gazette, exclude from, or bring again within, the operation of this Chapter or any part thereof, subject to such modifications thereof (if any) as may be specified in the notification, any Native craft not square-rigged".

Addition to section 4, Act VII, 1880.

3. To section 4 of the *said* Act the following shall be added, namely:—

"Amidships" means "the middle of the length of the load water-line as measured from the fore side of the stem to the aft side of the stern-post."

Substitution of new sections for sections 33 to 43, Act VII, 1880.

4. For sections 33 to 43, both inclusive, of the *said* Act the following sections shall be substituted, namely:—

Deck and Load-lines.

Marking of deck-lines.

"33. (1) Every British Indian ship shall be permanently and conspicuously marked outside with lines of not less than twelve inches in length and one inch in breadth painted longitudinally on each side amidships, or as near thereto is practicable, and indicating the position of each deck which is above water.

(2) The upper edge of each of these lines shall be level with the upper side of the deck-plank next the waterway at the place of marking.

(3) The lines shall be white or yellow on a dark ground, or black on a light ground.

Marking of load-lines in case of vessels which are not coasting-vessels.

"34. (1) The master of every British ship not being a coasting-vessel within the meaning of the Sea Customs Act, 1878, shall, before his ship is entered outwards from any port in British India upon any voyage, or, if that is not practicable, as soon after as may be, mark outside upon each of her sides amidships, or as near thereto as practicable, in white or yellow on a dark ground, or in black on a light ground, a circular disc twelve inches in diameter, with a horizontal line eighteen inches in length drawn through its centre.

(2) The centre of the disc shall be placed at such level below the deck-line marked under the provisions of this Chapter or of the Merchant Shipping Act, 1876, as may be approved by the Local Government, and shall indicate the maximum load-line in perfectly smooth salt water to which it shall be lawful to load the ship.

(3) When a ship has been marked as by this section required, she shall be kept so marked until she next returns to a port of discharge in British India or arrives at a port in the United Kingdom.

Statement in application to Customs officer for entry outwards of such vessel as aforesaid.

"35. (1) *Every* person applying for entry of any such ship outwards shall insert, in the form of application made to the Customs Collector, a statement in writing of the distance in feet and inches between the centre of such disc and the upper edge of each of the lines indicating the position of the ship's decks which is above such centre; and, if default *be* made in delivering this statement, the Customs Collector may refuse to enter the ship outwards.

(2) A copy of this statement shall be entered in the agreement with the crew before it is signed by any member of the crew, and no shipping-master shall proceed with the engagement of a crew *for any such ship* until this entry *has been* made.

(3) The master shall enter a copy of this statement in the official log book (if any).

Marking of load-lines in case of coasting vessels.

"36. (1) The master of every British ship which is a coasting-vessel within the meaning of the Sea Customs Act, 1878, shall, before proceeding to sea from any port, mark outside upon each of her sides amidships or as near thereto as practicable, in white or yellow on a dark ground, or in black on a light ground, a circular disc twelve inches in diameter, with a horizontal line eighteen inches in length drawn through its centre.

(2) The centre of the disc shall be placed at such level below the deck-line marked under the provisions of this Chapter or of the Merchant Shipping Act, 1876, as may be approved by the Local Government, and shall indicate the maximum load-line in perfectly smooth salt water to which it shall be lawful to load the ship.

(3) When a ship has been marked as required by this section, she shall be kept so marked until notice *has been* given of an alteration.

Annual statement as to position of load-line on coasting vessel.

"37. (1) The master of every such ship shall also, once in every twelve months, immediately before the ship proceeds to sea, send or deliver to the Collector, or other principal officer of Customs of such port as the Local Government may, from time to time, appoint in this behalf, a statement in writing of the distance in feet and inches between the centre of the disc and the upper edge of each of the lines indicating the position of the ship's decks which is above that centre.

(2) The master, before the ship proceeds to sea after any renewal or alteration of the disc, shall send or deliver to the Collector or other principal officer of Customs aforesaid notice in writing of such renewal or alteration, together with such statement in writing as before mentioned of the distance between the centre of the disc and the upper edge of each of the deck-lines.

(3) If default *be* made in sending or delivering any notice or statement required by this section to be sent or delivered, the master shall be *liable to a* fine which may extend to one thousand rupees.

Modification of certain foregoing provisions.

"38. The foregoing provisions of this Chapter with respect to deck and load-lines are subject to the provisions of the two next following sections.

Position of disc and approval of and certificate as to position thereof.

"39. (1) The position of the *discs* mentioned in *sections* 34 and 36 *respectively* shall be fixed in accordance with the tables framed by the Load-line Committee appointed in the United Kingdom before the passing of the Merchant Shipping Act, 1890, subject to such allowance as may be necessary *in consequence of* any difference between the position of the deck-line marked under the provisions of this Chapter or of the Merchant Shipping Act, 1876, and the position of the line from which free-board is measured under the said tables, and subject also to such modifications, if any, of the tables and the application thereof as may from time to time, with the previous approval of the Governor-General in Council, be sanctioned by the Local Government.

(2) The Local Government shall *from time to time* appoint—

(*a*) a surveyor employed by *Lloyd's, or by any other society, corporation or association for the survey or registry of shipping approved by the Board of Trade under section 2 of the Merchant Shipping Act, 1890, and specially authorised in this behalf by Lloyd's or by such society, corporation or association, as the case may be, or*

(*b*) an officer specially selected by the Local Government for the purpose,

to approve and certify on its behalf from time to time the position of any such disc as aforesaid, and any alteration thereof,

and may, *with the previous sanction of the Governor-General in Council from time to time* fix the fees to be taken in respect of any such approval or certificate.

(3) *The Local Government may suspend or remove from office any surveyor or officer so appointed.*

Rules.

"40. (1) The Local Government, *with the previous sanction of the Governor-General in Council*, may from time to time make rules—

(*a*) determining the lines or marks to be used in connection with any such disc as aforesaid, in order to indicate the maximum load-line under different circumstances and at different seasons, and declaring that the provisions of this Chapter are to have effect as if any such line were drawn through the centre of the disc;

(*b*) as to the mode in which the disc and the lines or marks to be used in connection therewith are to be marked or affixed on the ship, whether by painting, cutting or otherwise;

(*c*) as to the mode of application for, and form of, certificate under this Chapter; and

(*d*) *as to* the entry of such certificates, and *any* other *prescribed* particulars *concerning* the draught of water and free-board of the ship, in the official log (if any) of the ship, or other publication thereof on board the ship, and as to delivering copies of such entries.

(2) *Rules under clause (a) of sub-section (1) may, with respect to any class or classes of ships,—*

(*i*) *declare what shall be deemed to be seasons of fair weather and seasons of foul weather, respectively, for any of the purposes of the rules, and*

(*ii*) *modify the tables referred to in sub-section (1) of section 39.*

(3) *All rules intended to be made under this section shall previously be published in draft in such manner as may be prescribed by the Local Government, and shall not be formally promulgated for ninety days at the least after such publication, and all such rules* shall, while in force, have effect as if enacted by this Act.

Penalty for neglecting to mark, or submerging, load-line.

"41. Any master of a ship who neglects to cause his ship to be marked as by this Chapter required or to keep her so marked, or who allows the ship to be so loaded that when in perfectly smooth salt-water the centre of the disc is submerged,

and any person who conceals, removes, alters, defaces or obliterates, or suffers any person under his control to conceal, remove, alter, deface or obliterate, any of the lines or marks prescribed by or under this Chapter, except in the event of the particulars thereby denoted being lawfully altered, or for the purpose of escaping capture by an enemy,

shall be *liable in respect of* each such offence *to a* fine which may extend to one thousand rupees.

Penalty on master for having misleading marks.

"42 *The master of any ship on which any of the marks or lines prescribed by or under this Chapter is inaccurately placed so as to be likely to mislead, who does not forthwith cause such inaccuracy to be corrected, shall be liable to a fine which may extend to one thousand rupees.*

Saving of ships marked in the United Kingdom.

"43. The provisions of this Chapter as to load-lines shall not apply to ships coming from ports in the United Kingdom and *having such lines fixed, marked and certified* in accordance with the provisions of the law for the time being there in force, *or to ships registered in a British possession and having such lines fixed, marked and certified in accordance with the provisions of an enactment passed by the Legislature of that possession, with respect to which enactment such a declaration as is mentioned in section 3 of the Merchant Shipping Act, 1890, has been made by an Order of Her Majesty in Council and is for the time being in force.*"

Addition to Act VII, 1880.

5. *To the said Act the following section shall be added, namely:—*

Application of provisions respecting overloading to foreign ships.

"85. *The provisions of this Act for the prevention of the overloading and improper loading of British ships shall apply to foreign ships also when in ports of British India unless such foreign ships, if in ports of the United Kingdom, would be entitled to the benefit of an Order of Her Majesty in Council under section 4 of the Merchant Shipping Act, 1890.*"

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

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

The following report of the Select Committee on the Bill to amend the Law of Evidence with respect to Bankers' books was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 17th September 1891 :—

WE, the undersigned, Members of the Select Committee to which the Bill to amend the Law of Evidence with respect to Bankers' books was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our report.

From Officiating Director General, Post Office of India, No. 12471, dated 13th February 1891 [Paper No. 1].
Telegram from Resident, Hyderabad, No. 79, dated 26th February 1891 [Paper No. 2].
From High Court, Calcutta, No. 552, dated 3rd March 1891 [Paper No. 3].
From Chief Commissioner, Burma, No. 664—4L., dated 28th February 1891, and enclosures [Papers No. 4].
From Government, Bengal, No. 949J., dated 2nd March 1891, and enclosures [Papers No. 5].
From Chief Commissioner, Central Provinces, No. 1283—132, dated 2nd March 1891 [Paper No. 6].
From Governor-General's Agent, Baluchistan, No. 1163, dated 2nd March 1891 [Paper No. 7].
From Chief Commissioner, Ajmere-Merwara, No. 392C., dated 4th March 1891 [Paper No. 8.]
From Government, North-Western Provinces and Oudh, No. 193, dated 7th March 1891, and enclosures [Papers No. 9].
From Chief Commissioner, Coorg, No. 426—21-91, dated 3rd March 1891 [Paper No. 10].
From Government, Madras, No. 434, Judicial, dated 5th March 1891, and enclosures [Papers No. 11].
Endorsement by Home Department, No. 371, dated 17th March 1891, and enclosure [Papers No. 12].
From Government, Punjab, No. 303, dated 13th March 1891, and enclosures [Papers No. 13].
From Chief Commissioner, Assam, No. 54T., dated 21st March 1891 [Paper No. 14].
From Government, Bombay, No. 1619, dated 17th March 1891, and enclosures [Papers No. 15].

2. *Section* 2.—We have amended sub-section (1) so as to include in the definition of "company" the Presidency Banks.

We have omitted from clause (*a*) of sub-section (2) the reference to a Government Savings Bank. We consider the accounts of such banks, as well as those of the Money Order Department of the Post Office and of Government treasuries, to be "public documents" within the meaning of section 74 of the Evidence Act,* and covered therefore by section 65 of that Act.

* Act I of 1872.

We have added a clause (*b*) to sub-section (2) so as to include under the term "bank" or "banker" any partnership (not coming under the definition of "company") or individual to whom the Local Government may, under section 3, extend the provisions of the Act.

We have also added definitions of the terms "trial" and "certified copy" so as to make the provisions of the Bill compact and readily intelligible.

3. *Section* 3.—This section is new. It has been brought to our notice that there are in India several large private banks to whom the privileges contemplated by this Bill may safely and fairly be extended. As, however, it is not desirable to extend the privileges to all private banks, we have given power to the Local Government to decide each case on its merits. We consider, however, that these privileges should not be extended to any partnership or individual carrying on the business of bankers which does not keep at least the three account books specified in the section which are absolutely essential to a proper system of accounts.

4. *Section* 4 (*old section* 3).—We have amended this section so as to bring the provisions of the Bill into accord with section 34 of the Evidence Act.†

† Act I of 1872.

5. We have omitted sections 4 and 5 of the original Bill altogether. We consider that no copy of any entry should be receivable in evidence in any legal proceeding unless it is a "certified copy" as defined in the revised Bill. That definition, read with section 4 of the Bill, seems to us to meet all the requirements of the case. Certified copies of entries in the accounts of privileged banks will now be on the same footing as certified copies of public documents.

6. *Section* 5.—We consider that it is inadvisable in the public interests to restrict the power conferred by this section to a Judge of a High Court. Such a restriction might, and probably would, involve in many cases unnecessary expense and delay. We have therefore extended the power to the Court before which the legal proceeding in question is held or taken [section 2 (5)].

7. *Section* 6.—We have enlarged sub-section (1) so as to allow the Court or a Judge to permit the bank to prepare and produce certified copies of all relevant entries as an alternative to allowing parties to inspect and take copies for themselves. It is probable that in many cases it may, in the interests of the bank or its clients, be highly undesirable to allow an inspection of the bank's books.

We have amended sub-section (2) so as to require that in ordinary cases due notice of any order under section 5 or under section 6, sub-section (1), shall be given to the bank; and we have added a sub-section (3) allowing the bank to show cause against any such order.

8. *Section* 7.—We have altered this section so as to make it clear that costs awarded *to* a bank, as well as costs awarded *against* it, may be enforced as if the bank were a party.

9. We have not thought it necessary to provide special penalties for the fraudulent or dishonest making or using of false certificates, as we consider that the provisions of the Penal Code are sufficient for this purpose.

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

In English.

Gazette.	Date.
Gazette of India	7th February 1891.
Fort St. George Gazette	17th ,, ,,
Bombay Government Gazette	12th ,, ,,
Calcutta Gazette	11th ,, ,,
North-Western Provinces and Oudh Government Gazette	14th ,, ,,
Punjab Government Gazette	19th ,, ,,
Central Provinces Gazette	14th ,, ,,
Burma Gazette	21st ,, ,,
Assam Gazette	21st ,, ,,
Coorg District Gazette	2nd March 1891.

In the Vernaculars.

Province.	Language.	Date.
Madras	Tamil	2nd March 1891.
	Telugu	2nd ,, ,,
	Kanarese	2nd ,, ,,
	Hindustani	10th ,, ,,
	Malayalam	10th ,, ,,
Bengal	Uriya	19th February 1891.
	Bengali	24th ,, ,,
	Hindi	3rd March 1891.
North-Western Provinces and Oudh	Urdu	28th February 1891.
Assam	Bengali	7th March 1891.
Coorg	Kanarese	1st April 1891.

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.

ALEX. EDW. MILLER.
PHIL. P. HUTCHINS.
W. H. RATTIGAN.

The 17th September 1891.

No. II.

A Bill to amend the Law of Evidence with respect to Bankers' Books.

WHEREAS it is expedient to amend the Law of Evidence with respect to Bankers' Books; it is hereby enacted as follows:—

Title, extent and commencement.

1. (1) This Act may be called the Bankers' Books Evidence Act, 1891.

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

(3) It shall come into force at once.

Definitions.

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

(1) "company" means a company registered under any of the enactments relating to companies from time to time in force in British India, or *incorporated by* an Act of Parliament or *of the Governor-General in Council, or* by Royal Charter or Letters Patent:

(2) "bank" and "banker" mean—

(*a*) any company carrying on the business of bankers,

(*b*) *any partnership or individual to whose books the provisions of this Act shall have been extended as hereinafter provided;*

(3) "bankers' books" include ledgers, day-books, cash-books account books, and all other books used in the ordinary business of a bank:

(4) "legal proceeding" means any proceeding or inquiry in which evidence is or may be given, and includes an arbitration:

(5) "*the* Court" means the person or persons before whom a legal proceeding is held or taken:

(6) "Judge" means a Judge of a High Court:

(7) "*trial*" *means any hearing before the Court at which evidence is taken: and*

(8) "*certified copy*" *means a copy of any entry in the books of a bank, together with a certificate written at the foot of such copy that it is a true copy of such entry; that such entry is contained in one of the ordinary books of the bank, and was made in the usual and ordinary course of business; and that such book is still in the custody of the bank; such certificate being dated and subscribed by the principal accountant or manager of the bank with his name and official title.*

Power to extend provisions of Act.

3. *The Local Government may, from time to time, by notification in the official Gazette, extend the provisions of this Act to the books of any partnership or individual carrying on the business of bankers within the territories under its administration, and keeping a set of not less than three ordinary account books, namely, a cash-book, a day-book or journal and a ledger, and may in like manner rescind any such notification.*

Mode of proof of entries in bankers' books.

4. Subject to the provisions of this Act, a *certified* copy of any entry in a banker's book shall in all legal proceedings be received as *primâ facie* evidence of *the existence of* such entry, and *shall be admitted as evidence* of the matters, transactions and accounts therein recorded *in every case where, and to the same extent as, the original entry itself is now by law admissible, but not further or otherwise.*

Case in which officer of bank not compellable to produce books.

5. *No* officer of a bank shall in any legal proceeding to which the bank is not a party be compellable to produce any banker's book the contents of which can be proved under this Act, or to appear as a witness to prove the matters, transactions and accountst herein recorded, unless by order of *the Court or* a Judge made for special cause.

Inspection of books by order of Court or Judge.

6. (1) On the application of any party to a legal proceeding the Court or a Judge may order that such party be at liberty to inspect and take copies of any entries in a banker's book for any of the purposes of such proceeding, *or may order the bank to prepare and produce, within a time to be specified in the order, certified copies of all such entries, accompanied by a further certificate that no other entries are to be found in the books of the bank relevant to the matters in issue in such proceeding, and such further certificate shall be dated and subscribed in manner hereinbefore directed in reference to certified copies.*

(2) An order under this *or the preceding* section may be made either with or without summoning the bank, and shall be served on the bank three clear days (*exclusive of bank holidays*) before the same is to be obeyed, unless the Court or Judge *shall* otherwise direct.

(3) *The bank may at any time before the time limited for obedience to any such order as aforesaid, either offer to produce their books at the trial or give notice of their intention to show cause against such order, and thereupon the same shall not be enforced without further order.*

Costs.

7. (1) The costs of any application to the Court or a Judge under or for the purposes of this Act and the costs of anything done or to be done under an order of the Court or a Judge made under or for the purposes of this Act shall be in the discretion of the Court or Judge, who may *further* order *such costs* or any part thereof to be paid to any party by the bank *if they have been incurred in consequence of* any fault or *improper* delay on the part of the bank.

(2) Any order *made under this section for the payment of costs to or by* a bank may be enforced as if the bank *were* a party to the proceeding.

(3) *Any* order under this section awarding costs may, on application to any Court of Civil Judicature designated in the order, be executed by such Court as if the order were a decree for money passed by itself:

Provided that nothing in this sub-section shall be construed to derogate from any power which the Court or Judge making the order may possess for the enforcement of its or his directions with respect to the payment of costs.

L. PORTER,
Offg. Secretary to the Govt. of India.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 1st October 1891 :

No. 15 OF 1891.

A Bill to extend the Inland Emigration Act, 1882.

WHEREAS it is expedient to extend the Inland Emigration Act, 1882; it is hereby enacted as follows:

Extension of Act I, 1882, to the Central Provinces.

1. The Inland Emigration Act, 1882, is hereby extended to the territories administered by the Chief Commissioner of the Central Provinces.

Power to extend Act to Madras Presidency.

2. It shall be lawful for the Governor in Council, with the previous sanction of the Governor-General in Council, by Notification in the *Fort St. George Gazette*, to extend the said Act to the whole or any portion of the Madras Presidency.

STATEMENT OF OBJECTS AND REASONS.

The object is stated in the title.

It is very desirable to open up a further field for the supply of coolie labour in the interest not only of the districts requiring the labour, but also of the immigrants themselves; and it is believed that such a field can be found to advantage in the Central Provinces.

In the Madras Presidency labourers for Assam are even now recruited under a local Act in the districts of Ganjam and Vizagapatam, and the Local Government have expressed a wish for legislation which will admit of Act I of 1882 being put into force in suitable portions of that Presidency.

The 30th September 1891.

PHIL P. HUTCHINS.

L. PORTER,
Offg. Secretary to the Govt. of India.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 20th August 1891, and is hereby promulgated for general information :—

ACT No. XVII OF 1891.

An Act to amend the Indian Merchant Shipping Act, 1880.

WHEREAS it is expedient to amend and add to the provisions of the Indian Merchant Shipping Act, 1880 (hereinafter called the said Act), respecting unseaworthy and unsafe ships; It is hereby enacted as follows :—

Title and commencement.

1. (1) This Act may be called the Deck and Load Lines Act, 1891 : and

(2) It shall come into force on the first day of September 1891.

Addition to section 3, Act VII, 1880.

2. To section 3 of the said Act the following shall be added, namely :—

"The Local Government, with the previous sanction of the Governor-General in Council, may from time to time, by notification in the local official Gazette, exclude from, or bring again within, the operation of this Chapter or any part thereof, subject to such modifications thereof (if any) as may be specified in the notification, any Native craft not square-rigged."

Addition to section 4, Act VII, 1880.

3. To section 4 of the said Act the following shall be added, namely : —

"Amidships" means the middle of the length of the load water-line as measured from the fore side of the stem to the aft side of the stern-post."

4. For

[PRICE, 1 ANNA AND 3 PIES.]

Fort St. George Gazette	..	..	..	..	18th July 1891.
Bombay Government Gazette	..	..	..	..	4th August 1891.
Calcutta Gazette	..	..	..	..	23rd July 1891.
					29th " "

Substitution of new sections for sections 33 to 43, Act VII, 1880.

4. For sections 33 to 43, both inclusive, of the said Act the following sections shall be substituted, namely :—

"*Deck and Load-lines.*

Marking of deck-lines.

"33. (1) Every British Indian ship shall be permanently and conspicuously marked outside with lines of not less than twelve inches in length and one inch in breadth painted longitudinally on each side amidships, or as near thereto as practicable, and indicating the position of each deck which is above water.

(2) The upper edge of each of these lines shall be level with the upper side of the deck-plank next the waterway at the place of marking.

(3) The lines shall be white or yellow on a dark ground, or black on a light ground.

Marking of load-lines in case of vessels which are not coasting-vessels.

"34. (1) The master of every British ship not being a coasting-vessel within the meaning of the Sea Customs Act, 1878, shall, before his ship is entered outwards from any port in British India upon any voyage, or, if that is not practicable, as soon after as may be, mark outside upon each of her sides amidships, or as near thereto as practicable, in white or yellow on a dark ground, or in black on a light ground, a circular disc twelve inches in diameter, with a horizontal line eighteen inches in length drawn through its centre.

(2) The centre of the disc shall be placed at such level below the deck-line marked under the provisions of this Chapter or of the Merchant Shipping Act, 1876, as may be approved by the Local Government, and shall indicate the maximum load-line in perfectly smooth salt-water to which it shall be lawful to load the ship.

(3) When a ship has been marked as by this section required, she shall be kept so marked until she next returns to a port of discharge in British India or arrives at a port in the United Kingdom.

Statement in application to Customs-officer for entry outwards of such vessel as aforesaid.

"35. (1) Every person applying for entry of any such ship outwards shall insert, in the form of application made to the Customs-collector, a statement in writing of the distance in feet and inches between the centre of such disc and the upper edge of each of the lines indicating the position of the ship's decks which is above such centre; and, if default be made in delivering this statement, the Customs-collector may refuse to enter the ship outwards.

(2) A copy of this statement shall be entered in the agreement with the crew before it is signed by any member of the crew, and no shipping-master shall proceed with the engagement of a crew for any such ship until this entry has been made.

(3) The master shall enter a copy of this statement in the official log-book (if any).

Marking of load-lines in case of coasting-vessels.

"36. (1) The master of every British ship which is a coasting-vessel within the meaning of the Sea Customs Act, 1878, shall before proceeding to sea from any port, mark outside upon each of her sides amidships, or as near thereto as practicable, in white or yellow on a dark ground, or in black on a light ground, a circular disc twelve inches in diameter, with a horizontal line eighteen inches in length drawn through its centre.

(2) The centre of the disc shall be placed at such level below the deck-line marked under the provisions of this Chapter or of the Merchant Shipping Act, 1876, as

as may be approved by the Local Government, and shall indicate the maximum load-line in perfectly smooth salt-water to which it shall be lawful to load the ship.

(3) When a ship has been marked as required by this section, she shall be kept so marked until notice has been given of an alteration.

Annual statement as to position of load-line on coasting-vessel.

"37. (1) The master of every such ship shall also once in every twelve months, immediately before the ship proceeds to sea, send or deliver to the Collector, or other principal officer of Customs of such port as the Local Government may, from time to time, appoint in this behalf, a statement in writing of the distance in feet and inches between the centre of the disc and the upper edge of each of the lines indicating the position of the ship's decks which is above that centre.

(2) The master, before the ship proceeds to sea after any renewal or alteration of the disc, shall send or deliver to the Collector or other principal officer of Customs aforesaid notice in writing of such renewal or alteration, together with such statement in writing as before mentioned of the distance between the centre of the disc and the upper edge of each of the deck-lines.

(3) If default be made in sending or delivering any notice or statement required by this section to be sent or delivered, the master shall be liable to a fine which may extend to one thousand rupees.

Modification of certain foregoing provisions.

"38. The foregoing provisions of this Chapter with respect to deck and load-lines are subject to the provisions of the two next following sections.

Position of disc and approval of and certificate as to position thereof.

"39. (1) The position of the discs mentioned in sections 34 and 36 respectively shall be fixed in accordance with the tables framed by the Load-line Committee appointed in the United Kingdom before the passing of the Merchant Shipping Act, 1890, subject to such allowance as may be necessary in consequence of any difference between the position of the deck-line marked under the provisions of this Chapter or of the Merchant Shipping Act, 1876, and the position of the line from which free-board is measured under the said tables, and subject also to such modifications, if any, of the tables and the application thereof as may from time to time, with the previous approval of the Governor-General in Council, be sanctioned by the Local Government.

(2) The Local Government shall from time to time appoint—

(*a*) a surveyor employed by Lloyd's or by any other society, corporation or association for the survey or registry of shipping approved by the Board of Trade under section 2 of the Merchant Shipping Act, 1890, and specially authorised in this behalf by Lloyd's or by such society, corporation or association, as the case may be, or

(*b*) an officer specially selected by the Local Government for the purpose,

to approve and certify on its behalf from time to time the position of any such disc as aforesaid, and any alteration thereof,

and may, with the previous sanction of the Governor-General in Council, from time to time fix the fees to be taken in respect of any such approval or certificate.

(3) The Local Government may suspend or remove from office any surveyor or officer so appointed.

Rules.

"40. (1) The Local Government, with the previous sanction of the Governor-General in Council, may from time to time make rules—

(*a*) determining

Fort St. George Gazette .. .. 18th July 1891.
Bombay Government Gazette .. .. 4th August 1891.
Calcutta Gazette .. .. 29th ,, ,,

(*a*) determining the lines or marks to be used in connection with any such disc as aforesaid, in order to indicate the maximum load-line under different circumstances and at different seasons, and declaring that the provisions of this Chapter are to have effect as if any such line were drawn through the centre of the disc;

(*b*) as to the mode in which the disc and the lines or marks to be used in connection therewith are to be marked or affixed on the ship, whether by painting, cutting or otherwise;

(*c*) as to the mode of application for, and form of, certificates under this Chapter; and

(*d*) as to the entry of such certificates, and any other prescribed particulars concerning the draught of water and freeboard of the ship, in the official log (if any) of the ship, or other publication thereof on board the ship, and as to delivering copies of such entries.

(2) Rules under clause (*a*) of sub-section (1) may, with respect to any class or classes of ships,—

(i) declare what shall be deemed to be seasons of fair weather and seasons of foul weather, respectively, for any of the purposes of the rules, and

(ii) modify the tables referred to in sub-section (1) of section 39.

(3) All rules intended to be made under this section shall previously be published in draft in such manner as may be prescribed by the Local Government, and shall not be formally promulgated for ninety days at the least after such publication, and all such rules shall, while in force, have effect as if enacted by this Act.

"41. Any master of a ship who neglects to cause his ship to be marked as by this Chapter required or to keep her so marked, or who allows the ship to be so loaded that when in perfectly smooth salt-water the centre of the disc is submerged,

Penalty for neglecting to mark, or submerging, load-line.

and any person who conceals, removes, alters, defaces or obliterates, or suffers any person under his control to conceal, remove, alter, deface or obliterate, any of the lines or marks prescribed by or under this Chapter, except in the event of the particulars thereby denoted being lawfully altered, or for the purpose of escaping capture by an enemy,

shall be liable in respect of each such offence to a fine which may extend to one thousand rupees.

"42. The master of any ship on which any of the marks or lines prescribed by or under this Chapter is inaccurately placed so as to be likely to mislead, who does not forthwith cause such inaccuracy to be corrected, shall be liable to a fine which may extend to one thousand rupees.

Penalty on master for having misleading marks.

"43. The provisions of this Chapter as to load-lines shall not apply to ships coming from ports in the United Kingdom and having such lines fixed, marked and certified in accordance with the provisions of the law for the time being there in force, or to ships registered in a British possession and having such lines fixed, marked and certified in accordance with the provisions of an enactment passed by the Legislature of that possession, with respect to which enactment such a declaration as is mentioned in section 3 of the Merchant Shipping Act, 1890, has been made by an Order of Her Majesty in Council and is for the time being in force."

Saving of ships marked in the United Kingdom.

5. To

Addition to Act VII, 1880.

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

"85. The provisions of this Act for the prevention of the overloading and improper loading of British ships shall apply to foreign ships also when in ports of British India unless such foreign ships, if in ports of the United Kingdom, would be entitled to the benefit of an Order of Her Majesty in Council under section 4 of the Merchant Shipping Act, 1890."

Application of provisions respecting overloading to foreign ships.

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

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Fort St. George Gazette	18th July 1891.
Bombay Government Gazette	4th August 1891.
Calcutta Gazette	23rd July 1891.
	29th " "

ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 1st October 1891, and is hereby promulgated for general information :—

ACT No. XVIII OF 1891.

An Act to amend the Law of Evidence with respect to Bankers' Books.

WHEREAS it is expedient to amend the Law of Evidence with respect to Bankers' Books; it is hereby enacted as follows :—

Title, extent and commencement.

1. (1) This Act may be called the Bankers' Books Evidence Act, 1891.

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

(3) It shall come into force at once.

Definitions.

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

(1) "Company" means a company registered under any of the enactments relating to companies from time to time in force in British India, or incorporated by an Act of Parliament or of the Governor-General in Council, or by Royal Charter or Letters Patent :

(2) "bank" and "banker" mean—

(*a*) any company carrying on the business of bankers;

(*b*) any partnership or individual to whose books the provisions of this Act shall have been extended as hereinafter provided :

(3) "bankers' books" include ledgers, day-books, cash-books, account-books and all other books used in the ordinary business of a bank :

(4) "legal proceeding" means any proceeding or inquiry in which evidence is or may be given, and includes an arbitration :

(5) "the Court" means the person or persons before whom a legal proceeding is held or taken :

(6) "Judge"

[PRICE, 9 PIES.]

Gazette.	Date.
Gazette of India	
Fort St. George Gazette	18th July 1891.
Bombay Government Gazette	4th August 1891.
Calcutta Gazette	23rd July 1891.
	29th " "

(6) "Judge" means a Judge of a High Court:

(7) "trial" means any hearing before the Court at which evidence is taken; and

(8) "certified copy" means a copy of any entry in the books of a bank, together with a certificate written at the foot of such copy that it is a true copy of such entry; that such entry is contained in one of the ordinary books of the bank, and was made in the usual and ordinary course of business; and that such book is still in the custody of the bank, such certificate being dated and subscribed by the principal accountant or manager of the bank with his name and official title.

Power to extend provisions of Act.

3. The Local Government may, from time to time, by notification in the official Gazette, extend the provisions of this Act to the books of any partnership or individual carrying on the business of bankers within the territories under its administration, and keeping a set of not less than three ordinary account books, namely, a cash-book, a day-book or journal and a ledger, and may in like manner rescind any such notification.

Mode of proof of entries in bankers' books.

4. Subject to the provisions of this Act, a certified copy of any entry in a banker's book shall in all legal proceedings be received as *primâ facie* evidence of the existence of such entry, and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same extent as, the original entry itself is now by law admissible, but not further or otherwise.

Case in which officer of bank not compellable to produce books.

5. No officer of a bank shall in any legal proceeding to which the bank is not a party be compellable to produce any banker's book the contents of which can be proved under this Act, or to appear as a witness to prove the matters, transactions and accounts therein recorded, unless by order of the Court or a Judge made for special cause.

Inspection of books by order of Court or Judge.

6. (1) On the application of any party to a legal proceeding, the Court or a Judge may order that such party be at liberty to inspect and take copies of any entries in a banker's book for any of the purposes of such proceeding, or may order the bank to prepare and produce, within a time to be specified in the order, certified copies of all such entries, accompanied by a further certificate that no other entries are to be found in the books of the bank relevant to the matters in issue in such proceeding, and such further certificate shall be dated and subscribed in manner hereinbefore directed in reference to certified copies.

(2) An order under this or the preceding section may be made either with or without summoning the bank, and shall be served on the bank three clear days (exclusive of bank holidays) before the same is to be obeyed, unless the Court or Judge shall otherwise direct.

(3) The bank may at any time before the time limited for obedience to any such order as aforesaid either offer to produce their books at the trial or give notice of their intention to show cause against such order, and thereupon the same shall not be enforced without further order.

Costs.

7. (1) The costs of any application to the Court or a Judge under or for the purposes of this Act and the costs of any thing done or to be done under an order of the Court or a Judge made under or for the purposes of this Act shall be in the discretion of the Court or Judge, who may further

further order such costs or any part thereof to be paid to any party by the bank if they have been incurred in consequence of any fault or improper delay on the part of the bank.

(2) Any order made under this section for the payment of costs to or by a bank may be enforced as if the bank were a party to the proceeding.

(3) Any order under this section awarding costs may, on application to any Court of Civil Judicature designated in the order, be executed by such Court as if the order were a decree for money passed by itself:

Provided that nothing in this sub-section shall be construed to derogate from any power which the Court or Judge making the order may possess for the enforcement of its or his directions with respect to the payment of costs.

L. PORTER,
Offg. Secy. to the Govt. of India.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Gazette.	Date.
Gazette of India	18th July 1891.
Fort St. George Gazette	4th August 1891.
Bombay Government Gazette	23rd July 1891.
Calcutta Gazette	29th ,, ,,

ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 8th October 1891, and is hereby promulgated for general information:—

ACT No. XXII OF 1891.

An Act to extend the Inland Emigration Act, 1882.

WHEREAS it is expedient to extend the Inland Emigration Act, 1882; it is hereby enacted as follows:—

Extension of Act I, 1882, to the Central Provinces.

1. The Inland Emigration Act, 1882, is hereby extended to the territories administered by the Chief Commissioner of the Central Provinces.

Power to extend Act to Madras Presidency.

2. It shall be lawful for the Governor in Council, with the previous sanction of the Governor-General in Council, by notification in the *Fort St. George Gazette*, to extend the said Act to the whole or any portion of the Madras Presidency.

L. PORTER,
Offg. Secy. to the Govt. of India.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

[PRICE, 6 PIES.]

Gazette.	Date.
Gazette of India	18th July 1891.
Fort St. George Gazette	4th August 1891.
Bombay Government Gazette	23rd July 1891.
Calcutta Gazette	29th ,, ,,

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

The following report of the Select Committee on the Bill to validate certain marriages solemnized under Part VI of the Indian Christian Marriage Act, 1872, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 16th January 1892 :—

From Secretary for Berar to Resident, Hyderabad, No. 245, dated 8th August 1891 [Paper No. 1].
From Secretary to Chief Commissioner, Coorg, No. 1339—114-91, dated 18th August 1891 [Paper No. 2].
From Chief Commissioner, Ajmere-Merwara, No. 983, dated 25th August 1891, and enclosure [Papers No. 3].
From Officiating Governor-General's Agent in Baluchistan, No. 3550, dated 25th August 1891 [Paper No. 4].
From Under-Secretary to Chief Commissioner, Central Provinces, No. 6206—545, dated 27th August 1891, and enclosure [Papers No. 5].
From Registrar, High Court, Calcutta, No. 2335, dated 31st August 1891 [Paper No. 6].
From Chief Secretary to Government, Madras, No. 1662, Judicial, dated 22nd August 1891 and enclosures [Papers No. 7].
From Officiating Junior Secretary to Government, Punjab, No. 844, dated 31st August 1891, and enclosures [Papers No. 8].
From Junior Secretary to Chief Commissioner, Burma, No. 918—19-E.E, dated 31st August 1891, and enclosure [Papers No. 9].
From Secretary to Government, Bombay, No. 69, dated 4th September 1891, and enclosures [Papers No. 10].
From Chief Secretary to Government, North-Western Provinces and Oudh, No. 1425, dated 10th September 1891, and enclosures [Papers No. 11].
From Officiating Secretary to Government, Bengal, No. 146-T.G., dated 6th September 1891, and enclosures [Papers No. 12].
From Secretary to Chief Commissioner, Assam, No. 2779-J., dated 11th September 1891, and enclosures [Papers No. 13.]

WE, the undersigned, Members of the Select Committee to which the Bill to validate certain marriages solemnized under Part VI of the Indian Christian Marriage Act, 1872, 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* 3.—This section as originally drafted proposed to validate all marriages of the kind referred to which may be solemnized within three months after the commencement of the Act. We have omitted this provision as we understand that the attention of all Local Governments has already been drawn by the Government of India to the requirements of the law, and that all persons licensed under section 9 of the Indian Christian Marriage Act, 1872, must by this time have been informed how the law really stands. We think therefore that any further extension of time is unnecessary, and might be mischievous.

XV of 1872.

3. We have at the same time inserted a provision that the validation contemplated by section 3 shall not apply to (1) marriages already judicially declared to be void, or to (2) cases in which, subsequent to the solemnization of any such invalid marriage, and before the commencement of this Act, one of the parties has contracted a valid marriage. The equity of these additional provisions is obvious.

4. In one of the opinions on the Bill which have been referred to us we find that it has been stated by certain clergymen in Allahabad that "the consensus of Christendom and the rule of the English Church do not admit the validity of a marriage between a person baptised and a person unbaptised;" and that should any Christian who has entered into such a union desire to forsake it they would encourage him to do so; and that if he wished subsequently "to enter upon a Christian marriage valid before the Church" they would, if there were no special reasons for refusing, solemnize it notwithstanding secular sanction to the previous union. The Committee cannot of course presume to offer these gentlemen advice, but we deem it our duty to warn them that by such action they will apparently render themselves liable to a prosecution for abetment of an offence under Chapter XX of the Indian Penal Code.

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

In English.

Gazette.	Date.
Gazette of India	18th July 1891.
Fort St. George Gazette	4th August 1891.
Bombay Government Gazette	23rd July 1891.
Calcutta Gazette	29th " "

In English—cont.

Gazette.	Date.
North-Western Provinces and Oudh Government Gazette ..	25th July 1891.
Punjab Government Gazette	23rd ,, ,,
Central Provinces Gazette	25th ,, ,,
Burma Gazette	8th August 1891.
Assam Gazette	1st ,, ,,
Coorg District Gazette	1st ,, ,,
Sind Official Gazette	6th ,, ,,

In the Vernaculars.

Province.	Language.	Date.
Madras	Tamil	11th August 1891.
	Kanarese	11th ,, ,,
	Telugu	18th ,, ,,
	Hindustani	25th ,, ,,
	Malayalam	25th ,, ,,
Bengal	Bengali	11th ,, ,,
	Uriya	13th ,, ,,
	Hindi	18th ,, ,,
North-Western Provinces and Oudh	Urdu	22nd ,, ,,
Punjab	Urdu	30th July 1891.
Burma	Burmese	8th August 1891.
Assam	Bengali	29th ,, ,,
Coorg	Kanarese	1st September 1891
Sindh	Sindhi	6th August 1891.

6. 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.

ALEX. EDW. MILLER.
PHIL. P. HUTCHINS.
W. H. RATTIGAN.

The 26th October 1891.

A Bill to validate certain marriages solemnized under Part VI of the Indian Christian Marriage Act, 1872.

WHEREAS provision is made in Part VI of the Indian Christian Marriage Act, 1872, for the solemnization of marriages between persons of whom both are Native Christians, but not of marriages between persons of whom one only is a Native Christian;

And whereas persons licensed under section 9 of the said Act have in divers parts of British India, through ignorance of the law, permitted marriages to be solemnized in their presence under the said Part between persons of whom one is a Native Christian and the other is not a Native Christian;

And whereas it is expedient that such marriages, having been solemnized in good faith, should be validated;

It is hereby enacted as follows:—

Commencement. 1. This Act shall come into force at once.

Definition. 2. In this Act the expression "Native Christian" has the same meaning as in the Indian Christian Marriage Act, 1872.

Validation of irregular marriages. 3. All marriages which have already been solemnized under Part VI of the Indian Christian Marriage Act, 1872, between persons of whom one only was a Native Christian, shall be as good and valid in law as if such marriages had been solemnized between persons of whom both were Native Christians:

Provided that nothing in this section shall apply to any marriage which has been judicially declared to be null and void, or to any case where either of the parties has, since the solemnization of such marriage and prior to the commencement of this Act, contracted a valid marriage.

Validation of records of irregular marriages. 4. Certificates of marriages which are declared by the last foregoing section to be good and valid in law, and register-books, and certified copies of true and duly authenticated extracts therefrom, deposited in compliance with the law for the time being in force, in so far as the register-books and extracts relate to such marriages as aforesaid, shall be received as evidence of such marriages as if such marriages had been solemnized between persons of whom both were Native Christians.

Application of Act to marriages under Act V of 1865. 5. References in this Act to the Indian Christian Marriage Act, 1872, shall, so far as may be requisite, be construed as applying also to the corresponding portions of the Indian Marriage Act, 1865.

Penalty for solemnizing irregular marriages. 6. If any person licensed under section 9 of the said Act to grant certificates of marriage between Native Christians shall at any time after the commencement of this Act solemnize or affect to solemnize any marriage under Part VI of the said Act or grant any such certificate as therein mentioned, knowing that one of the parties to such marriage or affected marriage was at the date of such solemnization not a Christian, he shall be liable to have his license cancelled, and in addition thereto he shall be deemed to have been guilty of an offence prohibited by section 73 of the said Act, and shall be punishable accordingly.

S. HARVEY JAMES,
Secy. to the Govt. of India.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

FORT ST. GEORGE GAZETTE SUPPLEMENT.

TUESDAY EVENING, FEBRUARY 9, 1892.

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

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 16th January 1892:—

No. 1 OF 1892.

A Bill to amend the Indian Tariff Act, 1882.

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

Commencement. 1. This Act shall be deemed to have come into force on the fifteenth day of January 1892.

Substitution of new clause for clause (*a*) in section 5, Act XI of 1882. 2. For clause (*a*) in section 5 of the Indian Tariff Act, 1882, the following shall be substituted, namely:—

"(*a*) Foreign European Settlements bordering on any part of the territories administered by the Governor of Fort St. George in Council or by the Governor of Bombay in Council."

STATEMENT OF OBJECTS AND REASONS.

The Treaty of 1880 between the Governments of the United Kingdom and of Portugal in respect of the Indian possessions of the latter country established amongst other things a Customs Union between British India and Portuguese India. Following on the establishment of this Customs Union, the provision in the Tariff Act which empowered the Government to levy Customs duties on goods imported from and exported to Portuguese India was repealed, that territory being treated for Customs purposes as British Indian.

It was considered desirable to modify the engagements undertaken by the Government of India under the Treaty, but negotiations for the revision of the Treaty have failed and it has been decided not to renew it. The Treaty came to an end on the 14th January, and it becomes necessary now again to treat Portuguese India as foreign territory with effect from the 15th idem. This Bill accordingly is framed to authorise the levy of duties of Customs on goods passing by land out of or into foreign European Settlements bordering on any part of the territories administered by the Governor of Bombay in Council.

D. BARBOUR.

The 16th January 1892.

S. HARVEY JAMES,
Secy. to the Govt. of India.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

WE, the undersigned, Members of the Select Committee to which the Bill to extend the jurisdiction of the Court of Small Causes of Madras was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our preliminary Report, with the Bill as amended by us annexed thereto.

Office Memorandum from Home Department, No. 1291, dated 29th September 1891, and enclosure [Papers No. 1].
Petition of the Inhabitants of Madras, dated 24th September 1891 [Paper No. 2].
From Chief Secretary to Government, Madras, No. 2040, dated 5th October 1891, and enclosures [Papers No. 3].
Office Memorandum from Private Secretary to Viceroy, No. 447, dated 4th November 1891, and enclosure [Papers No. 4].

2. The Bill laid before us is entitled a Bill to extend the jurisdiction of the Court of Small Causes of Madras, but its effect would be to establish a regular side of that Court for the determination of ordinary suits as distinguished from small causes.

3. Some alternative proposals have been made to us by the Honorable Member in charge of the Bill, and we prefer them generally to what has been provided by the original Bill. They have not, however, been considered at Madras; and, although they appear to be in accordance with resolutions passed at a general meeting held in that city, we think it desirable that they be made public, and that we should have the advantage of knowing how far they are accepted by the authorities and by the persons interested before we take them into consideration in detail. These new proposals have accordingly been formulated in a Bill, and we recommend that it be published in the usual course, and that the time appointed for the submission of our final report be extended.

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

In English.

Gazette.	Date.
Gazette of India	25th July 1891.
Fort St. George Gazette	11th August 1891.

In the Vernaculars.

Province.	Language.	Date.
Madras	Tamil	18th August 1891.
	Telugu	18th August 1891.
	Kanarese	18th August 1891.
	Hindustani	1st September 1891.

PHIL. P. HUTCHINS.
ALEX. EDW. MILLER.
H. W. BLISS.
G. H. P. EVANS.
ODAY PERTAP SINGH.
RASH BEHARY GHOSE.
P. CHENTSAL RAO.

The 29th January 1892.

No. II.

A Bill to establish a Civil Court for the City of Madras.

WHEREAS it is expedient to *establish a Civil Court for the City of Madras*; It is hereby enacted as follows:—

Title and commencement.

1. (1) This Act may be called the Madras *City Civil* Court Act, 1892; and

(2) It shall come into force *at once*.

Definitions.

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

(1) "High Court" means the High Court of Judicature at Madras:

(2) "Small Cause Court" means the Court of Small Causes of Madras: *and*

(3) *"City of Madras" means such places as are within the local limits for the time being of the ordinary original civil jurisdiction of the High Court.*

3. *The Governor of Fort St. George in Council may, by notification, establish a Court to be called the Madras City Civil Court, with jurisdiction to receive, try and dispose of all suits and other proceedings of a civil nature not exceeding two thousand five hundred rupees in value and arising within the City of Madras, except suits which are cognizable by the High Court as a Court of Admiralty or Vice-Admiralty or as a Colonial Court of Admiralty, or as a Court having testamentary, intestate or matrimonial jurisdiction, or as a Court for the relief of insolvent debtors.*

Constitution of the Madras City Civil Court.

4. (1) *Every person appointed a Judge of the Madras City Civil Court shall be, by virtue of his office, a Judge of the Small Cause Court with respect to cases cognizable by that Court.*

Judge of Civil Court to be Judge of Small Cause Court.

(2) *Every such Judge shall be liable, subject to any directions which may be given by the Local Government and so far as may be consistent with the due discharge of his duties under this Act, to perform any duties of a Judge of the Small Cause Court which the Chief Judge of the Small Cause Court may require him to perform.*

5. When, under section 13 of the Letters Patent for the High Court dated the twenty-eighth day of December 1866, or under section 25 of the Code of Civil Procedure, the High Court has removed for trial by itself any suit from the *City Civil* Court, fees on the scale for the time being in force in the High Court as a Court of ordinary original civil jurisdiction shall be payable in that Court in respect of the suit and proceedings therein.

Allowance for fees paid in *City Civil* Court in cases removed to High Court.

Provided that, in the levy of any such fees which according to the practice of the Court are credited to the Government, credit shall be given to the plaintiff in the suit for any fee which in the *City Civil* Court he has already paid under the *Court-fees Act, 1870*, on the plaint.

6. *The Court authorised to hear appeals from the City Civil Court shall be the High Court.*

Appeals.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 12th February 1892 :—

No. 3 OF 1892.

A Bill to provide for the levy of a rate on private estates under the management of Government to meet the cost of superior supervision and management.

WHEREAS it is expedient to provide for the levy of a rate on private estates under the management of Government to cover the cost of all Government establishments in so far as they are employed in the supervision and management of such estates, other than establishments specially entertained for any particular estate or group of estates, and to meet all contingent expenditure incurred by Government in connection with such supervision and management; It is hereby enacted as follows :—

Title, extent and commencement.

1. (1) This Act may be called the Government Management of Private Estates Act, 1892.

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

(3) It shall come into force on the passing thereof.

Definitions.

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

(1) "immovable property" includes land, buildings, hereditary allowances, rights to ways, lights, ferries, fisheries or any other benefit to arise out of land, and things attached to the earth or permanently fastened to anything which is attached to the earth, but not standing timber, growing crops or grass:

(2) "gross income" includes all receipts of every kind in produce or cash, except recoveries of principal and the sale-proceeds of immovable property:

(3) "private estates under Government management" include—

(*a*) estates under the Court of Wards;

(*b*) encumbered estates under Government management;

(*c*) estates attached for default of payment of Government revenue;

(*d*) minors' estates placed under the guardianship of an officer of Government by a Civil Court;

(*e*) estates managed by a Collector under section 323 or section 504, Civil Procedure Code; and

(*f*) all other estates made over to or taken under the management of an officer of Government as such, under any law for the time being in force or in virtue of any special agreement.

Power to levy rate.

3. It shall be lawful for the Local Government—

(1) to levy on all private estates under Government management a rate, not exceeding four per cent. on the gross income, calculated, as nearly as may be possible, to cover—

(*a*) the cost of all Government establishments in so far as they may be employed in the supervision or management of such estates, other than establishments specially entertained for the supervision or management of any particular estate or group of estates, and

(*b*) all contingent expenditure incurred in consequence of such supervision or management;

(2) from time to time to vary such rate; and

(3) to reduce or remit such rate in any special case or cases as may be equitable.

Power to levy special fees.

4. It shall be lawful for the Local Government—

(1) to prescribe and levy, irrespective of the said rate, on all or any of the said estates, special fees for legal advice and for the audit of accounts, when such advice is given or such audit is made by an officer or department of Government;

(2) include the charges for such advice or audit in the said rate.

Saving of special establishments, &c.

5. Nothing in this Act shall apply to the cost of establishments specially entertained or to expenditure of any description specially incurred in respect of any particular estate or estates.

Validation of levy of past rates.

6. All rates for general supervision or management levied by any Local Government before the commencement of this Act shall be deemed to have been levied under this Act.

Power to make rules.

7. The Local Government may make any rules and issue any orders which may be necessary for carrying this Act into effect.

8. Where any Government establishment is employed in such supervision as aforesaid, the Local Government shall be the sole judge of the cost attributable to such employment, and its decision thereon shall not be questioned in any Court of law or otherwise.

Exemption from jurisdiction of Civil Courts.

STATEMENT OF OBJECTS AND REASONS.

In several provinces a general rate is already levied on estates under the Court of Wards, and is credited to Government to meet the estimated cost of supervision and management by Government officers. It is desirable to place the legality of these rates beyond doubt, and at the same time to limit their amount. It has been decided that other Local Governments should be empowered to levy similar rates, and that the rates should be leviable on all estates under Government management, and not merely on those under the Court of Wards.

Power has been given to the Local Governments to reduce or remit the rate in special cases. This provision is designed especially to meet cases in which Government officials are relieved of the supervision and management by the employment of special general managers.

Under section 4 of the Bill it is open to Local Governments either to charge special fees for legal advice and audit of accounts, where these services are rendered by Government officials, or to debit the contribution for these services to the general rate.

PHIL. P. HUTCHINS.

The 6th February 1892.

S. HARVEY JAMES,
Secy. to the Govt. of India.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 11th March 1892 :—

No. 6 OF 1892.

A Bill to amend the Land Acquisition Act, 1870.

WHEREAS it is expedient to amend the Land Acquisition Act, 1870; It is hereby enacted as follows :—

Title and commencement.

1. (1) This Act may be called the Land Aquisition Act, 1892; and

(2) It shall come into force at once:

Provided that nothing in this Act contained shall affect any proceedings in respect to compensation for any land regarding which the Collector has made an award under section 14, or a reference under section 15, of the Land Acquisition Act, 1870, before the passing of this Act.

Repeal of portion of section 1 and section 2, Act X, 1870.

2. (1) The words and figures "and it shall come into force on the 1st day of June 1870," in section 1 of the Land Acquisition Act, 1870, are hereby repealed.

(2) Section 2 of the said Act is hereby repealed.

Amendment of, and addition to, section 3 of said Act.

3. (1) In section 3 of the said Act,

(*a*) to the definition of the expression "person interested", shall be added the words "and also persons entitled to act";

(*b*) in the definition of the expression "Company", the figures "1882" shall be substituted for the figures "1866".

(2) To section 3 of the said Act, the following shall be added :—

"Provided that—

(i) no person shall be deemed 'entitled to act' whose interest in the subject-matter shall be shown to the satisfaction of the Collector or Court to be adverse to the interest of the person interested for whom he would otherwise be entitled to act;

(ii) in every such case the person interested may appear by a next friend or, in default of his appearance by a next friend, the Collector or Court, as the case may be, shall appoint a guardian for the case to act on his behalf in the conduct thereof; and

(iii) the provisions of Chapter XXXI of the Code of Civil Procedure shall, *mutatis mutandis*, apply in the case of persons interested appearing before a Collector or Court by a next friend, or by a guardian for the case, in proceedings under this Act."

Amendment of section 6 of said Act.

4. In section 6 of the said Act, for the words "out of some municipal fund," the words "out of some fund controlled or managed by a local authority as defined in section 3 (6) of the General Clauses Act, 1887," shall be substituted.

Amendment of section 9 of said Act.

5. In section 9 of the said Act there shall be added :—

(i) after the words "compensation for such interests", the words "and their objections (if any) to the measurements made under section 8"; and

(ii) after the word "post", the word "registered".

Amendment of section 10 of said Act.

6. In section 10 of the said Act, before the words "deliver to him" the words "make or", and after the words "deliver to him" the words "at a time and place mentioned (such time not being earlier than fifteen days after the date of the requisition)", shall be inserted.

Substitution of new sections for sections 11 to 15 of said Act.

7. For sections 11 to 15, both inclusive, of the said Act, and for the headings "*Inquiry into value and claims*" and "*Award by Collector*", respectively, prefixed to sections 11 and 14 thereof, the following shall be substituted :—

"*Inquiry into Measurements, Value and Claims, and Award by the Collector.*

Inquiry and award by Collector.

"11. On the day so fixed or on any other day to which the inquiry has been adjourned, the Collector shall proceed to inquire into the objections (if any) which any person interested has stated under section 9 to the measurements made under section 8, and into the value of the land, and shall make an award under his hand of—

(i) the true measurements of the land;

(ii) the compensation which in his opinion should be allowed for the land; and

(iii) the apportionment of the said compensation among all the persons known or believed

to be interested in the land, of whom, or of whose claims, he has information, whether or not they have respectively appeared before him.

"12. Such award shall be filed in the Collector's office and shall be final and conclusive evidence, as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not,—

Award of Collector when to be final.

(i) of the true measurements of the land;

(ii) unless altered in the manner hereinafter provided, also of the value of the land and of the apportionment of the compensation among the persons interested.

"13. The Collector may, for any cause he thinks fit, from time to time, adjourn the inquiry to a day to be fixed by him.

Adjournment of inquiry.

"14. For the purpose of inquiries under this Act, the Collector shall have power to summon and enforce the attendance of witnesses and to compel the production of documents by the same means, and (so far as may be) in the same manner as is provided in the case of a Civil Court under the Code of Civil Procedure.

Power to summon and enforce attendance of witnesses and production of documents.

"15. In determining the amount of compensation, the Collector shall take into consideration the matters mentioned in section 24, and shall not take into consideration any of the matters mentioned in section 25."

Matters to be considered and neglected.

8. (1) In section 16 of the said Act, for the words "fourteen or a reference to the Court under section fifteen" the word "eleven", and for the word "may", the word "shall" shall be substituted.

Amendment of section 16 of said Act.

(2) To section 16 of the said Act the following shall be added:—

"Provided that, in any case where immediate possession is not required, the Collector may allow the occupants (if any) of the land to remain in the occupation of the same, upon such terms as he and they may agree on, until possession of the land is required."

9. In section 17 of the said Act,—

Amendment of section 17 of said Act.

(i) for the words "though no such reference has been directed or award made", the words "though no such award has been made" shall be substituted;

(ii) after the words "on such land", the words "and for any other damage sustained by them" shall be inserted; and

(iii) after the words "such crops and trees" the words "and the amount of such other damage" shall be inserted.

10. For sections 18 to 36, both inclusive, of the said Act, and for the heading "REFERENCE TO COURT AND PROCEDURE THEREON" prefixed to section 18 thereof, the following shall be substituted:—

New sections substituted for sections 18 to 36 of said Act.

"SUITS TO ALTER THE COLLECTOR'S AWARD.

"18. A person interested may institute a suit in the Court to alter the award of the Collector under section 11, by the enhancement of the compensation awarded by the Collector, or by the alteration of the apportionment made by the Collector of the compensation among the persons interested, or in both ways:

Suits by persons interested to alter Collector's award.

Provided that every such suit shall be instituted within not more than three months from the date of the Collector's award if the person interested instituting it received a notice from the Collector under the third paragraph of section 9, or within not more than six months from the date of the Collector's award if the person or persons instituting it, or any of them, did not receive a notice from the Collector under the third paragraph of section 9.

"The provisions of section 424 of the Code of Civil Procedure shall not apply to any such suit.

"19. (1) If such suit is either solely or partly to enhance the compensation awarded by the Collector, the Collector shall be cited as the defendant or as one of the defendants.

When Collector may be cited.

(2) If such suit is solely to alter the apportionment made by the Collector of the compensation among the persons interested, the Collector shall not be cited as a defendant, but the Court shall nevertheless at once send him notice of the institution of the suit.

"20. (1) On receipt of a summons under section 64 of the Code of Civil Procedure to appear as a defendant or of a notice of the institution of a suit under section 19 (2), the Collector shall, within fourteen days, deposit in the Court the compensation awarded by him together with a further sum amounting to fifteen per centum on the market-value mentioned in section 24 or so much of the said sums as shall not already have been paid to persons interested under Part V.

Deposit by Collector and disposal of amount of compensation.

(2) If the suit is solely to enhance the compensation awarded by the Collector, the Court which tries the suit may deal with the sums so deposited under the provisions of section 377 (but not of sections 378 and 379) of the Code of Civil Procedure; but

(3) If the suit is also, or solely, to alter the apportionment made by the Collector of the compensation among the persons interested, the Court shall retain the sums so deposited pending the decision of the suit, and shall then pay them to the parties in such proportions as may be ordered by the decree; and for this purpose may transfer them to the Court which tries the suit:

Provided that, if the Court which tries the suit shall decide that the compensation awarded by the Collector was in excess of the compensation which should properly have been awarded for the land, the said Court shall in its decree order that the plaintiff shall refund to the Collector any sum which, either under Part V or under section 377 of the Code of Civil Procedure, he may have been paid in excess of the sum which the said Court shall decide to be the compensation which should properly have been awarded for the land; and such excess so paid shall be recoverable by the Collector as costs in the suit.

21. If the Local Government shall be of opinion that the compensation awarded by the Collector is excessive, it may institute a suit in the Court against the persons interested, or any one or more of them, either to alter the award of the Collector by the reduction of the compensation awarded by him, if the amount so awarded (including the additional sum of fifteen per centum directed to be paid by section 41), or so much thereof as is not in excess of the sum which the Local Government admits to be the proper compensation for the land (including the said additional sum of fifteen per centum) has not been paid to persons interested; or,

Suit by Government to alter the Collector's award or for refund of compensation.

if the amount of the award (including the said additional sum of fifteen per centum), or any portion thereof in excess of the sum which the Local Government admits to be the proper compensation for the land (including the said additional sum of fifteen per centum) has been paid to persons interested, to recover the excess of such amount, or portion thereof, as the case may be; over the total of the sum which the Local Government admits to be the proper compensation for the land (including the said additional sum of fifteen per centum) from the persons to whom such excess has been paid:

Provided that every such suit shall be instituted within not more than three months from the date of the Collector's award.

22. (1) For the purposes of the Court-fees Act, 1870, the value of a suit to alter the award of the Collector by the enhancement or reduction of the compensation awarded by him shall be taken to be the sum by which it is sought to enhance or reduce such compensation, as the case may be; and the value of a suit to alter the apportionment, made by the Collector of the compensation among the persons interested shall be taken to be the total amount of the compensation.

Valuation of suits and determination of jurisdiction.

(2) For the purpose of determining the jurisdiction of Courts with respect thereto, the value of a suit instituted under this part shall be taken to be the total amount of the compensation awarded by the Collector.

"23. The Court may transfer for trial any suit instituted under this part to any Court subordinate to itself and competent to try the same in respect of its nature, and of the amount or value of its subject-matter:

Transfer of suits.

Provided that, except under the written permission of the Local Government, no such suit shall be transferred for trial to any Court which is not stationed at the head-quarter station of the land-revenue district in which the land is situated.

"Such written permission may be either general or special, and may at any time be annulled by the Local Government.

"24. In a suit to alter the amount of compensation awarded by the Collector, the Court which tries the suit shall take into consideration—

Matters to be considered in determining compensation.

First, the market-value of the land at the date of the publication of the declaration relating thereto under section 6;

Secondly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of severing such land from his other land;

Thirdly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, whether moveable or immoveable, in any other manner, or his earnings; and

Fourthly, if, in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change.

Explanation.—By 'market-value' is meant the sum for which the land might reasonably have been expected to have been sold, if put up to auction on the spot, without undue haste and under ordinary circumstances, immediately before the publication of the declaration relating thereto under section 6.

"25. But in such a suit the Court which tries the suit shall not take into consideration—

Matters to be neglected in determining compensation.

First, the degree of urgency which has led to the acquisition;

Secondly, any disinclination of the person interested to part with the land acquired;

Thirdly, any damage sustained by him which, if caused by a private person, would not render such person liable to a suit;

Fourthly, any damage which, after the date of the publication of the declaration under section 6, is likely to be caused to the land by or in consequence of the use to which the land acquired will be put;

Fifthly, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired;

Sixthly, any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put; or

Seventhly, any outlay or improvements on the land acquired commenced, made or effected after the date of the publication of the declaration under section 6.

"26. The decree in a suit to alter the amount of compensation awarded by the Collector shall state—

Matters to be stated in decree.

First, the sum which, in the opinion of the Court which tries the suit, the Collector ought to have awarded as compensation; and

Secondly, the sum or sums which, after the addition to the said sum of fifteen per centum on the market-value of the land mentioned in section 24, shall be paid by, or to, the plaintiff or plaintiffs, or any of them, to, or by, the defendant or defendants, or any of them.

"27. (1) If the sum which, in the opinion of the Court which tries the suit, the Collector ought to have awarded as compensation, is in excess of the sum which the Collector did award as compensation, the decree may direct that the Collector shall pay interest on such excess at the rate of six per centum per annum from the date on which he took possession of the land to the date of payment of such excess into Court.

Collector may be directed to pay interest on excess compensation.

(2) The decree shall not otherwise direct that the Collector shall pay interest, save under section 222 of the Code of Civil Procedure.

28. Save in so far as inconsistent with anything contained in this Act, the provisions of the Code of Civil Procedure shall apply to suits instituted under this Part.

Code of Civil Procedure to apply.

"29. Notwithstanding anything contained in any other law for the time being in force, an appeal shall lie to the High Court from the decree, or from any part of the decree, in any suit instituted under this Part, of a judicial officer appointed by the Local Government under section 3, either specially for any case, or generally within any special local limits, to perform the functions of a Judge under this Act, against whose decisions no appeal lies under any law for the time being in force relating to his exercise of his ordinary jurisdiction."

Appeals in certain cases.

11. Part IV of the said Act is hereby repealed.

Repeal of Part IV of said Act.

Substitution of new Part for Part V of said Act.

12. For Part V of the said Act, the following shall be substituted :—

"PART V.

"PAYMENT.

Payment of compensation to whom to be made.

"40. On making an award under section 11, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award, and shall pay it to them if they shall consent to receive it :

Provided that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

Percentage on market-value.

"41. (1) In addition to the amount of any compensation awarded under Part II, the Collector shall, in consideration of the compulsory nature of the acquisition, pay fifteen per centum on the market-value mentioned in section 24.

(2) When the amount of such compensation is not paid or payment thereof tendered on or before taking possession of the land, the Collector shall pay the amount awarded and the said percentage with interest on such amount and percentage at the rate of six per centum per annum from the time of so taking possession."

Amendment of section 45 of said Act.

13. In section 45 of the said Act, the words "and on such reference, or on a reference under section 43, the Judge sitting alone shall decide the difference referred" are repealed.

Addition of section after section 45 of said Act.

14. After section 45 of the said Act, the following shall be added, namely :—

Cost on references under this part.

"45 A. The Judge may pass such order as he may think fit in regard to the costs of a reference made under this Part, and from such order there shall be no appeal."

Addition of sections after section 50 of said Act.

15. After section 50 of the said Act, the following shall be added, namely :—

Sections 47 to 50 not to apply where Government bound by agreement to provide land for companies.

"50 A. The provisions of sections 47 to 50, both inclusive, shall not apply, and shall be deemed never to have applied, to the acquisition of land for any railway or other company, for the purposes of which, under any agreement between such company and the Secretary of State for India in Council, the Government is, or was, bound to provide land.

When agreement between company and Secretary of State need not be proved.

"50 B. In the case of the acquisition of land for the purposes of a Railway Company, the existence of such an agreement as is mentioned in section 50A shall be presumed, unless the contrary is proved or is admitted by the Collector."

Addition to section 51 of said Act.

16. To section 51 of the said Act, after the word "business", the following shall be added :— "or by fixing a copy thereof in some conspicuous place in the office of the officer aforesaid or of the Collector or in the court-house, and also in some conspicuous part of the land to be acquired."

Amendment of section 54 of said Act.

17. In section 54 of the said Act.

(i) the following words are repealed :—"unless an award shall have been made or a reference directed under the provisions hereinbefore contained".

(ii) for the word "injured", the words "interested, together with all costs proved to have been incurred by him in the prosecution of the proceedings under this Act relating to the said land" shall be substituted.

Addition to section 55 of said Act.

18. To section 55 of the said Act, the following shall be added :—

"Provided that the owner may, at any time before the Collector has made his award under section 11 by notice in writing, withdraw or modify his expressed desire that the whole of such house, manufactory or building shall be so acquired :

Provided also that, if the Local Government shall be of opinion that the claim under section 24, *secondly*, by a person interested, on account of the severing of the land to be acquired from his other land, is unreasonable or excessive, it may, at any time before the Collector has made his award, order the acquisition of the whole of the land of which the land first sought to be acquired forms a part.

In the case last hereinbefore provided for, no fresh declaration or other proceedings under sections 6 to 10, both inclusive, shall be necessary ; but the Collector shall without delay furnish a copy of the order of the Local Government to the person interested, and shall thereafter proceed to make his award under section 11."

Amendment of section 56 of said Act.

19. In section 56 of the said Act, for the words "any Municipal fund", the words "any fund controlled or managed by a local authority as defined in section 3 (6) of the General Clauses Act, 1887," shall be substituted.

Repeal of part of section 58 of said Act.

20. In section 58 of the said Act, the words "no suit shall be brought to set aside an award under this Act. And" are repealed.

STATEMENT OF OBJECTS AND REASONS.

For several years past the amendment of the Land Acquisition Act, 1870, has been under consideration by the Government of India in communication with Local Governments.

2. Before the passing of that Act, the valuation of the lands, which it was found necessary to take up for the execution of public works, was entirely in the hands of Arbitrators, from whose decision there was no appeal. This system led to a lamentable waste of the public money, both because the Arbitrators were incompetent, and sometimes, it is to be feared, corrupt, and also because the law, as it then stood, laid down no instructions for their guidance in the performance of their duties. This latter defect, among others, was remedied by the Act of 1870, which it is now proposed to amend, and which contains detailed instructions as to the matters which are to be considered, and which are to be neglected, in awards of compensation for lands acquired under its provisions. The Act of 1870 also provided for the abolition of the system under which uncontrolled discretion was entrusted to Arbitrators ; and, in lieu thereof, required the Collector, when unable to come to terms with the persons interested in land which it was desired to take up, to refer the difference for the decision of a Civil Court, usually that of the District Judge. In the disposal of such references, the Court is aided by assessors, and its finding is final if the Judge and one or more of the assessors agree. If, however, the Judge and the Assessors disagree, an appeal is allowed, which usually lies to the High Court.

3. The Act of 1870 has not, in practice, been found entirely effective for the protection either of the persons interested in lands taken up or of the public purse. The requirement that the Collector shall refer for the decision of the Court every petty difference of opinion as to value, and every case in which any one of perhaps a large number of persons fails to attend before him, has involved in litigation, with all its trouble and delay and expense, a great number of persons whose interest in the land was extremely insignificant. It has, in fact, frequently been the case that the owners of small pieces of land have had to pay Court costs to an amount far exceeding the value of the land itself.

4. On the other hand, the provisions of the Act as to the incidence of costs, the whole of which fall on the Collector if the final award is ever so little in excess of the amount of his tender, are such as to encourage extravagant and speculative claims. The chance of altogether escaping the payment of costs is so great that claimants are in the position of risking very little in order to gain very much, and have, therefore, every motive to refuse even liberal offers made by the Collector, and to try their luck by compelling a reference to the Court. Much the same may be said as to the provisions of the existing law regarding the payment of interest. No matter how fair the original offer of the Collector and how groundless the refusal to accept the compensation he has tendered, interest is payable on the amount of the award finally arrived at from the date of the Collector's taking possession of the land. This may be for a period of two or three years, and, as interest continues to run until the litigation is finally completed, it is to the advantage of the land-owner to protract the proceedings to the utmost. All this casts a very heavy and undeserved burden on the public purse.

5. It is proposed, therefore, to amend the law by making the Collector's award final, unless altered by the decree in a regular suit. Persons interested in land taken up for public works will thus still have the opportunity, if they desire it, of preferring to an authority quite independent of the Collector their claims to more substantial compensation than the Collector has awarded ; and will in all cases have a further right of appeal to the regular appellate courts. They will no longer, however, be encouraged to litigate by the feeling that they can hardly lose, but may make a great gain by doing so.

6. This change in the procedure for determining the valuation of lands taken up for public works will also render it possible to dispense with the services of the assessors, who are now supposed to assist the Court. Considering the difficulty, almost throughout the country, of obtaining the services of such assessors as are really qualified to form a sound opinion on the subject of the valuation of land, it is believed that the proposal to dispense with them, and to leave the matter to the sole arbitrament, first of the Collector, and then of the Judge, will in no way diminish the efficiency of the Courts in inquiries in which the value of lands is in issue. It will certainly tend to shorten litigation and to diminish its expense.

7. Several minor amendments in the law, which experience has shown to be desirable, are included in the Bill.

8. A copy of the Act of 1870, as it will stand if amended as proposed by the Bill, is annexed.

H. W. BLISS.

The 11th March 1892.

ACT No. X OF 1870, AS AMENDED BY ACTS IX OF 1871, XII OF 1876, XIII OF 1879 AND XVIII OF 1884.

(*As it will stand if amended as proposed in the Bill*).

An Act for the acquisition of land for public purposes and for Companies.

Preamble.

WHEREAS it is expedient to consolidate and amend the law for the acquisition of land needed for public purposes and for Companies, and for determining the amount of compensation to be made on account of such acquisition ; It is hereby enacted as follows :—

PART I.

PRELIMINARY.

Short title.

1. This Act may be called the Land Acquisition Act, 1870.

Local extent.

It extends to the whole of British India.

2. (*To be repealed*).

Interpretation clause.

3. In this Act—

"Land."

The expression "land" includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth :

"Person interested."

The expression "person interested" includes all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act ; *and also persons entitled to act* :

"Collector."

The expression "Collector" means the Collector of a District, and includes a Deputy Commissioner and any officer specially appointed by the Local Government to perform the functions of a Collector under this Act :

"Court."

The expression "Court" means, in the Regulation Provinces, the Punjab, British Burma and Sindh, a principal Civil Court of original jurisdiction,

and in the Non-regulation Provinces other than the Punjab, British Burma and Sindh, the Court of a Commissioner of a Division,

unless when the Local Government has appointed (as it is hereby empowered to do), either specially for any case, or generally within any specified local limits, a judicial officer to perform the functions of a Judge under this Act, and then the expression "Court" means the Court of such officer :

"Company."

The expression "Company" means a Company registered under the Indian Companies' Act, 1882, or formed in pursuance of an Act of Parliament, or by Royal Charter or Letters Patent ;

"Entitled to act."

And the following persons shall be deemed persons "entitled to act" as and to the extent hereinafter provided (that is to say,)—

trustees for other persons beneficially interested shall be deemed the persons entitled to act with reference to any such case, and that to the same extent as the persons beneficially interested could have acted if free from disability :

a married woman, in cases to which the English law is applicable, shall be deemed the person so entitled to act, and, whether of full age or not, to the same extent as if she were unmarried and of full age ; and

the guardians of minors and the committees of lunatics or idiots shall be deemed respectively the persons so entitled to act, to the same extent as the minors, lunatics or idiots themselves, if free from disability, could have acted:

Provided that—

(i) *no person shall be deemed 'entitled to act' whose interest in the subject-matter shall be shown to the satisfaction of the Collector or Court to be adverse to the interest of the person interested for whom he would otherwise be entitled to act:*

(ii) *in every such case the person interested may appear by a next friend or, in default of his appearance by a next friend, the Collector or Court, as the case may be, shall appoint a guardian for the case to act on his behalf in the conduct thereof; and*

(iii) *the provisions of Chapter XXXI of the Code of Civil Procedure shall,* mutatis mutandis *apply in the case of persons interested appearing before a Collector or Court by a next friend, or by a guardian for the case, in proceedings under this Act.*

PART II.

ACQUISITION.

Preliminary investigation.

Power to enter and survey.

4. Whenever it appears to the local Government that land in any locality is likely to be needed for any public purpose, a notification to that effect shall be published in the local Gazette, and the Collector shall cause the public notice of the substance of such notification to be given at convenient places in the said locality.

Thereupon it shall be lawful for any officer either generally or specially authorized by such Government in this behalf, and for his servants and workmen,

to enter upon and survey and take levels of any land in such locality:

to do all other acts necessary to ascertain whether the land is adapted for such purpose:

Power to mark out line.

to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon:

to mark such levels, boundaries and line by placing marks and cutting trenches:

Power to clear land.

and, where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle:

Previous notice of entry.

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

Payment for damage.

5. The officer so authorized shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid, and in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector, and such decision shall be final.

Declaration of intended acquisition.

Declaration that land is required for a public purpose.

6. Subject to the provisions of Part VII of this Act, whenever it appears to the Local Government that any particular land is needed for a public purpose, or for a Company, a declaration shall be made to that effect under the signature of a Secretary to such Government or of some officer duly authorized to certify its orders:

Provided that no such declaration shall be made unless the compensation to be awarded for such property is to be paid out of public revenues, or out of some fund *controlled or managed by a local authority as defined in section* 3 (6) *of the General Clauses Act*, 1887, or by a Company.

Contents of declaration.

The declaration shall be published in the local official gazette and shall state the district or other territorial division in which the land is situate, the purpose for which it is needed, its approximate area, and, where a plan shall have been made of the land, the place where such plan may be inspected.

Declaration to be evidence.

The said declaration shall be conclusive evidence that the land is needed for a public purpose or for a Company, as the case may be; and after making such declaration, the Local Government may acquire the land in manner hereafter appearing.

After declaration, Collector to take order for acquisition.

7. Whenever any land shall have been so declared to be needed for a public purpose or for a Company, the Local Government, or some officer authorized by the Local Government in this behalf, shall direct the Collector to take order for the acquisition of the land.

Land to be maked out and measured. Plan.

8. The Collector shall thereupon cause the land (unless it has been already marked out under section 4) to be marked out. He shall also cause it to be measured, and (if no plan has been made thereof) a plan to be made of the same.

Notice to persons interested.

9. The Collector shall then cause public notice to be given at convenient places on or near the land to be taken, stating that the Government intends to take possession of the land, and that claims to compensation for all interests in such land may be made to him.

Contents of notice.

Such notice shall state the particulars of the land so needed and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice) and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interest, *and their objections (if any) to the measurements made under section* 8.

Notice to occupiers.

The Collector shall also serve notice to the same effect on the occupier (if any) of such land and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside, or have agents authorised to receive service on their behalf, within the Revenue District in which the land is situate.

In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by post, *registered*.

Power to require statements as to interests.

10. The Collector may also require any such person to *make or* deliver to him *at a time and place mentioned (such time not being earlier than fifteen days after the date of the requisition)* a statement containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and of the nature of such interest, and of the rents and profits (if any) received or receivable on account thereof for the year next preceding the date of the statement.

Persons required to make statements to be deemed legally bound to do so.

Every person required to make or deliver a statement under this section or section 9 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code.

Inquiry into Measurements, Value and Claims and Award by the Collector.

Inquiry and award by Collector.

11. *On the day so fixed or on any other day to which the inquiry has been adjourned, the Collector shall proceed to inquire into the objections (if any) which any person interested has stated under section* 9 *to the measurements made under section* 8, *and into the value of the land, and shall make an award under his hand of—*

(i) the true measurements of the land;

(ii) the compensation which in his opinion should be allowed for the land; and

(iii) the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom, or of whose claims, he has information, whether or not they have respectively appeared before him.

Award of Collector when to be final.

12. *Such award shall be filed in the Collector's office and shall be final and conclusive evidence as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not,—*

(i) of the true measurements of the land;

(ii) unless altered in the manner hereinafter provided, also of the value of the land and of the apportionment of the compensation among the persons interested.

Adjournment of inquiry.

13. *The Collector may, for any cause he thinks fit, from time to time adjourn the inquiry to a day to be fixed by him.*

Power to summon and enforce attendance of witnesses and production of documents.

14. *For the purpose of inquiries under this Act, the Collector shall have power to summon and enforce the attendance of witnesses and to compel the production of documents by the same means, and (so far as may be) in the same manner, as is provided in the case of a Civil Court under the Code of Civil Procedure.*

Matters to be considered and neglected.

15. *In determining the amount of compensation, the Collector shall take into consideration the matters mentioned in section* 24, *and shall not take into consideration any of the matters mentioned in section* 25.

Taking possession.

Power to take possession.

16. When the Collector has made an award under section 11, he *shall* take possession of the land, which shall thereupon vest absolutely in the Government free from all encumbrances:

Provided that, in any case where immediate possession is not required, the Collector may allow the occupants (if any) of the land to remain in the occupation of the same upon such terms as he and they may agree on until possession of the land is required.

Power to take possession in cases of urgency.

17. In cases of urgency, whenever the Local Government so directs, the Collector (though no such award *has been* made) may, on the expiration of fifteen days from the publication of the notice mentioned in the first paragraph of section 9, take possession of any waste or arable land needed for public purposes or for a Company.

Such land shall thereupon vest absolutely in the Government free from all encumbrances.

The Collector shall offer to the persons interested compensation for the standing crops and trees (if any) on such land *and for any other damage sustained by them*; and in case such offer is not accepted, the value of such crops and trees *and the amount of such other damage* shall be allowed for in awarding compensation for the land under the provisions herein contained.

PART III.

SUITS TO ALTER THE COLLECTOR'S AWARD.

Suit by persons interested to alter Collector's award.

18. *A person interested may institute a suit in the Court to alter the award of the Collector under section* 11, *by the enhancement of the compensation awarded by the Collector or by the alteration of the apportionment made by the Collector of the compensation among the persons interested, or in both ways:*

Provided that every such suit shall be instituted within not more than three months from the date of the Collector's award if the person interested instituting it received a notice from the Collector under the third paragraph of section 9, *or within not more than six months from the date of the Collector's award if the person or persons instituting it, or any of them, did not receive a notice from the Collector under the third paragraph of section* 9.

The provisions of section 424 *of the Code of Civil Procedure shall not apply to any such suit.*

When Collector may be cited.

19. (1) *If such suit is either solely or partly to enhance the compensation awarded by the Collector, the Collector shall be cited as the defendant or as one of the defendants.*

(2) *If such suit is solely to alter the apportionment made by the Collector of the compensation among the persons interested, the Collector shall not be cited as a defendant, but the Court shall nevertheless at once send him notice of the institution of the suit.*

Deposit by Collector and disposal of amount of compensation.

20. (1) *On receipt of a summons under section* 64 *of the Code of Civil Procedure to appear as a defendant or of a notice of the institution of a suit under section* 19 (2), *the Collector shall, within fourteen days, deposit in the Court the compensation awarded by him together with a further sum amounting to* 15 *per centum on the market-value mentioned in section* 24, *or so much of the said sums as shall not already have been paid to persons interested under Part V.*

(2) *If the suit is solely to enhance the compensation awarded by the Collector, the Court which tries the suit may deal with the sums so deposited under the provisions of section* 377 (*but not of sections* 378 *and* 379) *of the Code of Civil Procedure; but*

(3) *If the suit is also, or solely, to alter the apportionment made by the Collector of the compensation among the persons interested, the Court shall retain the sums so deposited pending the decision of the suit, and shall then pay them to the parties in such proper-*

tions as may be ordered by the decree; and for this purpose may transfer them to the Court which tries the suit.

Provided that, if the Court which tries the suit shall decide that the compensation awarded by the Collector was in excess of the compensation which should properly have been awarded for the land, the said Court shall in its decree order that the plaintiff shall refund to the Collector any sum which either under Part V or under section 377 of the Code of Civil Procedure, he may have been paid in excess of the sum which the said Court shall decide to be the compensation which should properly have been awarded for the land; and such excess so paid shall be recoverable by the Collector as costs in the suit.

Suit by Government to alter the Collector's award or for refund of compensation.

21. *If the Local Government shall be of opinion that the compensation awarded by the Collector is excessive, it may institute a suit in the Court against the persons interested, on any one or more of them, either to alter the award of the Collector by the reduction of the compensation awarded by him, if the amount so awarded (including the additional sum of fifteen per centum directed to be paid by section 41), or so much thereof as is not in excess of the sum which the Local Government admits to be the proper compensation for the land (including the said additional sum of fifteen per centum) has not been paid to the persons interested; or,*

If the amount of the award (including the said additional sum of fifteen per centum), or any portion thereof in excess of the sum which the Local Government admits to be the proper compensation for the land (including the said additional sum of fifteen per centum) has been paid to persons interested, to recover the excess of such amount, or portion thereof, as the case may be, over the total of the sum which the Local Government admits to be the proper compensation for the land (including the said additional sum of fifteen per centum) from the persons to whom such excess has been paid:

Provided that every such suit shall be instituted within not more than three months from the date of the Collector's award.

Valuation of suits and determination of jurisdiction.

22. (1) *For the purposes of the Court-fees Act, 1870, the value of a suit to alter the award of the Collector by the enhancement or reduction of the compensation awarded by him shall be taken to be the sum by which it is sought to enhance or reduce such compensation, as the case may be; and the value of a suit to alter the apportionment, made by the Collector, of the compensation among the persons interested, shall be taken to be the total amount of the compensation.*

(2) *For the purpose of determining the jurisdiction of Courts with respect thereto the value of a suit instituted under this Part shall be taken to be the total amount of the compensation awarded by the Collector.*

Transfer of suits.

23. *The Court may transfer for trial any suit instituted under this Part to any Court subordinate to itself, and competent to try the same in respect of its nature, and of the amount or value of its subject-matter:*

Provided that, except under the written permission of the Local Government, no such suit shall be transferred for trial to any court which is not stationed at the head-quarter station of the land-revenue district in which the land is situated.

Such written permission may be either general or special and may at any time be annulled by the Local Government.

Matters to be considered in determining compensation.

24. *In a suit to alter the amount of compensation awarded by the Collector, the Court which tries the suit shall take into consideration—*

First, the market-value of the land at the date of the publication of the declaration relating thereto under section 6;

Secondly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of severing such land by his other land;

Thirdly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, whether moveable or immoveable, in any other manner, or his earnings; and

Fourthly, if, in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change.

Explanation.—*By 'market-value' is meant the sum for which the land might reasonably have been expected to have been sold, if put up to auction on the spot, without undue haste and under ordinary circumstances, immediately before the publication of the declaration relating thereto under section 6.*

Matters to be neglected in determining compensation.

25. *But in such a suit the Court which tries the suit shall take into consideration—*

First, the degree of urgency which has led to the acquisition;

Secondly, any disinclination of the person interested to part with the land acquired;

Thirdly, any damage sustained by him which, if caused by a private person, would not render such person liable to a suit;

Fourthly, any damage which, after the date of the publication of the declaration under section 6, is likely to be caused to the land by or in consequence of the use to which the land acquired will be put;

Fifthly, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired;

Sixthly, any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put; or

Seventhly, any outlay or improvements on the land acquired commenced, made or effected after the date of the publication of the declaration under section 6.

Matters to be stated in decree.

26. *The decree in a suit to alter the amount of compensation awarded by the Collector shall state—*

First, the sum which, in the opinion of the Court which tries the suit, the Collector ought to have awarded as compensation; and

Secondly, the sum or sums which, after the addition to the said sum of fifteen per centum on the market-value of the land mentioned in section 24, shall be paid by, or to, the plaintiff or plaintiffs, or any of them, to, or by, the defendant or defendants, or any of them.

Collector may be directed to pay interest on excess compensation.

27. (1) *If the sum which, in the opinion of the Court which tries the suit, the Collector ought to have awarded as compensation, is in excess of the sum which the Collector did award as compensation, the decree may direct that the Collector shall pay interest on such excess at the rate of six per centum per annum from the date on which he took possession of the land to the date of payment of such excess into Court.*

(2) *The decree shall not otherwise direct that the Collector shall pay interest, save under section 222 of the Code of Civil Procedure.*

Code of Civil Procedure to apply.

28. *Save in so far as inconsistent with anything contained in this Act, the provisions of the Code of Civil Procedure shall apply to suits instituted under this Part.*

Appeals in certain cases.

29. *Notwithstanding anything contained in any other law for the time being in force, an appeal shall lie to the High Court from the decree, or from any part of the decree, in any suit instituted under this Part, of a Judicial Officer appointed by the Local Government under section 3, either specially for any case or generally within any special local limits, to perform the functions of a Judge under this Act, against whose decisions no appeal lies under any law for the time being in force relating to his exercise of his ordinary jurisdiction.*

PART V.

PAYMENT.

Payment of compensation to whom to be made.

40. *On making an award under section 11 the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award, and shall pay it to them if they shall consent to receive it:*

Provided that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

Percentage on market-value.

41. (1) *In addition to the amount of any compensation awarded under Part II, the Collector shall, in consideration of the compulsory nature of the acquisition, pay fifteen per centum on the market-value mentioned in section 24.*

(2) *When the amount of such compensation is not paid or payment thereof tendered on or before taking possession of the land, the Collector shall pay the amount awarded and the said percentage with interest on such amount and percentage at the rate of six per centum per annum from the time of so taking possession.*

PART VI.

TEMPORARY OCCUPATION OF LAND.

Temporary occupation of waste or arable land.

43. Subject to the provisions of Part VII of this Act, whenever it appears to the Local Government that the temporary occupation and use of any waste or arable land are needed for any public purpose, or for a Company, the Local Government may direct the Collector to procure the occupation and use of the same for such term as it shall think fit, not exceeding three years from the commencement of such occupation.

The Collector shall thereupon give notice in writing to the persons interested in such land of the purpose for which the same is needed, and shall, for the occupation and use thereof for such term as aforesaid, and for the materials (if any) to be taken therefrom, pay to them such compensation, either in a gross sum of money, or by monthly or other periodical payments, as shall be agreed upon in writing between him and such persons respectively.

Difference as to compensation.

In case the Collector and the persons interested differ as to the sufficiency of the compensation, the Collector shall refer such difference for the final order of the Court.

Power to enter and take possession.

44. On payment of such compensation,

or on executing such agreement,

or on making a reference under section 43,

the Collector may enter upon and take possession of the land, and use or permit the use thereof in accordance with the terms of the said notice.

Restoration of land taken.

And, on the expiration of the term, the Collector shall make or tender to the persons interested compensation for the damage (if any) done to the land and not provided for by the agreement, and shall restore the land to the persons interested therein:

Provided that, if the land has become permanently unfit to be used for the purpose for which it was used immediately before the commencement of such term, and if the persons interested shall so require, the Local Government shall proceed under this Act to acquire the land as if it was needed permanently for a public purpose or for a Company.

Difference as to condition of land.

45. In case the Collector and persons interested differ as to the condition of the land at the expiration of the term, or as to any matter connected with the said agreement, the Collector shall refer such difference for the final order of the Court.

Costs on references under this part.

45A. *The Judge may pass such order as he may think fit in regard to the costs of a reference made under this Part, and from such order there shall be no appeal.*

PART VII.

ACQUISITION OF LAND FOR COMPANIES.

Company may be authorized to enter and survey.

46. Subject to such rules as the Governor-General of India in Council may from time to time prescribe in this behalf, the Local Government may authorize any officer of any Company desiring to acquire land for its purposes to exercise the powers conferred by section 4.

Construction of sections four and five.

In every such case section four shall be construed as if, for the words "for such purpose," the words "for the purposes of the Company" were substituted, and section 5 shall be construed as if, after the words 'the officer," the words "of the Company" were inserted.

Consent of Local Government to acquisition.

47. The provisions of section 6 to section 45 (both inclusive) shall not be put in force in order to acquire land for any Company, unless with the previous consent of the Local Government, and unless the Company shall have executed the agreement hereinafter mentioned.

Previous inquiry.

48. Such consent shall not be given unless the Local Government be satisfied by an inquiry held as hereinafter provided—

(1) that such acquisition is needed for the construction of some work, and

(2) that such work is likely to prove useful to the public.

Such inquiry shall be held by such officer and at such time and place as the Local Government shall appoint.

Such officer may summon and enforce the attendance of witnesses, and compel the production

documents by the same means and, as far as possible, in the same manner as is provided by the Code of Civil Procedure in the case of a Civil Court.

Agreement with Secretary of State in Council.

49. Such officer shall report to the Local Government the result of the inquiry, and, if the Local Government is satisfied that the proposed acquisition is needed for the construction of a work, and that such work is likely to prove useful to the public, it shall, subject to such rules as the Governor-General of India in Council may from time to time prescribe in this behalf, require the Company to enter into an agreement with the Secretary of State for India in Council providing to the satisfaction of the Local Government for the following matters, namely:—

(1) the payment to Government of the cost of the acquisition:

(2) the transfer, on such payment, of the land to the Company:

(3) the terms on which the land shall be held by the Company:

(4) the time within which and the conditions on which, the work shall be executed, and maintained; and

(5) the terms on which the public shall be entitled to use the work.

Publication of agreement.

50. Every such agreement shall, as soon as may be after its execution, be published in the *Gazette of India* and also in the local official Gazette and shall thereupon (so far as regards the the terms on which the public shall be entitled to use the work) have the same effect as if it had formed part of this Act.

Sections 47 to 50 not to apply where Government bound by agreement to provide land for Companies.

50A. The provisions of sections 47 to 50, both inclusive, shall not apply, and shall be deemed never to have applied to the acquisition of land for any railway or other company, for the purposes of which, under any agreement between such company and the Secretary of State for India in Council, the Government is, or was, bound to provide land.

When agreement between Company and Secretary of State need not be proved.

50B. In the case of the acquisition of land for the purposes of a Railway Company the existence of such an agreement as is mentioned in section 50A shall be presumed unless the contrary is proved or is admitted by the Collector.

PART VIII.

MISCELLANEOUS.

Service of notice.

51. Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed, in the case of a notice under section 4, by the officer therein mentioned, and, in the case of any other notice, by or by order of the Collector or the Judge.

Whenever it may be practicable, the service of the notice shall be made on the person therein named.

When such person cannot be found, the service may be made on any adult male member of his family residing with him; and if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business, *or by fixing a copy thereof in some conspicuous place in the office of the officer aforesaid or of the Collector, or in the court-house and also in some conspicuous part of the land to be acquired.*

Obstruction to survey, &c. Filling trenches. Destroying land marks.

52. Whoever wilfully obstructs any person in doing any of the acts authorised by section 4 or section 8, or wilfully fills up, destroys, damages or displaces any trench or mark made under section 4, shall, on conviction before a Magistrate, be liable to imprisonment for any term not exceeding one month, or to fine not exceeding fifty rupees, or to both.

Magistrate to enforce surrender.

53. If the Collector is opposed or impeded in taking possession under this Act of any land, he shall, if a Magistrate, enforce the surrender of the land to himself, and, if not a Magistrate, he shall apply to a Magistrate or (within the towns of Calcutta, Madras and Bombay) to the Commissioner of Police, and such Magistrate or Commissioner (as the case may be) shall enforce the surrender of the land to the Collector.

Government not bound to complete acquisition.

54. Except in the case provided for in section 44, nothing in this Act shall be taken to compel the Government to complete the acquisition of any land.

Compensation when acquisition is not completed.

But, whenever the Government declines to complete any such acquisition, the Collector shall determine the amount of compensation due for the damage (if any) done to such land under section 4 or section 8, and not already paid for under section 5, and shall pay such amount to the person *interested together with all costs proved to have been incurred by him in the prosecution of the proceedings under this Act relating to the said land.*

Part of house or building not to be taken.

55. The provisions of this Act shall not be put in force for the purpose of acquiring a part only of any house, manufactory or other building, if the owner desire that the whole of such house, manufactory or building shall be so acquired.

Provided that the owner may, at any time before the Collector has made his award under section 11, by notice in writing, withdraw or modify his express desire that the whole of such house, manufactory or building shall be so acquired:

Provided also that, if the Local Government shall be of opinion that the claim under section 24, secondly, by a person interested, on account of the severing of the land to be acquired from his other land, is unreasonable or excessive, it may at any time before the Collector has made his award order the acquisition of the whole of the land of which the land first sought to be acquired forms a part.

In the case last hereinbefore provided for, no fresh declaration or other proceedings under sections 6 to 10, both inclusive, shall be necessary; but the Collector shall without delay furnish a copy of the order of the Local Government to the person interested and shall thereafter proceed to make his award under section 11.

Payment of Collector's charges by Municipal or Local Body or Company.

56. Where the provisions of this Act are put in force for the purpose of acquiring land at the cost of any fund *controlled or managed by a local authority as defined by section 3 (b) of the General Clauses Act*, 1887, or of any Company, the charges incurred by the Collector in such acquisition shall be defrayed from or by such Fund or Company.

Exemption from stamp-duty and fees.

57. No award or agreement made under this Act shall be chargeable with stamp-duty, and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same.

Limitation of suits for anything done in pursuance of Act.

No suit or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended proceeding, and of the cause thereof, nor after tender of sufficient amends.

Power to make rules.

59. The Local Government shall have power to make rules consistent with this Act for the guidance of officers in all matters connected with its enforcement, and may from time to time alter and add to the rules so made.

Publication of rules.

All such rules, alterations and additions shall, when sanctioned by the Governor-General in Council, be published in the local official Gazette, and shall thereupon have the force of law.

S. HARVEY JAMES,
Secy. to the Govt. of India.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

The following report of the Select Committee on the Bill to extend the jurisdiction of the Court of Small Causes of Madras was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 25th March 1892 :—

WE, the undersigned, Members of the Select Committee to which the Bill to extend the jurisdiction of the Court of Small Causes of Madras was referred, have reconsidered the Bill together with Bill No. II (a Bill to establish a Civil Court for the City of Madras) and the papers noted in the margin, and have now the honour to submit this our further Report, with the Bill No. II as amended by us annexed thereto.

Endorsement from Home Department, No. 183, dated 10th February 1892, and accompaniment [Papers No. 5 relative to Bill as introduced].
From Secretary, Mylapore Athenæum, G. No. 1, dated 22nd February 1892 [Paper No. 1 relative to Bill No. II].
From Secretary, Madras High Court Vakils Association, dated 23rd February 1892 [Paper No. 2 relative to Bill No. II].
Telegram from President, Mahajana Sabha, Madras, dated 26th February 1892 [Paper No. 3 relative to Bill No. II].
From Government of Madras, No. 395 (Judicial), dated 2nd March 1892, and enclosures [Papers No. 4 relative to Bill No. II].
Endorsement from Home Department, No. 359, dated 11th March 1892, and accompaniment [Papers No. 5 relative to Bill No. II].
Despatch from Secretary of State, No. 1, dated 7th January 1892, and endorsement from Private Secretary to Viceroy, dated 24th February 1892, and accompaniment [Papers No. 6 relative to Bill No. II.]

2. We are strongly of opinion that the limit prescribed by Bill No. II, namely, Rs. 2,500, should not be exceeded. On the other hand, if the local authorities so desire, we see no reason why the cognizance of small causes between Rs. 1,000 and Rs. 2,000 in value should not be transferred from the Court of Small Causes to the City Court. We have not provided for such a transfer, as we understand that the reduction of all the Presidency Small Cause Courts' jurisdiction to Rs. 1,000 is under consideration, but we think it desirable to point out that the establishment of the new Court will greatly facilitate such a reduction in Madras.

3. It has been suggested by Mr. Justice Handley of the Madras High Court that suits of the kinds mentioned in clauses (*q*) and (*r*) of section 19 of the Presidency Small Cause Courts Act (XV of 1882) should be excluded from the jurisdiction of the City Court. We do not, however, see sufficient grounds for adopting this suggestion. We prefer to give the new Court general jurisdiction, and to leave the High Court to call up cases which, in its judgment, should be tried by itself. Section 12 makes all reasonable provision regarding fees paid in cases so removed to the High Court.

4. We have inserted a section (11), based on section 73 of Act XV of 1882, providing for the refund of half the institution fees paid in cases before the City Court which are settled by agreement of the parties before hearing.

5. It is not certain that the Indian Legislature is competent to abolish any part of the original jurisdiction of a chartered High Court. We have accordingly resolved expressly to maintain the High Court's concurrent jurisdiction (section 14), adding a provision as to costs similar to that contained in section 22, Act XV of 1882.

6. Various other points have been raised in the letter, dated 2nd March, from the Government of Madras, and we will briefly advert to each of them in order :—

(1) By section 3 (*c*) we have excluded suits cognisable by the Court of Small Causes.
(2) has been met by section 10.
(3) We are of opinion that the new Court should be confined to the trial of petty cases and should not be a District Court. All matters reserved by law for a principal Court of original jurisdiction should go to the High Court.
(4) The Court-fees Act and the Code of Civil Procedure are general and apply to all Courts not specially exempted from their operation.
(5) has been met by section 3 (*b*).

(6) A majority of the Committee considered that section 7, Act XV of 1882, applied to all Judges who are *ex-officio* Judges of the Small Cause Court, and that no further provision was expedient.

(7) has been met by section 4; and (8) and (9) by section 6.

(10) By section 5 (2) we have empowered the Chief Justice of the High Court to control the Judges of the new Court with reference to Small Cause work.

(11) We consider it sufficiently clear that it is only when trying small causes that a Judge of the City Court can exercise Small Cause powers.

(12) has been met by section 15.

(13) The control of the ministerial establishment is provided for by section 7.

(14) It seems unnecessary specially to prohibit Judges in a presidency-town from trying cases in which they are personally interested.

(15), regarding the law to be administered, is met by section 8; and (16), regarding the valuation of suits, by section 9.

(17) The Legal Practitioners Act, 1879, seems to make all necessary provision regarding the persons who may practise in the City Court.

(18), regarding holidays, is met by section 16.

(19) It seems unnecessary to make any exemptions from arrest.

(20) It has been proposed, simultaneously with the establishment of the new Court, to reduce the scale of fees levied in the Court of Small Causes, and to introduce in its place the scale prescribed by the Court-fees Act. We consider that this matter is beyond the scope of our instructions. We may, however, remark that section 75, Act XV of 1882, gives the Local Government full power to vary the fees payable under sections 71 and 72.

(21) has been met by section 7 and (22) by section 13.

(23) is disposed of in paragraph 3 of this Report and (25) in paragraph 5.

(24) is met by section 14 (2).

7. We recommend that the Bill as now amended be remitted to the Government of Madras for further consideration, and that it be republished.

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

In English.

Gazette.	Date.
Gazette of India	30th January 1892.
Fort St. George Gazette	16th February ,,

In the Vernaculars.

Province.	Language.	Date.
Madras	Tamil	16th February 1892.
	Telugu	16th ,, ,,
	Hindustani	1st March ,,
	Kanarese	16th February ,,

PHIL. P. HUTCHINS.
ALEX. EDW. MILLER.
RASHBEHARY GHOSE.
P. CHENTSAL RAO.

The 23rd March 1892.

I regret my inability to concur in this Report. In the first place, I do not think that it has been satisfactorily established that any new Court is needed in the City of Madras; and, in the second place, I am strongly of opinion that, if such a Court is established, the law should provide that the Judges thereof should be Advocates of the High Court. Without such a provision the establishment of the new Court will, in my judgment, tend to the further decadence of the Madras Bar, to the serious injury both of private interests and of the public weal. By private interests, I mean the interests of private suitors, not those of individual members of the Bar.

The 23rd March 1892.

H. W. BLISS.

I think the Bill as amended is now a workable scheme. I am not certain that all the advantages of it might not be equally well or better secured by modifications of the original scheme. I desire to reserve my opinion as to the points raised by the Hon'ble Mr. Bliss in view of the possibility of further representations from Madras. The necessity for this legislation (if it is necessary) must depend on the peculiar circumstances of Madras, as such a measure would, in my opinion, be wholly out of the question for Calcutta. The position of Madras as regards the original jurisdiction of the High Court appears to be very peculiar.

The 23rd March 1892.

G. H. P. EVANS.

FORT ST. GEORGE GAZETTE SUPPLEMENT.

TUESDAY EVENING, APRIL 5, 1892.

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

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 25th March 1892:—

No. 8 OF 1892.

A Bill to amend the Law of Partition.

WHEREAS it is expedient to amend the law of partition; It is hereby enacted as follows:—

Title, extent and commencement.

1. (1) This Act may be called the Partition Act, 1892.

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

(3) It shall come into force at once.

Saving of certain local laws.

(4) But nothing herein contained shall be deemed to affect any local law providing for the partition of immoveable property paying revenue to the Government.

Power to Court to order sale instead of division in partition suits.

2. Whenever in any suit for partition in which, if instituted prior to the commencement of this Act, a decree for partition might have been made, it appears to the Court that, by reason of the nature of the property to which the suit relates, or of the number of parties interested therein, or of any other special circumstance, a division of the property cannot reasonably or conveniently be made and that a sale of the property and distribution of the proceeds would be more beneficial for all the parties interested, the Court may, if it thinks fit, on the request of any party or parties interested individually or collectively to the extent of one moiety or upwards, direct a sale of the property and a distribution of the proceeds.

Procedure when sharer undertakes to buy.

3. (1) If, in any case in which the Court is requested under the last foregoing section to direct a sale, any other shareholder shall undertake to buy the share or shares of the party or parties asking for sale, the Court shall, instead of directing a sale, order a valuation of the share or shares in such manner as it thinks fit, and may give all necessary and proper directions in that behalf.

(2) If two or more shareholders undertake to buy as provided in sub-section (1), but do not agree as between or among themselves with regard to the respective proportions in which they should buy, the Court shall sell the share or shares to the shareholder who offers to pay the highest price above the valuation made by the Court.

Partition suit by transferee of share in dwelling-house.

4. (1) Where the transferee of a share of a dwelling-house belonging to an undivided family not being a member of the family sues for partition, the Court shall, if any member of the family shall undertake to buy the share of such transferee, make a valuation of such share in such manner as it thinks fit and direct the transfer of the share on payment of the purchase-money so fixed by the Court.

(2) If in any case described in sub-section (1) two or more members of the family undertake to buy, but do not agree as between or among themselves with regard to the respective proportions in which they should buy, the Court shall follow the procedure prescribed by sub-section (2) of the last foregoing section.

Representation of parties under disability.

5. In any suit for partition a request for sale may be made or an undertaking to buy given on behalf of any party under disability by any person authorized to act on behalf of such party in such suit, but the court shall not be bound to comply with any such request or undertaking unless it is satisfied that the sale or purchase will be for the benefit of the party under such disablity.

Power to shareholders to bid at sale.

6. (1) On any sale under this Act any of the parties interested in the property shall be at liberty to bid at the sale on such terms as to non-payment of deposit or as to setting off or accounting for the purchase-money or any part thereof instead of paying the same as to the Court may seem reasonable.

(2) If two or more persons, of whom one is a shareholder in the property, respectively advance the same sum at any bidding at such sale, such bidding shall be deemed to be the bidding of the shareholder.

Procedure to be followed in case of sales.

7. When any property is directed to be sold under this Act, the following procedure shall, as far as practicable, be adopted, namely:—

(*a*) if the property be situated within the town of Calcutta, Madras or Bombay,

the procedure of the High Court in its original civil jurisdiction for the sale of property by the Registrar;

(*b*) if the property be situated elsewhere such procedure as the High Court may from time to time by rules prescribe in this behalf, and until such rules are made the procedure prescribed in the Code of Civil Procedure in respect of sales in execution of decrees.

Certificate to purchaser of immoveable property.

8. (1) On a sale of immoveable property becoming absolute under this Act, the Court shall grant a certificate stating the property sold and the name of the person who at the time of sale is declared to be the purchaser.

(2) Such certificate shall bear the date of the confirmation of the sale; and, so far as regards the parties to the suit and persons claiming through or under them, the title to the property sold shall vest in the purchaser from the date of such certificate and not before.

Distribution of proceeds of sales.

9. When any property is sold under this Act, the proceeds, after deducting the costs of the sale, shall be distributed among the parties according to their respective interests as ascertained by the Court.

Appeals.

10. (1) Any order made by the Court under section 2 or section 4 shall be deemed to be a decree within the meaning of section 2 of the Code of Civil Procedure and to be appealable as such.

XIV of 1882

(2) All other orders shall be appealable only when such orders are of the same nature as appealable orders under section 588 of the Code of Civil Procedure, and the orders passed in appeals in such cases shall be final.

Saving of power to order partly partition and partly sale.

11. Nothing herein contained shall prevent the Court from making a decree for a partition of part of the property to which the suit relates and a sale of the remainder.

Application of Act to pending suits.

12. This Act shall apply to suits pending at the commencement thereof, in which no commission for the purpose of making a partition shall have been executed.

STATEMENT OF OBJECTS AND REASONS.

The present statutory law on the subject of partition, apart from various local laws dealing with the partition of land paying revenue to Government, is contained in sections 265 and 396 of the Code of Civil Procedure. Section 265 simply enacts that the partition or separation of a revenue-paying estate shall be made only by the Collector, and need not therefore be noticed further, as the present Bill leaves untouched all local laws dealing with the partition of such property. Section 396 lays down the procedure which should be adopted in the partition of lands not paying revenue to Government. That section, however, only authorizes the Court to divide the property, and in some exceptional cases where an equal division is not practicable to award a money compensation for the purpose of equalizing the value of the shares. But as the law now stands the Court *must* give a share to each of the parties and cannot direct a sale and division of the proceeds in any case whatever. Instances, however, occasionally occur where there are insuperable practical difficulties in the way of making an equal division, and in such cases the Court is either powerless to give effect to its decree, or is driven to all kinds of shifts and expedients in order to do so. Such difficulties are by no means of very rare occurrence, although in many cases where the parties are properly advised they generally agree to some mutual arrangement, and thus relieve the Court from embarrassment.

2. It is proposed in the present Bill to supply this defect in the law by giving the Court, under proper safeguards, a discretionary authority to direct a sale where a partition cannot reasonably be made and a sale would, in the opinion of the Court, be more beneficial for the parties. But, having regard to the strong attachment of the people of this country to their landed possessions, it is proposed to make the consent of parties interested at least to the extent of a moiety in the property a condition precedent to the exercise by the Court of this new power. In order at the same time to prevent any oppressive exercise of this privilege, it is proposed to give such of the shareholders as do not desire a sale the right to buy the others out at a valuation to be determined by the Court. The power, moreover, which it is proposed to give to the Court will be a discretionary one to be exercised on a consideration of all the circumstances of the case. It should be added that, where the Court is obliged to direct a sale, a right of pre-emption is given by the Bill to the parties similar to that conferred on shareholders by section 310 of the Code of Civil Procedure.

3. It is also proposed in the Bill to give the Court the power of compelling a stranger, who has acquired by purchase a share in a family dwelling-house when he seeks for a partition, to sell his share to the members of the family who are the owners of the rest of the house at a valuation to be determined by the Court. This provision is only an extension of the privilege given to such shareholders by section 44, paragraph 2, of the Transfer of property Act, and is an application of a well known rule which obtains among Muhammadans everywhere and by custom also among Hindus in some parts of the country.

4. The other sections of the Bill only deal with matters of procedure and do not call for any detailed notice.

RASHBEHARY GHOSE,

The 23rd March 1892.

S. HARVEY JAMES,
Secy. to the Govt. of India.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

No. III.

THE MADRAS CITY CIVIL COURT BILL, 1892.

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SECTIONS.
1. Title and commencement.
2. Definitions.
3. Constitution of the City Court.
4. Appointment, suspension and removal of Judges.
5. Judge of City Court to be Judge of Small Cause Court.
6. Powers of Judges when City Court consists of more than one Judge.
7. Appointment, powers, duties and punishment of ministerial officers.
8. Questions arising in suits, &c., under Act to be dealt with according to law administered by High Court.
9. Valuation of land for jurisdictional purposes.
10. Amendment of Act XV of 1882, section 31.
11. Repayment of half fees on settlement before hearing.
12. Allowance for fees paid in City Court in cases removed to High Court.
13. Appeals.
14. Saving of original civil jurisdiction of High Court.
15. Seal to be used.
16. Holidays and vacations.

No. III.

A Bill to establish an additional Civil Court for the City of Madras.

WHEREAS it is expedient to establish *an additional* Civil Court for the City of Madras; It is hereby enacted as follows:—

Title and commencement.

1. (1) This Act may be called the Madras City Civil Court Act, 1892; and

(2) It shall come into force at once.

Definitions.

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

(1) "*City Court*" *means the Court established under section* 3:

(2) "City of Madras" means the *area* within the local limits for the time being of the ordinary original civil jurisdiction of the High Court:

(3) "High Court" means the High Court of Judicature at Madras: and

(4) "Small Cause Court" means the Court of Small Causes of Madras.

Constitution of the City Court.

3. The *Local Government* may, by notification *in the official Gazette*, establish a Court, to be called the Madras City Civil Court, with jurisdiction to receive, try and dispose of all suits and other proceedings of a civil nature not exceeding two thousand five hundred rupees in value and arising within the City of Madras, except suits *or proceedings* which are cognizable—

(*a*) by the High Court as a Court of Admiralty or Vice-Admiralty or as a Colonial Court of Admiralty, or as a Court having testamentary, intestate or matrimonial jurisdiction, or

(*b*) *by the* Court for the relief of insolvent debtors, or

(*c*) *by the Small Cause Court.*

Appointment, suspension and removal of Judges.

4. *The Local Government may, by notification in the official Gazette, appoint so many persons as it may think fit to be Judges of the City Court; and may, for any misconduct, by a like notification, suspend or remove any Judge so appointed.*

Judge of City Court to be Judge of Small Cause Court.

5. (1) Every person appointed a Judge of the City Court shall be, by virtue of his office, a Judge of the Small Cause Court with respect to cases cognizable by that Court.

(2) Every such Judge shall be liable to perform any duties of a Judge of the Small Cause Court which the *Chief Justice* of the *High Court* may require him to perform.

Powers of Judges when City Court consists of more than one Judge.

6. *When the City Court consists of more than one Judge,—*

(*a*) *each of the Judges may exercise all or any of the powers conferred on the Court by this Act or any other law for the time being in force;*

(*b*) *the Local Government may appoint any one of the Judges to be the principal Judge, and*

(*c*) *the principal Judge may, from time to time, make such arrangements as he may think fit for the distribution of the business of the Court among the various Judges thereof.*

Appointment, powers, duties and punishment of ministerial officers.

7. (1) *The Judge of the City Court, or, when the Court consists of more than one Judge, the principal Judge, may, from time to time, subject to the control of the Local Government, appoint as many clerks, bailiffs and other ministerial officers as may be necessary for the administration of justice by the Court, and for the exercise and performance of the powers and duties conferred and imposed on it by this Act or any other law for the time being in force.*

(2) *The officers so appointed shall exercise such powers, and discharge such duties, of a ministerial nature, as the said Judge or principal Judge may from time to time direct.*

(3) *The said Judge or principal Judge may, subject to the control of the High Court,—*

(*a*) *suspend or remove any officer so appointed, or*

(*b*) *fine any such officer who is guilty of misconduct in the performance of the duties of his office.*

(4) *Any fine imposed on an officer under sub-section* (3) *may be deducted from his salary.*

Questions arising in suits, &c., under Act to be dealt with according to law administered by High Court.

8. *All questions which arise in suits or other proceedings under this Act in the City Court 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.*

Valuation of land for jurisdictional purposes.

9. *Sections* 3, 4, *and* 5 *of the Suits Valuation Act*, 1887, *are hereby extended to the City Court.*

Amendment of Act XV of 1892, section 31.

10. *In clause* (*a*) *of section* 31 *of the Presidency Small Cause Courts Act*, 1882, *for the words "to the High Court" the words "to the Madras City Civil Court or the*

High Court of Judicature at Fort William or Bombay, as the case may be," shall be substituted.

Repayment of half fees on settlement before hearing.

11. *Whenever any suit or proceeding in the City Court is settled by agreement of the parties before the hearing, half the amount of the institution fees paid by the plaintiff shall be repaid to him by the Court.*

Allowance for fees paid in City Court in cases removed to High Court.

12. When, under section 13 of the Letters Patent for the High Court, dated the twenty-eighth day of December 1865, or under section 25 of the Code of Civil Procedure, the High Court has removed for trial by itself any suit from the City Court, fees on the scale for the time being in force in the High Court as a Court of ordinary original civil jurisdiction shall be payable in that Court in respect of the suit and proceedings therein:

Provided that, in the levy of any such fees which, according to the practice of the Court, are credited to the Government, credit shall be given to the plaintiff in the suit for any fee which in the City Court he has already paid under the Court-fees Act, 1870, on the plaint.

Appeals.

13. The Court authorized to hear appeals from the City Court shall be the High Court.

Saving of original civil jurisdiction of High Court.

14. *Nothing in this Act contained shall affect the original civil jurisdiction of the High Court: Provided that—*

(1) if any suit is instituted in the High Court which, in the opinion of that Court, ought to have been instituted in the City Court, then, unless the Judge who tries the same shall otherwise direct, no costs shall be allowed to a successful plaintiff, and a successful defendant shall be allowed his costs as between attorney and client; and

(2) in any suit pending in the High Court which, in the opinion of that Court, is within the jurisdiction of the City Court and can be more conveniently tried there, the High Court may at any stage of the suit make an order transferring the same to the City Court.

Seal to be used.

15. *The City Court shall use a seal of such form and dimensions as may be for the time being prescribed by the Local Government.*

Holidays and vacations.

16. (1) *The Judge of the City Court, or, when the Court consists of more than one Judge, the principal Judge, shall, at the commencement of each year, draw up a list of holidays and vacations to be observed in the Court, and shall submit the same for the approval of the Local Government.*

(2) Such list, when it has received such approval, shall be published in the official Gazette, and the said holidays and vacations shall be observed accordingly.

S. HARVEY JAMES,
Secy. to the Govt. of India.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

FORT ST. GEORGE GAZETTE SUPPLEMENT.

TUESDAY EVENING, MAY 31, 1892.

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

A Bill to amend the Land Acquisition Act, 1870.

WHEREAS it is expedient to amend the Land Acquisition Act, 1870; It is hereby enacted as follows:—

X of 1870.

Title and commencement.

1. (1) This Act may be called the Land Acquisition Act, 1892; and

(2) It shall come into force at once:

Provided that nothing in this Act contained shall affect any proceedings in respect to compensation for any land regarding which the Collector has made an award under section 14, or a reference under section 15, of the Land Acquisition Act, 1870, before the passing of this Act.

X of 1870.

Repeal of portion of section 1 and section 2, Act X, 1870.

2. (1) The words and figures "and it shall come into force on the first day of June, 1870," in section 1 of the Land Acquisition Act, 1870, are hereby repealed.

X of 1870.

(2) Section 2 of the said Act is hereby repealed.

Amendment of, and addition to, section 3 of said Act.

3. (1) In section 3 of the said Act,—

(*a*) to the definition of the expression "person interested," shall be added the words "and also persons entitled to act";

(*b*) in the definition of the expression "Company," the figures "1882" shall be substituted for the figures "1866".

(2) To section 3 of the said Act the following shall be added:—

"Provided that—

(*i*) no person shall be deemed 'entitled to act' whose interest in the subject-matter shall be shown to the satisfaction of the Collector or Court to be adverse to the interest of the person interested for whom he would otherwise be entitled to act;

(*ii*) in every such case the person interested may appear by a next friend or, in default of his appearance by a next friend, the Collector or Court, as the case may be, shall appoint a guardian for the case to act on his behalf in the conduct thereof; and

(*iii*) the provisions of Chapter XXXI of the Code of Civil Procedure shall, *mutatis mutandis*, apply in the case of persons interested appearing before a Collector or Court by a next friend, or by a guardian for the case, in proceedings under this Act."

XIV of 1882.

Amendment of section 6 of said Act.

4. In section 6 of the said Act, for the words "out of some municipal fund," the words "out of some fund controlled or managed by a local authority as defined in section 3 (6) of the General Clauses Act, 1887," shall be substituted.

I of 1887.

Amendment of section 9 of said Act.

5. In section 9 of the said Act there shall be added:—

(i) after the words "compensation for such interests," the words "and their objections (if any) to the measurements made under section 8"; and

(ii) after the word "post," the word "registered".

Amendment of section 10 of said Act.

6. In section 10 of the said Act, before the words "deliver to him" the words "make or," and after the words "deliver to him" the words "at a time and place mentioned (such time not being earlier than fifteen days after the date of the requisition)," shall be inserted.

Substitution of new sections for sections 11 to 15 of said Act.

7. For sections 11 to 15, both inclusive, of the said Act, and for the headings "*Enquiry into value and claims*" and "*Award by Collector*," respectively prefixed to sections 11 and 14 thereof, the following shall be substituted:—

"*Enquiry into Measurements, Value and Claims, and Award by the Collector.*

Enquiry and award by Collector.

"11. On the day so fixed or on any other day to which the enquiry has been adjourned, the Collector shall proceed to enquire into the objections (if any) which any person interested has stated under section 9 to the measurements made under section 8, and into the value of the land, and shall make an award under his hand of—

(i) the true measurements of the land;

(ii) the compensation which in his opinion should be allowed for the land; and

(iii) the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom, or of whose claims, he has information, whether or not they have respectively appeared before him.

Award of Collector when to be final.

"12. Such award shall be filed in the Collector's office and shall be final and conclusive evidence, as between the Collector and the

persons interested, whether they have respectively appeared before the Collector or not,—

(i) of the true measurements of the land;

(ii) unless altered in the manner hereinafter provided, also of the value of the land and of the apportionment of the compensation among the persons interested.

Adjournment of enquiry.

"13. The Collector may, for any cause he thinks fit, from time to time adjourn the enquiry to a day to be fixed by him.

Power to summon and enforce attendance of witnesses and production of documents.

"14. For the purpose of enquiries under this Act, the Collector shall have power to summon and enforce the attendance of witnesses and to compel the production of documents by the same means, and (so far as may be) in the same manner, as is provided in the case of a Civil Court under the Code of Civil Procedure. XIV of 1882.

Matters to be considered and neglected.

"15. In determining the amount of compensation, the Collector shall take into consideration the matters mentioned in section 24, and shall not take into consideration any of the matters mentioned in section 25."

Amendment of section 16 of said Act.

8. (1) In section 16 of the said Act, for the words "fourteen or a reference to the Court under section fifteen," the word "eleven," and for the word "may," the word "shall," shall be substituted.

(2) To section 16 of the said Act the following shall be added:—

"Provided that, in any case where immediate possession is not required, the Collector may allow the occupants (if any) of the land to remain in the occupation of the same, upon such terms as he and they may agree on, until possession of the land is required."

Amendment of section 17 of said Act.

9. In section 17 of the said Act,—

(i) for the words "though no such reference has been directed or award made", the words "though no such award has been made" shall be substituted;

(ii) after the words "on such land", the words "and for any other damage sustained by them" shall be inserted; and

(iii) after the words "such crops and trees" the words "and the amount of such other damage" shall be inserted.

New sections substituted for sections 18 to 36 of said Act.

10. For sections 18 to 36, both inclusive, of the said Act, and for the heading "REFERENCE TO COURT AND PROCEDURE THEREON" prefixed to section 18 thereof, the following shall be substituted:—

"SUITS TO ALTER THE COLLECTOR'S AWARD.

Suits by persons interested to alter Collector's award.

"18. A person interested may institute a suit in the Court to alter the award of the Collector under section 11, by the enhancement of the compensation awarded by the Collector, or by the alteration of the apportionment [illegible] by the Collector, of the compensation [illegible] persons interested, or in both ways:

Provided that every such suit shall be instituted [illegible] than three months from the date [illegible] award if the person interested [illegible] received a notice from the Collector [illegible] paragraph of section 9, or within [illegible] six months from the date of the Collector's award if the person or persons instituting it, or any of them, did not receive a notice from the Collector under the third paragraph of section 9.

XIV of 1882.

"The provisions of section 424 of the Code of Civil Procedure shall not apply to any such suit.

When Collector may be cited.

"19. (1) If such suit is either solely or partly to enhance the compensation awarded by the Collector, the Collector shall be cited as the defendant or as one of the defendants.

(2) If such suit is solely to alter the apportionment, made by the Collector, of the compensation among the persons interested, the Collector shall not be cited as a defendant, but the Court shall nevertheless at once send him notice of the institution of the suit.

XIV of 1882.

Deposit by Collector and disposal of amount of compensation.

"20. (1) On receipt of a summons under section 64 of the Code of Civil Procedure to appear as a defendant or of a notice of the institution of a suit under section 19 (2), the Collector shall, within fourteen days, deposit in the Court the compensation awarded by him together with a further sum amounting to fifteen per centum on the market-value mentioned in section 24 or so much of the said sums as shall not already have been paid to persons interested under Part V.

(2) If the suit is solely to enhance the compensation awarded by the Collector, the Court which tries the suit may deal with the sums so deposited under the provisions of section 377 (but not of sections 378 and 379) of the Code of Civil Procedure; but

(3) If the suit is also, or solely, to alter the apportionment, made by the Collector, of the compensation among the persons interested, the Court shall retain the sums so deposited pending the decision of the suit, and shall then pay them to the parties in such proportions as may be ordered by the decree; and for this purpose may transfer them to the Court which tries the suit:

Provided that, if the Court which tries the suit shall decide that the compensation awarded by the Collector was in excess of the compensation which should properly have been awarded for the land, the said Court shall in its decree order that the plaintiff shall refund to the Collector any sum which, either under Part V or under section 377 of the Code of Civil Procedure, he may have been paid in excess of the sum which the said Court shall decide to be the compensation which should properly have been awarded for the land; and such excess so paid shall be recoverable by the Collector as costs in the suit.

Suit by Government to alter the Collector's award or for refund of compensation.

21. If the Local Government shall be of opinion that the compensation awarded by the Collector is excessive, it may institute a suit in the Court against the persons interested, or any one or more of them, either to alter the award of the Collector by the reduction of the compensation awarded by him, if the amount so awarded (including the additional sum of fifteen per centum directed to be paid by section 41), or so much thereof as is not in excess of the sum which the Local Government admits to be the proper compensation for the land (including the said additional sum of fifteen per centum) has not been paid to persons interested; or,

if the amount of the award (including the said additional sum of fifteen per centum), or any portion thereof in excess of the sum which the Local Government admits to be the proper compensation for the land (including the said additional sum of fifteen per centum) has been paid to persons interested, to recover the excess of such amount, or portion thereof, as the case may be, over the total of the sum which the Local Government admits to be the proper compensation for the land (including the said additional sum of fifteen per centum) from the persons to whom such excess has been paid:

Provided that every such suit shall be instituted within not more than three months from the date of the Collector's award.

VI of 1870.

Valuation of suits and determination of jurisdiction.

22. (1) For the purposes of the Court-fees Act, 1870, the value of a suit to alter the award of the Collector by the enhancement or reduction of the compensation awarded by him shall be taken to be the sum by which it is sought to enhance or reduce such compensation, as the case may be; and the value of a suit to alter the apportionment, made by the Collector, of the compensation among the persons interested shall be taken to be the total amount of the compensation.

(2) For the purpose of determining the jurisdiction of Courts with respect thereto, the value of a suit instituted under this part shall be taken to be the total amount of the compensation awarded by the Collector.

Transfer of suits.

"23. The Court may transfer for trial any suit instituted under this Part to any Court subordinate to itself, and competent to try the same in respect of its nature, and of the amount or value of its subject-matter:

Provided that, except under the written permission of the Local Government, no such suit shall be transferred for trial to any Court which is not stationed at the head-quarter station of the land-revenue district in which the land is situated.

"Such written permission may be either general or special, and may at any time be annulled by the Local Government.

Matters to be considered in determining compensation.

"24. In a suit to alter the amount of compensation awarded by the Collector, the Court which tries the suit shall take into consideration—

First, the market-value of the land at the date of the publication of the declaration relating thereto under section 6;

Secondly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of severing such land from his other land;

Thirdly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, whether moveable or immoveable, in any other manner, or his earnings; and

Fourthly, if, in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change.

Explanation.—By "market-value" is meant the sum for which the land might reasonably have been expected to have been sold, if put up to auction on the spot, without undue haste and under ordinary circumstances, immediately before the publication of the declaration relating thereto under section 6.

Matters to be neglected in determining compensation.

"25. But in such a suit the Court which tries the suit shall not take into consideration—

First, the degree of urgency which has led to the acquisition;

Secondly, any disinclination of the person interested to part with the land acquired;

Thirdly, any damage sustained by him which, if caused by a private person, would not render such person liable to a suit;

Fourthly, any damage which, after the date of the publication of the declaration under section 6, is likely to be caused to the land by or in consequence of the use to which the land acquired will be put;

Fifthly, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired;

Sixthly, any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put; or

Seventhly, any outlay or improvements on the land acquired commenced, made or effected after the date of the publication of the declaration under section 6.

Matters to be stated in decree.

"26. The decree in a suit to alter the amount of compensation awarded by the Collector shall state—

First, the sum which, in the opinion of the Court which tries the suit, the Collector ought to have awarded as compensation; and

Secondly, the sum or sums which, after the addition to the said sum of fifteen per centum on the market-value of the land mentioned in section 24, shall be paid by, or to, the plaintiff or plaintiffs, or any of them, to, or by, the defendant or defendants, or any of them.

Collector may be directed to pay interest on excess compensation.

"27. (1) If the sum which, in the opinion of the Court which tries the suit, the Collector ought to have awarded as compensation, is in excess of the sum which the Collector did award as compensation, the decree may direct that the Collector shall pay interest on such excess at the rate of six per centum per annum from the date on which he took possession of the land to the date of payment of such excess into Court.

(2) The decree shall not otherwise direct that the Collector shall pay interest, save under section 222 of the Code of Civil Procedure. XIV of 1882.

Code of Civil Procedure to apply.

"28. Save in so far as inconsistent with anything contained in this Act, the provisions of the Code of Civil Procedure shall apply to suits instituted under this Part. XIV of 1882.

Appeals in certain cases.

"29. Notwithstanding anything contained in any other law for the time being in force, an appeal shall lie to the High Court from the decree, or from any part of the decree, in any suit instituted under this Part, of a judicial officer appointed by the Local Government under section 3, either specially for any case, or generally within any special local limits, to perform the functions of a Judge under this Act, against whose decisions no appeal lies under any law for the time being in force relating to his exercise of his ordinary jurisdiction."

Repeal of Part IV of said Act.

11. Part IV of the said Act is hereby repealed.

Substitution of new Part for Part V of said Act.

12. For Part V of the said Act, the following shall be substituted:—

"PART V.

"PAYMENT.

Payment of compensation to whom to be made.

"40. On making an award under section 11, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award, and shall pay it to them if they shall consent to receive it:

Provided that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

Percentage on market-value.

"41. (1) In addition to the amount of any compensation awarded under Part II, the Collector shall, in consideration of the compulsory nature of the acquisition, pay fifteen per centum on the market-value mentioned in section 24.

(2) When the amount of such compensation is not paid or payment thereof tendered on or before taking possession of the land, the Collector shall pay the amount awarded and the said percentage with interest on such amount and percentage at the rate of six per centum per annum from the time of so taking possession."

Amendment of section 45 of said Act.

13. In section 45 of the said Act, the words "and on such reference, or on a reference under section 43, the Judge sitting alone shall decide the difference referred" are repealed.

Addition of section after section 45 of said Act.

14. After section 45 of the said Act, the following shall be added, namely:—

Cost on references under this Part.

"45A. The Judge may pass such order as he may think fit in regard to the costs of a reference made under this Part, and from such order there shall be no appeal."

Addition of sections after section 50 of said Act.

15. After section 50 of the said Act, the following shall be added, namely:—

Sections 47 to 50 not to apply where Government bound by agreement to provide land for companies.

"50A. The provisions of sections 47 to 50, both inclusive, shall not apply, and shall be deemed never to have applied, to the acquisition of land for any railway or other company, for the purposes of which, under any agreement between such company and the Secretary of State for India in Council, the Government is, or was, bound to provide land.

When agreement between company and Secretary of State need not be proved.

"50B. In the case of the acquisition of land for the purposes of a Railway Company, the existence of such an agreement as is mentioned in section 50A shall be presumed, unless the contrary is proved or is admitted by the Collector."

Addition to section 51 of said Act.

16. To section 51 of the said Act, after the word "business", the following shall be added:—"or by fixing a copy thereof in some conspicuous place in the office of the officer aforesaid or of the Collector or in the court-house, and also in some conspicuous part of the land to be acquired."

Amendment of section 54 of said Act.

17. In section 54 of the said Act,—

(i) the following words are repealed:—

"unless an award shall have been made or a reference directed under the provisions hereinbefore contained";

(ii) for the word "injured", the words "interested, together with all costs proved to have been incurred by him in the prosecution of the proceedings under this Act relating to the said land" shall be substituted.

Addition to section 55 of said Act.

18. To section 55 of the said Act, the following shall be added:—

"Provided that the owner may, at any time before the Collector has made his award under section 11, by notice in writing, withdraw or modify his expressed desire that the whole of such house, manufactory or building shall be so acquired:

Provided also that, if the Local Government shall be of opinion that the claim under section 24, *secondly*, by a person interested, on account of the severing of the land to be acquired from his other land, is unreasonable or excessive, it may, at any time before the Collector has made his award, order the acquisition of the whole of the land of which the land first sought to be acquired forms a part.

In the case last hereinbefore provided for, no fresh declaration or other proceedings under sections 6 to 10, both inclusive, shall be necessary; but the Collector shall without delay furnish a copy of the order of the Local Government to the person interested, and shall thereafter proceed to make his award under section 11."

Amendment of section 56 of said Act.

19. In section 56 of the said Act, for the words "any Municipal Fund", the words "any fund controlled or managed by a local authority as defined in section 3 (6) of the General Clauses Act, 1887," shall be substituted:

Repeal of part of section 58 of said Act.

20. In section 58 of the said Act, the words "no suit shall be brought to set aside an award under this Act. And" are repealed.

(Republished by order of the Right Honorable the Governor in Council).

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

FORT ST. GEORGE GAZETTE SUPPLEMENT. TUESDAY EVENING, JULY 12, 1892.

Bill to be introduced into the Council of the Governor of Fort St. George for making Laws and Regulations.

The following Bill, together with the Statement of Objects and Reasons accompanying it, is published for general information under Rule XXV of the Rules for the conduct of business at Meetings of the Council of the Governor of Fort St. George for making Laws and Regulations:—

No. 3 OF 1892.

A Bill for facilitating enquiries into matters connected with the administration of the Revenue.

Preamble.

WHEREAS it is expedient to make further provision to facilitate enquiries in matters connected with the administration of the revenue, it is hereby enacted as follows:—

Local extent.

1. This Act extends to the whole of the Presidency of Madras.

Officers deputed to make enquiries invested with certain powers.

2. The Governor in Council may, by order, invest any officer deputed by him to make an enquiry into any matter connected with the Revenue administration with power to summon any person to appear before him or to produce any document relevant to the matter under enquiry which may be in the possession or under the control of such person.

Procedure regulating issue of summonses.

3. The provisions of sections 2, 3, 4 and 5 of Act III of 1869, shall apply to summonses issued under this Act. Madras Act III of 1869.

STATEMENT OF OBJECTS AND REASONS.

Inconvenience has from time to time occurred in consequence of the absence of any power to summon witnesses and procure the production of documents on the part of officers other than those specified in Madras Act III of 1869 who may have been deputed by Government to conduct enquiries into matters connected with the administration of the revenue. To avoid the recurrence of such inconvenience the present Bill has been prepared.

MADRAS,
6th July 1892.

(Signed) H. E. STOKES.

(By order.)

A. BUTTERWORTH,
Ag. Under Secy. to Govt., Legislative Dept.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

The following final Report of the Select Committee on the Bill to extend the jurisdiction of the Court of Small Causes of Madras was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 28th July 1892 :—

We, the undersigned, Members of the Select Committee to which the Bill to extend the jurisdiction of the Court of Small Causes of Madras was referred, have re-considered the Bill, together with Bill No. III (a Bill to establish an additional Civil Court for the City of Madras) and the papers noted in the margin, and have now the honour to submit this our final Report, with the Bill No. III as amended by us annexed thereto.

Endorsement by Officiating Deputy Secretary to Government of India, Home Department, No. 532, dated 26th April 1892, and enclosure [Papers No. 1].
From Chief Secretary to Government, Madras, No. 1189, dated 27th June 1892, and enclosures [Papers No. 2].

2. *Section* 3.—We have not deemed it necessary to further limit the classes of suits and proceedings with respect to which the City Court is to have jurisdiction: The City Court will not be either a District Court or a principal Court of original jurisdiction. It will therefore be incompetent to take cognizance of suits reserved by law for either of such Courts. Should any case occur in which there may be a reasonable doubt if it has jurisdiction owing to such reservation, we think that it would probably, on application, be called up by the High Court.

3. *Sections* 4 *and* 5.—We think that the provisions of section 7 of the Presidency Small Cause Courts Act, 1882, deal adequately with the question of the qualifications of the Judge or Judges of the City Court. The exact nature of the qualifications to be required will be further considered when the Act of 1882 comes under revision.

4. *Section* 7.—By substituting the words "with the sanction" for "subject to the control" of the Local Government, we have made it clear that nothing more than a financial sanction is required to the entertainment of a proper establishment. In the same section, sub-section 3 (*b*), we have inserted the words "or neglect" as recommended by the Chief Judge of the Small Cause Court.

5. *Section* 9.—As the Suits Valuation Act, 1887, is not in force in Madras, we have substituted section 14 of the Madras Civil Courts Act, 1873, in order to supply a valuation of immoveable property for jurisdictional purposes.

6. *Sections* 10 *and* 11.—We have here proposed to remove any doubt which may exist as regards the power to levy process-fees and to appoint Receivers.

7. *Section* 15.—We have proposed that the period of limitation for an appeal from the City Court to the High Court shall be the same as that provided by law (article 151 of the second schedule to the Indian Limitation Act, 1877) for an appeal from an original decree or order of the High Court.

8. *Section* 13.—Doubts having been expressed as to the meaning of the term "before the hearing," we have provided that the refund of half the institution fee shall only be granted if the case is settled "before issues have been settled or any evidence recorded."

9. *Section* 16.—We have altered the language of clause (1) of this section, in accordance with a suggestion of Mr. Justice Handley, so as to make it clear that the question of costs is entirely in the discretion of the presiding Judge, whose opinion as to the propriety or otherwise of the institution of the suit in the High Court is to be final. We have also amended the wording of the second clause, and we have made provision regarding the fees to be levied when a case is transferred to the City Court.

10. Our last Report and Bill No. III have been published as follows :—

In English.

Gazette.	Date.
Gazette of India	26th March 1892.
Fort St. George Gazette	5th April 1892.

In the Vernaculars.

Province.	Language.	Date.
Madras	Tamil	3rd May 1892.
	Telugu	3rd May 1892.
	Kanarese	3rd May 1892.
	Hindustani	17th May 1892.

11. We do not think that the measure as now altered requires re-publication, and we recommend that it be passed as amended.

The 26th July 1892.

PHIL. P. HUTCHINS.
A. E. MILLER.

No. III.

THE MADRAS CITY CIVIL COURT BILL, 1892.

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No. III.

A Bill to establish an additional Civil Court for the City of Madras.

WHEREAS it is expedient to establish *an additional* Civil Court for the City of Madras; It is hereby enacted as follows:—

Title and commencement.

1. (1) This Act may be called the Madras City Civil Court Act, 1892; and

(2) It shall come into force at once.

Definitions.

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

(1) "*City Court*" *means the Court established under the next following section:*

(2) "City of Madras" means *the area* within the local limits for the time being of the ordinary original civil jurisdiction of the High Court:

(3) "High Court" means the High Court of Judicature at Madras: and

(4) "Small Cause Court" means the Court of Small Causes of Madras.

Constitution of the City Court.

3. The *Local Government* may, by notification *in the official Gazette*, establish a Court, to be called the Madras City Civil Court, with jurisdiction to receive, try and dispose of all suits and other proceedings of a civil nature not exceeding two thousand five hundred rupees in value and arising within the City of Madras, except suits *or proceedings* which are cognizable—

(*a*) by the High Court as a Court of Admiralty or Vice-Admiralty or as a Colonial Court of Admiralty, or as a Court having testamentary, intestate or matrimonial jurisdiction, or

(*b*) *by the* Court for the relief of insolvent debtors, or

(*c*) *by the Small Cause Court.*

Appointment, suspension and removal of Judges.

4. *The Local Government may, by notification in the official Gazette, appoint so many persons as it may think fit to be Judges of the City Court; and may, for any misconduct, by a like notification, suspend or remove any Judge so appointed.*

Judge of City Court to be Judge of Small Cause Court.

5. (1) Every person appointed a Judge of the City Court shall be, by virtue of his office, a Judge of the Small Cause Court with respect to cases cognizable by that Court.

(2) Every such Judge shall be liable to perform any duties of a Judge of the Small Cause Court which the *Chief Justice* of the *High Court* may require him to perform.

Powers of Judges when City Court consists of more than one Judge.

6. *When the City Court consists of more than one Judge,—* [*Act XV of 1882, ss. 8, 9, 10.*]

(*a*) *each of the Judges may exercise all or any of the powers conferred on the Court by this Act or any other law for the time being in force;*

(*b*) *the Local Government may appoint any one of the Judges to be the principal Judge; and*

(*c*) *the principal Judge may, from time to time, make such arrangements as he may think fit for the distribution of the business of the Court among the various Judges thereof.*

Appointment, powers, duties and punishment of ministerial officers.

7. (1) *The Judge of the City Court, or, when the Court consists of more than one Judge, the principal Judge, may, from time to time, with the sanction of the Local Government, appoint as many clerks, bailiffs and other ministerial officers as may be necessary for the administration of justice by the Court, and for the exercise and performance of the powers and duties conferred and imposed on it by this Act or any other law for the time being in force.* [*Act XV of 1882, ss. 13, 78.*]

(2) *The officers so appointed shall exercise such powers and discharge such duties of a ministerial nature, as the said Judge or principal Judge may from time to time direct.*

(3) *The said Judge or principal Judge may, subject to the control of the High Court,—*

(*a*) *suspend or remove any officer so appointed, or*

(*b*) *fine any such officer who is guilty of misconduct or neglect in the performance of the duties of his office.*

(4) *Any fine imposed on an officer under sub-section* (3) *may be deducted from his salary.*

Questions arising in suits, &c., under Act to be dealt with according to law administered by High Court.

8. *All questions which arise in suits or other proceedings under this Act in the City Court 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.* [XV of 1882, s.]

Valuation of immoveable property for jurisdictional purposes.

9. *When the subject-matter of any suit or other proceeding is land or a house or a garden, its value for the purposes of the jurisdiction conferred on the City Court by this Act shall, subject to the other provisions of this Act, be fixed in manner provided by the Court-fees Act,* 1870, *section* 7, *clause* 5. VII of 1870.

Process-fees.

10. *Fees chargeable for serving or executing processes issued by the City Court, or served or executed under its direction or control, shall be such as the High Court may prescribe with the approval of the Governor of Fort St. George in Council and the sanction of the Governor-General in Council.*

Appointment of Receivers.

11. *The powers conferred by Chapter XXXVI of the Code of Civil Procedure on High Courts and District Courts as to the appointment of Receivers may be exercised by the City Court or any Judge thereof.* XIV of 1882.

Amendment of Act XV of 1882, section 31.

12. *In clause* (*a*) *of section* 31 *of the Presidency Small Cause Courts Act,* 1882, *for the words "to the High Court" the words "to the Madras City Civil Court or the High Court of Judicature at Fort William or Bombay, as the case may be," shall be substituted.* XV of 1882. [Act XV of 1882, s. 73.]

Repayment of half fees on settlement before hearing.

13. *Whenever any suit or proceeding in the City Court is settled by agreement of the parties before issues have been settled or any evidence recorded, half the amount of the institution fees paid by the plaintiff shall be repaid to him by the Court.*

Allowance for fees paid in City Court in cases removed to High Court.

14. When, under section 13 of the Letters Patent for the High Court, dated the twenty-eighth day of December 1865, or under section 25 of the Code of Civil Procedure, the High Court has removed for trial by itself any suit from the City Court, fees on the scale for the time being in force in the High Court as a Court of ordinary original civil jurisdiction shall be payable in that Court in respect of the suit and proceedings therein: XIV of 1882.

Provided that, in the levy of any such fees which, according to the practice of the Court, are credited to the Government, credit shall be given to the plaintiff in the suit for any fee which in the City Court he has already paid under the Court fees Act, 1870, on the plaint. VII of 1870.

Appeals.

15. (1) The Court authorized to hear appeals from the City Court shall be the High Court.

(2) *The period of limitation for an appeal from a decree or order of the City Court shall be the same as that provided by law for a decree or order of the High Court in the exercise of its original jurisdiction.*

Saving of original civil jurisdiction of High Court.

16. *Nothing in this Act contained shall affect the original civil jurisdiction of the High Court:*

Provided that—

(1) *if any suit or other proceeding is instituted in the High Court which, in the opinion of the Judge who tries the same (whose opinion shall be final), ought to have been instituted in the City Court, no costs shall be allowed to a successful plaintiff, and a successful defendant shall be allowed his costs as between attorney and client;*

(2) *in any suit or other proceeding pending at any time in the High Court, any Judge of such Court may at any stage thereof make an order transferring the same to the City Court if in his opinion such suit or proceeding is within the jurisdiction of that Court and should be tried therein;*

(3) *in any suit or other proceeding so transferred, the Court-fees Act,* 1870, *shall apply, credit being given for any fees levied in the High Court.* VII of 1870.

Seal to be used.

17. *The City Court shall use a seal of such form and dimensions as may be for the time being prescribed by the Local Government.* [Act XV of 1882, s. 12.]

Holidays and vacations.

18. (1) *The Judge of the City Court, or, when the Court consists of more than one Judge, the principal Judge, shall, at the commencement of each year, draw up a list of holidays and vacations to be observed in the Court, and shall submit the same for the approval of the Local Government.* [Act XV of 1882, s. 92.]

(2) *Such list, when it has received such approval, shall be published in the official Gazette, and the said holidays and vacations shall be observed accordingly.*

Saving of section 360A of Civil Procedure Code.

19. *Nothing in this Act shall be deemed to affect the provision contained in section 360A of the Code of Civil Procedure.* XIV of 1882.

J. M. MACPHERSON,
Offg. Secy. to the Govt. of India.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 13th October 1892 :—

No. II of 1892.

A Bill to legalise in certain cases the execution within British India of capital sentences which have been passed by British Courts exercising in or with respect to foreign territory jurisdiction which the Governor-General in Council has in such territory.

WHEREAS a capital sentence is occasionally passed by a British Court exercising in or with respect to foreign territory jurisdiction which the Governor-General in Council has in such territory ;

And whereas there may be in such territory no secure place for the confinement of a prisoner under sentence of death or no suitable appliances for his execution in a decent and humane manner ;

It is hereby enacted as follows :—

Execution in British India of certain capital sentences not ordinarily executable there.

1. (1) When a person sentenced to death by a British Court in the exercise of such jurisdiction as is referred to in the first paragraph of the preamble to this Act is to be executed, and, in the opinion of the Court, should for any such reason as is referred to in the second paragraph of the said preamble be executed in British India, the Court shall issue its warrant for his execution to the superintendent or keeper of a jail in British India, and shall in such warrant prescribe, as nearly as may be, the place in British India where such superintendent or keeper is to cause the execution to be carried out.

(2) The jail in British India to which the Court is to send its warrant shall be such as the Governor-General in Council, or a Local Government authorised by him in this behalf, may by general or special order direct.

STATEMENT OF OBJECTS AND REASONS.

THE passing of an enactment in the sense of this Bill has been recommended by the Governor of Bombay in Council in whom the political control of the Kattiawar and other States is vested. The States in Kattiawar alone are between four and five hundred in number, and most of them are very small; their jurisdiction extending in many cases to one or two villages only, and in some cases to a fraction of a village.

Criminal jurisdiction in serious cases is exercised with respect to most of these States by Courts presided over by British Political Officers, and cases occasionally occur in which for one or other, or both, of the reasons set forth in the preamble to the Bill it is expedient that sentences should be carried into effect in British India. In the case of sentences of imprisonment this is already provided for by law, but no provision of the like nature has hitherto been made for sentences of death, and the present Bill meets this defect with regard to a carefully limited class of such sentences.

ALEX. EDW. MILLER.

The 8th October 1892.

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

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS : PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

The following Report of the Select Committee on the Bill to provide for the levy of a rate on private estates under the management of Government to meet the cost of superior supervision and management was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 13th October 1892 :—

We, the undersigned, Members of the Select Committee to which the Bill to provide for the levy of a rate on private estates under the management of Government to meet the cost of superior supervision and management 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 Under-Secretary to Chief Commissioner, Central Provinces, No. 1239—127, dated 29th February 1892 [Paper No. 1].
From Agent to Governor-General in Baluchistan, No. 1379, dated 1st March 1892 [Paper No. 2].
From Secretary for Berar to Resident, Hyderabad, No. 48, dated 9th March 1892 [Paper No. 3].
Memorandum by Mr. P. R. Desai, Pleader, District Court, Ratnagiri, dated 20th March 1892 [Paper No. 4].
From Chief Commissioner, Coorg, No. 430, dated 17th March 1892 [Paper No. 5].
From Secretary to Chief Commissioner, Burma, No. 404-3M.-26, dated 19th March 1892 [Paper No. 6].
From Registrar, High Court, Calcutta, No. 1146, dated 8th April 1892 [Paper No. 7].
From Chief Secretary to Government, North-Western Provinces and Oudh, No. 827, dated 14th April 1892, and enclosures [Papers No. 8].
From Chief Commissioner, Ajmere-Merwara, No. 358, dated 18th April 1892, and enclosures [Papers No. 9].
From Secretary to Chief Commissioner, Assam, No. 1897-J., dated 27th April 1892 [Paper No. 10].
From Chief Secretary to Government, Madras, No. 803, dated 27th April 1892, and enclosures [Papers No. 11].
From Secretary to Government, Bengal, No. 1524-L.R., dated 14th April 1892, and enclosures [Papers No. 12].
From Secretary to Government, Bombay, No. 2515, dated 11th May 1892, and enclosures [Papers No. 13].
From Junior Secretary to Government, Punjab, No. 585, dated 11th June 1892, and enclosures [Papers No. 14].

2. The alterations which we have made relate generally to matters of detail which have been suggested by the papers before us. The more important are modifications of the definitions of "gross income" and "private estates under Government management" and the addition of a clause repealing sections of two Acts of the Lieutenant-Governor of Bengal in Council, one of the sections applying to Bengal and Sylhet, and the other to Cachar and Goalpara only.

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

In English.

Gazette.	Date.
Gazette of India	13th February 1892.
Fort St. George Gazette	1st March 1892.
Bombay Government Gazette	18th February 1892.
Calcutta Gazette	17th February 1892.
North-Western Provinces and Oudh Government Gazette	20th February 1892.
Punjab Government Gazette	25th February 1892.
Central Provinces Gazette	20th February 1892.
Burma Gazette	27th February 1892.
Assam Gazette	27th February 1892.
Coorg District Gazette	1st March 1892.
Sindh Official Gazette	17th March 1892.

In the Vernaculars.

Province.	Language.	Date.
Madras	Tamil	15th March 1892.
	Telugu	15th March 1892.
	Kanarese	15th March 1892.
	Malayalam	22nd March 1892.
	Hindustani	29th March 1892.
Bombay	Marathi	24th March 1892.
	Gujarathi	24th March 1892.
	Kanarese	24th March 1892.
Bengal	Bengali	1st March 1892.
	Uriya	3rd March 1892.
	Hindi	8th March 1892.
North-Western Provinces and Oudh.	Urdu	27th February 1892.
Burma	Burmese	5th March 1892.
Assam	Bengali	19th March 1892.
Sindh	Sindhi	17th March 1892.

4. 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.
ALEX. EDW. MILLER.
C. H. T. CROSTHWAITE.
G. R. ELSMIE.

The 12th October 1892.

No. 11.

A Bill to provide for the levy of a rate on private estates under the management of the Government to meet the cost of supervision and management.

WHEREAS it is expedient to provide for the levy of a rate on private estates under the management of *the* Government to cover the cost of all Government establishments in so far as they are employed in the supervision and management of such estates, other than establishments specially entertained for any particular estate or group of estates, and to meet all contingent expenditure incurred by *the* Government in connection with such supervision and management; It is hereby enacted as follows:—

Title, extent and commencement.

1. (1) This Act may be called the Government Management of Private Estates Act, 1892.

(2) It extends to the whole of British India, *inclusive of Upper Burma and British Baluchistan*; and

(3) It shall come into force *at once*.

Definitions.

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

[Act III of 1877, s. 3.] (1) "immoveable property" includes land, buildings, hereditary allowances, rights to ways, lights, ferries, fisheries or any other benefit to arise out of land, and things attached to the earth or permanently fastened to anything which is attached to the earth, but not standing timber, growing crops or grass;

(2) "gross income" includes all receipts of every kind in produce or cash, except *money borrowed*, recoveries of principal and the proceeds of *sale of immoveable property or of moveable property properly classed as capital: and*

(3) "private estates under Government management" include—

(*a*) estates under the Court of Wards;

(*b*) encumbered estates under Government management;

(*c*) estates attached for default of payment of Government revenue;

(*d*) minors' estates placed under the guardianship of *a revenue*-officer of the Government by a Civil Court;

(*e*) estates managed by a Collector *in pursuance of any order made under the Code of Civil Procedure*: and XIV of 1882.

(*f*) all other estates made over to or taken under the management of *a revenue-officer of the* Government as such under any law for the time being in force or in virtue of any agreement.

Power to levy rate.

3. It shall be lawful for the Local Government—

(1) to levy on all private estates under Government management a rate, not exceeding *five* per cent. on the gross income, calculated, as nearly as may be possible, to cover—

(*a*) the cost of all Government establishments in so far as they may be employed in the supervision or management of such estates other than establishments specially entertained for the supervision or management of any particular estate or group of estates, and

(*b*) all contingent expenditure incurred in consequence of such supervision or management;

(2) from time to time to vary such rate; and

(3) to reduce or remit such rate in any special case or cases as may be equitable:

Provided that, in deciding the amount of the rate to be levied under this Act on any particular estate or group of estates, the Local Government shall consider the expenditure incurred on special establishments for such estate or estates.

Power to levy special charges.

4. *In cases where an officer of the Government is employed to give legal advice or to audit accounts on behalf of any estate, the Local Government, if it considers the services rendered to be of a special nature, may, in its discretion, direct a special charge to be made against that estate on account of such services, irrespective of the rate leviable under the last foregoing section.*

Saving *as to* special *expenditure*.

5. Nothing in this Act shall apply to the cost of establishments specially entertained or to expenditure of any description specially incurred in respect of any particular estate or estates.

Validation of levy of past rates.

6. All rates for general supervision or management levied by any Local Government before the commencement of this Act shall be deemed to have been levied under this Act.

Power to make rules.

7. The Local Government may make any rules and issue any orders which may be necessary for carrying this Act into effect, *and which are consistent therewith.*

Exemption from jurisdiction of Courts.

8. Where any Government establishment is employed in such supervision as aforesaid, the Local Government shall be the sole judge of the cost attributable to such employment, and its decision thereon shall not be questioned in any Court of Law or otherwise.

Repeal.

9. *Section 17 of the Court of Wards Act, 1879 (passed by the Lieutenant-Governor of Bengal in Council), and so much of Act III of 1881 (also passed by the Lieutenant-Governor of Bengal in Council) as relates to section 17 of the said Court of Wards Act, 1879, are hereby repealed.* Ben. IX of 1879.

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

(Republished by order of the Right Honorable the Governor in Council).

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 9th March 1893 :—

No. 7 of 1893.

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

XIV of 1882. XV of 1877.

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

Short title and commencement.

1. (1) This Act may be called the Civil Procedure Code Amendment Act, 1893; and

(2) It shall come into force at once.

XIV of 1882.

Addition of section after section 310 of the Code.

2. After section 310 of the Code of Civil Procedure, the following shall be inserted, namely :—

Application by judgment-debtor to set aside sale.

"310A. Any person whose immoveable property has been sold under this Chapter may apply to have the sale set aside on his depositing in Court for payment to the decree-holder the amount recoverable under the decree with costs, and for payment to the purchaser a sum equal to five per centum of the purchase-money.

"Provided that, if a person applies under the next succeeding section to set aside the sale of his immoveable property, he shall not be entitled to make an application under this section."

XIV of 1882.

Amendments in section 312 of the Code.

3. In section 312 of the Code of Civil of Procedure, for the words "preceding section" the words "two preceding sections" shall be substituted, and the words "the objection be," "if the objection be", and "on the ground of such irregularity" shall be omitted.

XV of 1877.

Addition to Schedule II, Act XV of 1877.

4. After No. 165 of the Second Schedule to the Indian Limitation Act, 1877, the following shall be inserted, namely :—

Description of application.	Period of limitation.	Time from which period begins to run.
"165A. Under section 310A of the Civil Procedure Code to set aside a sale in execution of a decree.	Thirty days.	The date of the sale."

STATEMENT OF OBJECTS AND REASONS.

It is a well known fact that immoveable property put up for sale in execution of a decree seldom fetches an adequate price. To remedy this evil in the case of sales of tenures or holdings in execution of decrees for arrears of rent, the framers of the Bengal Tenancy Act, 1885, introduced into that Act a provision enabling a judgment-debtor to get the sale set aside by depositing in Court, within thirty days from the date of the sale, the amount recoverable under the decree, with costs, for payment to the decree-holder, and a sum equal to five per cent. of the purchase-money, for payment to the purchaser. This provision has, it is believed, worked satisfactorily and enabled tenants to save their tenures or holdings, when the prices offered have not been equivalent to the real market-value of the property. It is now proposed to give other judgment-debtors similar relief by inserting a corresponding enactment in the provisions of the Code of Civil Procedure relating to the sale of immoveable property in execution of decrees passed in ordinary civil suits. This is effected by section 2 of the Bill. The amendments in section 312 of the Code and in the second schedule to the Indian Limitation Act, 1877, proposed by sections 3 and 4 of the Bill are only supplementary to the above and need no explanation.

RASHBEHARY GHOSE.

The 8th March 1893.

J. M. MACPHERSON,
Offg. Secretary to the Govt. of India.

(Republished by order of the Right Honorable the Governor in Council.)

C. A. GALTON,
Acting Chief Secretary.

MADRAS : PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

The following Report of the Select Committee on the Bill to amend the Inland Emigration Act, 1882, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 16th March 1893 :—

We, the undersigned, Members of the Select Committee to which the Bill to amend the Inland Emigration Act, 1882, 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 Registrar, High Court, Calcutta, No. 430, dated 20th February 1893 [Paper No. 1].
From Secretary to Chief Commissioner, Assam, No. 268 T., dated 20th February 1893 [Paper No. 2].
From Under Secretary to Chief Commissioner, Central Provinces, No. 1303, dated 21st February 1893, and enclosures [Papers No. 3].
Telegram from Chief Secretary to Government, Madras, No. 101, dated 24th February 1893 [Paper No. 4].
From Chief Secretary to Government, North-Western Provinces and Oudh, No. 485, dated 24th February 1893 [Paper No. 5].
From Secretary to Government, Bengal, No. 790, dated 25th February 1893, and enclosures [Papers No. 6].
From Secretary to Government, Bengal, No. 1022, dated 13th March 1893, and enclosure [Papers No. 7].
From Secretary, Indian Association, dated 10th March 1893 [Paper No. 8].

2. *Section* 4 *of the Bill* (*as now revised*).—After considering the remarks of the Indian Tea Association we have thought it advisable to omit section 5 of the Bill as introduced, which empowered the Local Government to exempt individual estates from the operation of the Act. We have amended section 4 so as to empower the Local Government, with the previous sanction of the Government of India, to exempt any labour-district or specified portion of a labour-district. This section, as it now stands, will not prevent the exemption of individual estates in special cases, but it gives prominence to what we believe to be the intention of the Government of India, namely, that in withdrawing portions of labour-districts from the Act, regard should be had to the circumstances of specified and compact areas in a labour-district rather than to those of individual estates.

3. *Section* 5 *of the Bill.*—Having regard to the objections urged by persons interested in the tea industry, and strongly supported by the Chief Commissioner of Assam in his letter of the 12th August 1892, we have raised the maximum period of contract from three to four years, as the majority of us are not satisfied that a three years' term is sufficient to recoup the employer the expenses incurred in importing the labourer and maintaining him during the period of his acclimatization in the labour-districts.

The necessary consequential changes have been made in other sections of the Bill.

We have also provided that the labourer shall receive wages at a higher rate during the fourth year of the term of his contract.

4. *Section* 7 *of the Bill.*—We have inserted a general provision empowering the Local Government in the recruiting districts as well as in the labour-districts to cancel a labour-contract in cases in which the labourer has been illegally or fraudulently recruited. Provision has also been made for the repatriation in such cases of the labourer and of his relatives and dependents (if any).

5. *Section* 8 *of the Bill.*—Having regard to section 18 of the Act, which renders a contractor liable for the acts and defaults of his sub-contractor, we think it desirable that no sub-contractor should be licensed to act on behalf of more than one contractor. We have amended section 16 of the Act accordingly.

6. *Section* 10 *of the Bill.*—It seems to us reasonable that in cases in which a labour-contract is cancelled under section 84 of the Act at the instance of the employer or his representative, the Superintendent should have power, if he thinks it necessary, to award compensation to the labourer. We have amended section 84 of the Act accordingly.

7. *Section* 11 *of the Bill.*—We propose to retain section 86 of the Act in a modified form, in order to make it clear that the rules in Chapter V of the Act do not apply to the transport by sea of labourers and emigrants from the Madras Presidency, which will, we understand, be regulated by the rules of the Native Passenger Ships Act.

8. *Section* 12 *of the Bill.*—We think it desirable that the rules framed by the Chief Commissioner of Assam under (proposed) section 112B of the Act to regulate the execution of labour-contracts at Dhubri should be made after previous publication. We have inserted words to this effect in the section. The previous publication will, we understand, be made in the manner provided for in the General Clauses Act, I of 1887.

9. *Sections* 16 *and* 17 *of the Bill.*—We have omitted the words "or otherwise," as suggested by the Indian Tea Association, and have provided that a District Magistrate may summon a Committee under section 128 of the Act, and that the Local Government may direct such a Committee to be summoned, on the report of an Inspector, Magistrate or Medical Officer.

10. *Section* 19 *of the Bill.*—It seems to us desirable that the unanimous finding of a Committee should be final. We have accordingly restricted the power of the Local Government to declare under (proposed) section 129A of the Act that an estate or a portion of an estate is unfit for the residence of labourers to cases in which the finding of the Committee has not been unanimous.

11. *Section* 25 *of the Bill.*—We have revised the wording of (proposed) section 142C of the Act in accordance with the suggestion of the Chief Commissioner of Assam so as to make it clear that only such emigrants as have gone up to the labour-districts for the purpose of labouring on any estate, and their dependents (if any), may be repatriated at the charge of the Inland Labour Transport Fund.

12. *Section* 34 *of the Bill.*—We have adopted the suggestion made by the Chief Commissioner of Assam with reference to (proposed) section 182B of the Act that periods of imprisonment under the ordinary law should only be endorseable as an addition to the term of the labour-contract when the labourer is sentenced to such imprisonment for a period not exceeding three years.

13. We have also made certain other additions and modifications in the Bill as introduced which need not be referred to in detail, as they are either mere changes in drafting or changes on points of minor importance not materially affecting the measure.

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

In English.

Gazette.	Date.
Gazette of India	14th January 1893.
Fort St. George Gazette	31st January 1893.
Calcutta Gazette	25th January 1893.
North-Western Provinces and Oudh Government Gazette ..	20th January 1893.
Central Provinces Gazette	28th January 1893.
Assam Gazette	28th January 1893.

In the Vernaculars.

Province.	Language.	Date.
Madras	Telugu	21st February 1893.
Bengal	Bengali	14th February 1893.
	Hindi	21st February 1893.
	Uriya	23rd February 1893.
North-Western Provinces and Oudh	Urdu	18th February 1893.

15. We do not think that the measure has been so altered as to require republication and we recommend that it be passed as now amended.

PHIL. P. HUTCHINS.
ALEX. EDW. MILLER.
JAS. L. MACKAY.
RASHBEHARY GHOSE.*
P. CHENTSAL RAO.†
C. C. STEVENS.‡
J. BUCKINGHAM.§

The 16th March 1893.

* In addition to the two points mentioned by the Hon'ble Mr. Chentsal Rao, with whom I agree both as regards the age limit and the maximum term of labour-contracts, I would insist on the local registration of all labourers whose contracts are enforceable under the Inland Emigration Act.

† I append a note on the two points on which I differ.

‡ I concur in the dissent of the Hon'ble Dr. Rashbehary Ghose.

§ The only two points I feel bound to take strong exception to are the reduction of the term of contract to four years and the amendment of section 9, under which contracts executed between employer and Native direct are restricted to one year.

NOTE.

There are two points in the Bill to which I take exception, and they are (1) the non-alteration of section 11 of the Emigration Act, which creates an exception to the general law of majority for contractual purposes, and (2) the period of maximum duration of a labour-contract laid down in section 9 of the Bill.

First.—As to the age, section 11 of the Contract Act as modified by section 3 of Act IX of 1875 fixes the age of competency to contract at 18 years; but section 11 of the Emigration Act lowers that age to 16. If in the case of ordinary contracts, whose breach is attended only by civil liability, the law, acting in the interests of the individual, requires in the contractor the physical and mental development attained at the age of 18 years, it seems to me that in the case of contracts involving criminal liability and expatriation from home and surroundings, undertaken by classes of a low order of intelligence, the age limit should be increased and not lowered. When, again, it is remembered that the Indian labourer's lot is a life-long dependence for the means of subsistence on the persistence of his bodily powers, that his best period of growth is between the years of 16 and 20 and that his physical development is arrested and stunted by hard and continous manual labour during this period of his life in marshy and feverish climates, it is clear that there are considerations which should induce a

paternal Legislature to hesitate before sanctioning the emigration of boys of 16 and 17 to estates and plantations in jungly situations of excessive rainfall. Again, it is well known that the class from which recruiters are drawn leave much to be desired on the score of character, and that, in their anxiety to secure for their employers the maximum of labourers within the minimum of time, many recruiters are not over-scrupulous in regard to the age of the recruits, and what with the uncertainty which the question of the accurate determination of age presents even to the medical experts, it frequently happens that boys and girls even under the statutory age are decoyed and sent to work on the plantations. These statements are supported by the Deputy Commissioner of Chhattisgarh, who gives in his report some typical cases to illustrate the manner in which unscrupulous recruiters abuse their powers. I think I have said enough to show that an alteration raising the limit of age prescribed by section 11 is urgently called for in the circumstances of the case. I would propose to leave the age to be governed by the ordinary law and repeal section 11 of the Act. There is nothing in this proposal to militate against the interests of the employers, because it is obviously to their advantage to be served by able-bodied men able to cope with wind and weather, rather than by striplings of 16 and 17, who may break down under the stress of continuous plantation labour.

2. In regard to the maximum duration of a labour-contract, the Bill proposed three years, which was the period fixed by law before the Act, I of 1882, and this reversion to the old state of things has met with almost universal approval. In fact, it is the one point in which all the official authorities consulted are unanimously agreed. Even the Select Committee is equally divided on this point, and it is only a narrow majority of the Committee that have agreed to raise the limit to four years. The only argument that was forwarded during the discussion in favour of the limitation being raised to four, was that the reduction of the period to three years, coupled with the provision of section 142, enabling the labourer to redeem his liberty, is calculated to inflict pecuniary loss upon the employers. This statement deserves some examination. It assumes that in a *large* number of cases the labourers are only too ready to unfetter themselves of their contract even at the expense of amounts which must to persons in their condition of life be nothing less than small fortunes. Such an assumption, if true, is a sad commentary on the lot of the labourer in the plantations, and any argument based on such an assumption ought not to be entertained for a moment by the Legislature of this country. Apart, however, from the side-light thus thrown on the conditions of coolie life in the tea-gardens, it is worth one's while to consider whether the statement is tenable even from the employer's point of view. Admitting the average initial cost of procuring a labourer is Rs. 90 (it was stated to be something above Rs. 60 by the Hon'ble Mr. Inglis in the debate on the Bill of 1882, and facilities for communication have since vastly improved), and distributing this sum over the period of the contract, the employer will pay during each of the three years Rs. 30 in addition to the wage fixed per annum. This I consider is highly favorable to the employer, considering the expensiveness of living and the almost prohibitive cost of securing local labour in places like Assam At the end of each year of labour, therefore, the labourer will work out one-third of the initial cost of recruiting. If, therefore, the labourer redeems immediately after his arrival at the garden, the employer gets Rs. 108 or Rs. 18, more than his preliminary cost. If the labourer redeems after working out one year of the contract and Rs. 30 of the initial cost, the employer receives Rs. 96, which again is Rs. 36 more than the balance of the recruiting expense he is entitled to. And, in cases where the labourer redeems after working out two years of the contract and Rs 60 of the cost of recruiting, the employer will receive Rs. 60, which again is Rs. 30 more than the balance of recruiting cost at the end of the second year. If these principles and calculations are correct, it is clear that the employer is always a gainer at whatever stage of the contract the labourer chooses to exercise his privilege of redemption. It has always to be remembered that, but for the Emigration Act and its penal provisions, including the extraordinary one of arming a private individual and interested party with the powers of arresting without a warrant, employers, if left to their own resources and the remedies of the civil law, would find immediately that recruiting is a much more costly and frequently ruinous affair than it now is. On the other hand, if the coolies receive fair treatment, there is nothing to prevent the renewal of their contract, and good employers having nothing to fear even if the maximum duration be reduced to two years. As the Additional Commissioner, Mr. Wace, remarks, "If an employer cannot induce a labourer after the third year to renew his contract, he scarcely deserves to retain the hold which the present limit of five years gives him."

For the foregoing reasons, I am of opinion that the term of the contract should not exceed three years.

P. CHENTSAL RAO.

No. II.

A Bill to amend the Inland Emigration Act, 1882.

WHEREAS it is expedient to amend the Inland Emigration Act, 1882; It is hereby enacted as follows:—

1882.

Short title and commencement.

1. (1) This Act may be called the Inland Emigration Act, 1893; and

(2) it shall come into force at once.

1882.

Substitution of new section for section 1, Act 1 of 1882.

2. For section 1 of the said Inland Emigration Act, 1882, the following shall be substituted, namely:—

Short title.

"This Act may be called the Assam Labour and Emigration Act, 1882.

Local extent.

"It extends—

(*a*) to the territories respectively administered by the Lieutenant-Governors of Bengal and the North-Western Provinces and the Chief Commissioners of Oudh, the Central Provinces and Assam, and to the district of Ganjam; and

(*b*) to such other portions of the territories administered by the Governor of Fort St. George in Council as the Governor in Council, with the previous sanction of the Governor-General in Council, may, by notification in the *Fort St. George Gazette*, from time to time, direct.

Commencement.

"It shall come into force—

(*i*) in the territories mentioned in clause (*a*) of this section at once; and

(*ii*) in any territories to which it may be extended by a notification under clause (*b*) of this section on such day as may be specified in that behalf in such notification."

3. (1) In section 3 of the said Act, in the definition of the expression "the labour-districts," the words "Chittagong, the Chittagong Hill Tracts," and "Khasi Hills" are hereby repealed.

Amendments of section 3.

(2) In the same section of the said Act, in the definition of the word "emigrate," the words "not being a labour-district" are hereby repealed; and for the words "Chief Commissioner of Oudh" the following shall be substituted, namely:—

"Chief Commissioners of Oudh and the Central Provinces, or from any portion of the territories administered by the Governor of Fort St. George in Council, in which this Act may, for the time being, be in force."

(3) *In the same section of the said Act, in the definition of the word "dependent" for the word "means" the word "includes" shall be substituted.*

4. In section 4 of the said Act, after the word "labour-district" *where it first* occurs, the words "or *specified area thereof*," *and after the same word, where it afterwards occurs, the words "or area" shall be respectively inserted.*

Amendments of section 4.

5. For the penultimate paragraph of section 9 of the said Act the following shall be substituted, namely:—

Amendment of section 9.

"No such contract shall be made for a term exceeding *four* years or, if the contract is entered into under the provisions of section 111 of this Act, for a term exceeding one year, commencing from the date of its execution; or shall stipulate for a less rate of monthly wages for a completed daily task regulated in accordance with the provisions of this Act than five rupees in the case of a man and four rupees in the case of a woman, *for the first three years of the term of the contract, and six rupees in the case of a man and five rupees in the case of a woman for the fourth year of such term.*"

6. After the same section of the said Act the following shall be inserted, namely:—

Addition of new section after section 9.

"9A. Unless the contract contains a specific obligation to this effect, no labourer shall be bound by any labour-contract entered into under this Act to undertake any work involving *underground* labour *in mines*."

"In absence of specific obligation, underground labour not obligatory."

7. *After section* 11 *of the said Act the following sections shall be inserted, namely:*—

Addition of new sections after sections 11.

"11A. If the Local Government, after such inquiry as it thinks sufficient, is of opinion that any labourer was recruited or conveyed to a labour-district, or compelled or induced to enter into a labour-contract, by any coercion, undue influence, fraud or misrepresentation, or that any such irregularity has occurred in connection with his recruitment or the execution of his contract as makes it just to rescind his contract, the Local Government may, by an order in writing, direct the labour-contract of such labourer to be cancelled.

Power of Local Government to cancel contract for wrongful recruitment.

"On receipt of any such order by the Local Government, the *Superintendent*, Inspector or Magistrate shall cancel the contract referred to, and shall thereupon make an endorsement that it has been so cancelled on the labourer's copy of the contract or, if the same be not forthcoming, shall give to the labourer a certificate to that effect.

"11B. *When the labour-contract of any labourer is or has been cancelled under the last foregoing section, the Local Government may, at its discretion and on the application of the labourer concerned, cancel the labour-contracts of any labourers, being the wife, husband, father, mother, son or daughter of the labourer whose labour-contract is or has been cancelled, who may have entered into a labour-contract at the same place with the same employer or, in the case of labour-contracts cancelled in the labour-districts, may be employed on any estate belonging to the same employer.*

Power to cancel contract of labourer related to labourer whose contract is cancelled.

"11C. *Subject to any orders which the Local Government may issue in this behalf, the Superintendent, Inspector or Magistrate may send back to his native district any labourer, together with his dependents (if any) whose contract has been cancelled under section* 11*A, and may recover the whole or any part of the expenses incurred in so sending him back as follows, namely:*—

Repatriation of labourers whose contracts cancelled for wrongful recruitment.

(*a*) *when the contract has been cancelled before the labourer has reached the labour-districts, in accordance with the provisions of section* 49 *or section* 79, *as the case may be, as if it were a sum recoverable under one of those sections;*

(*b*) *when the contract has been cancelled in a labour-district, from the employer on whose estate the labourer was under contract to labour, as if it were an arrear of wages.*

"11D. *In any case in which a labourer is sent back to his native district under the provisions of the last foregoing section, the Superintendent, Inspector or Magistrate may provide an escort or make such other arrangements as may appear to him to be necessary for ensuring that such labourer is actually conveyed to such district. Any expenditure incurred in providing such escort or making such arrangements may be recovered as part of the amount expended in sending such labourer back to his native district.*"

Escort for repatriated labourer.

8. *For section* 16 *of the said Act the following shall be substituted, namely:*—

Substitution of new section for section 16.

"16. *No sub-contractor shall be licensed to act on behalf of more than one contractor.*"

Sub-contractor only to represent one contractor.

9. After section 42 of the said Act the following shall be inserted, namely:—

Addition of new sections after section 42.

"42A. If the employer with whom any labourer intends to contract or the agent of such employer has given notice to the Superintendent that before any labour-contract is entered into by him or on his behalf with any labourer, the labourer shall be examined by a competent medical man and certified by him to be in a fit state of health and able in point of physical condition to reside and labour for hire in the labour-district in which the estate of such employer is situate, the Superintendent shall not permit such labourer to execute a labour contract until such certificate from such medical man as aforesaid has been produced and shown to him.

Employer may require medical certificate as to fitness to labour previous to contract.

"42B. If the employer or his agent has directed that such examination shall be made by any medical officer in the service of Government, such officer making the examination shall be entitled to receive from such employer or his agent such a fee not exceeding eight annas for each labourer so examined as the Local Government may fix."

Medical officer entitled to fee.

10. *In section* 84 *of the said Act, after the word "registered" the words "and such further sum (if any) by way of compensation as the Superintendent thinks reasonable" shall be inserted.*

Amendment of section 84.

11. *In* section 86 of the said Act *all the words after the word "labour-districts" are* hereby repealed.

Amendment of section 86.

12. For sections 111 and 112 of the said Act the following shall be substituted, namely:—

Substitution of new sections for sections 111 and 112.

"111. Any employer may enter into a labour-contract for any term not exceeding one year commencing from the date of the execution of the contract with any native of India within the labour-district in which the estate on which such native contracts to labour is situated. When any employer has executed any such contract with any such native within a labour-district, he shall, within one month from the date of the execution of such contract, forward it in duplicate to the Inspector within the local limits of whose jurisdiction such estate is situated. On receipt of the contract so forwarded, the Inspector shall enter an abstract thereof in a register to be kept by him for the purpose, and shall then give one copy of the contract to the labourer and the other copy to his employer.

Labour-contracts executed in labour-districts between employer and native direct.

Registration of such contracts.

111A. When, for the first time after the registration of any such contract with a labourer, the Inspector visits the estate on which such labourer is employed, the employer shall cause such labourer to appear before the Inspector for the purpose of having his contract verified, and such labourer may thereupon apply to the Inspector to cancel the contract; and if he shows cause sufficient in the opinion of the Inspector to justify the cancellation, the Inspector *shall* cancel the contract, and shall thereupon make an endorsement that it has been cancelled on the labourer's copy of the contract, or, if such copy be not forthcoming, shall give to the labourer a certificate to that effect.

Verification and cancellation of such contracts.

"111B. The Inspector or Magistrate may at any time, either on the application of the employer or the labourer or of his own motion, require the employer to cause any labourer who has entered into a contract under section 111 and is employed upon any estate within the local limits of the jurisdiction of the Inspector or Magistrate to appear before him for the purpose of having his contract verified; and, if such labourer applies to the Inspector or Magistrate to cancel his contract and shows cause sufficient in the opinion of the Inspector or Magistrate to justify such cancellation, the Inspector or Magistrate *shall* cancel the contract as provided in the last preceding section.

Power of Inspector or Magistrate to require labourer who has executed such contract to appear before him.

"112. Notwithstanding the provisions of section 111, any employer may enter into a labour-contract with any native of India in a labour-district for any term not exceeding *four* years commencing from the date of the execution of the contract if he appears either in person or by agent with such native before the Inspector or Magistrate within the local limits of whose jurisdiction the estate upon which such native is about to contract to labour is situated.

Labour-contracts executed within labour-districts before Inspector or Magistrate.

"Such Inspector or Magistrate shall thereupon explain the labour-contract to such native and shall, if satisfied, that he is competent to enter into and understands the same, call upon him and the employer or his agent to execute it in his presence; and, if they execute it, shall attest such execution with his signature.

"An abstract of every such labour-contract shall be entered in a register to be kept by the Inspector or Magistrate for the purpose; and one copy of such contract shall then be given to the labourer and the other copy to his employer or his agent.

"In respect of every labour-contract an abstract whereof is registered under section 111 or under this section, the employer who executes such contract in person or by agent shall pay to the Inspector or Magistrate such fee, not exceeding one rupee, as the Local Government may from time to time direct.

"112A. For the purposes of the last preceding section an estate situated in any one of the following districts of the Assam Valley Division, namely, Kamrup, Darrang, Nowgong, Sibsagar, and Lakhimpur, shall be deemed to be also situate within the local limits of the jurisdiction of the Inspector and Magistrate resident at the civil station of Dhubri in the Goalpara District; and, subject to such rules as the Local Government may prescribe in this behalf, contracts to labour on any estate in any of the labour-districts above named may be executed and registered before the Inspector or Magistrate at Dhubri in accordance with the provision of the last preceding section.

Execution of labour-contract before Inspector or Magistrate of Dhubri.

"112B. The Local Government may *after previous publication* make rules consistent with this Act with respect to all or any of the following matters, namely:—

Power of Local Government to frame rules in connection with the execution of labour-contracts at Dhubri.

(*a*) the execution and registration of contracts under section 112A before the Inspector or Magistrate at Dhubri;

(*b*) the medical examination at Dhubri by the the Civil Surgeon or other competent medical man of labourers and persons intending to become labourers and their dependents;

(*c*) the conditions under which depôts, rest-houses, and other places may be established and maintained at Dhubri for the reception and lodging of labourers and persons intending to become labourers and their dependents; the sanitation and management of such depôts, rest-houses and other places; the arrangements for food, water and conservancy therein; the clothing and necessary utensils to be supplied to persons lodged therein; and the hospital accommodation for and medical treatment of such persons;

(*d*) the control and inspection by officers of Government of such depôts, rest-houses and other places; and

(*e*) the registers to be kept, and the reports and returns to be made, by the persons in charge of such depôts, rest-houses and other places."

13. *For* section 114 of the said Act *the following shall be substituted, namely*:—

Substitution of new section for section 114.

114. *Any Inspector or Magistrate or any person authorised by either of them in writing in this behalf may at any time enter and inspect all lands and houses wholly or partially used by or for labourers, or by or for any other natives of India employed on any estate, and may require that all such labourers or natives, or any particular class or classes or individual or individuals of them, shall be brought before him, and that a copy of the labour-contract of any labourer shall be produced, and may make any inquiries which he thinks proper touching the condition or treatment of such labourers or other natives or any of them, and the employer shall be bound to comply with such requisition and to answer such inquiries to the best of his ability.*"

Powers of Inspector or Magistrate to inspect lands and houses and make requisitions and inquiries.

14. In section 115 of the said Act, for the words "whole number of days in the current month," the following shall be substituted, namely :—

Amendment of section 115.

"number of working days in the current month. The number of working days in any month shall be ascertained by deducting the number of Sundays from the whole number of days in the month."

15. For the last sentence of section 121 of the said Act the following shall be substituted, namely :—

Amendment of section 121.

"The Inspector shall from time to time, when visiting the estate, on the application of the employer, and may also at any other time on the application of either the employer or the labourer, endorse on the labourer's labour-contract, after such inquiry as may be necessary, the number of days so to be added to the term thereof :

"Provided that an employer who omits to apply for the endorsement of such days on any labourer's labour-contract, when the Inspector is actually visiting the estate, shall, in the absence of sufficient reasons to the contrary shown to the satisfaction of the Inspector, be debarred from applying afterwards for such endorsement in so far as days of absence which occurred prior to the date of the Inspector's last visit are concerned."

16. Between the first and second paragraphs of section 128 of the said Act the following shall be inserted, namely :—

Amendment of section 128.

"The Magistrate of the District may also of his own motion summon such a Committee, if, either from his own observation or *upon the report of an Inspector, Magistrate or Medical Officer*, he is of opinion that any estate or portion of an estate is, for any of the reasons aforesaid, unfit for the residence of labourers or of any particular class of labourers."

17. After the same section of the said Act the following shall be inserted, namely :—

Addition of new sections after section 128.

"128A. If it appears to the Local Government *upon the report of an Inspector, Magistrate or Medical Officer*—

Local Government may order Committee.

(*a*) that any estate or portion of an estate is for any of the reasons given in the last preceding section unfit for the residence of labourers or of any particular class of labourers, or

(*b*) that the percentage of mortality of labourers or of any particular class of labourers employed on any estate or on any portion of an estate is such as would justify the institution of an inquiry by a medical officer under section 130 of this Act,

the Local Government may direct the Magistrate of the District to summon a Committee under the last preceding section ; and the Magistrate of the District shall forthwith proceed to summon a Committee accordingly."

18. To the last paragraph of section 129 of the said Act the following shall be added, namely :—

Addition to section 129.

"Where the finding relates to the whole of any estate and the employer has no other estate in the same labour-district on which the labourer may be employed, the Inspector shall cancel the labour-contract of such labourer, and shall thereupon make an endorsement that it has been cancelled on the labourer's copy of the contract, or, if such copy be not forthcoming, shall give to the labourer a certificate to that effect."

19. After section 129 of the said Act the following shall be inserted, namely :—

Addition of new section after section 129.

"129A. The Local Government may call for the proceedings of any Committee summoned under section 128 or section 128A of this Act, and, *if the finding of such Committee is not unanimous, the Local Government may* record any finding thereon which such Committee was competent to record, and such finding shall have the same effect as the finding of a Committee under section 129."

Local Government may pass orders on proceedings of Committee.

20. *In* section 130 of the said Act, after the words "Local Government" each time they occur the words "or the Magistrate of the District" *shall be inserted, and to the same section the following shall be added, namely :—*

Amendments of section 130.

"Provided that, when the mortality among any particular class of labourers employed on an estate or any specified portion of an estate exceeds the percentage specified in this section, the Local Government or Magistrate of the District may direct an inquiry under this section limited to such particular class of labourers."

21. (1) In section 132 of the said Act, for the words "and that such estate or portion is thereby rendered" the words "or that such estate or portion is" shall be substituted.

Amendments of section 132.

(2) In the same section, *for the words following* the word "labourers" the *first time it occurs down to and including the same word the second* time it occurs, the words "*or of any particular class of labourers, it may make a declaration in writing to that effect*" *shall be substituted.*

22. *For* section 133 of the said Act, *the following shall be substituted :—*

Amendments of section 133.

133. *If it at any time appears to the Inspector that any estate or smaller area, which has been found or declared under any of the preceding provisions to be unfit for the residence of labourers or of any particular class of labourers, has become fit for the residence of such labourers or class of labourers, as the case may be, he shall, with the previous sanction of the Magistrate of the district in which such estate or area is situate, give a certificate to that effect signed by him. Thereupon all such labourers as are mentioned or referred to in the last paragraph of section 129, and whose contracts have not been cancelled by the Inspector under that section, shall again be bound to labour on the estate or area, as the case may be, to which the certificate relates for the unexpired periods (if any) of their respective contracts.*"

Power to certify fitness of estate or portion found or declared to be unfit.

Addition of new section after section 140.

23. After section 140 of the said Act the following shall be inserted, namely :—

"140A. When the labour-contract of any labourer is or has been cancelled or determined under section 111A, 111B, 122 or 140, the Inspector or Magistrate, as the case may be, may, at his discretion, and on the application of the labourers concerned, cancel the labour-contract of any labourer employed on any estate belonging to the same employer being a wife, husband, father, mother, son or daughter of the labourer whose labour-contract is or has been so cancelled or determined."

Power to cancel contract of labourer related to labourer whose contract is cancelled or determined.

24. In the last paragraph of section 142 of the said Act, for the words "third, fourth and fifth years" the words "third *and fourth* years" shall be substituted.

Amendment of section 142.

25. After section 142 of the said Act the following shall be inserted, namely :—

Addition of new sections after section 142.

"142A. In any case in which the contract of a labourer determines at a different time from that of any other labourer who is the wife or husband of such labourer, the Inspector or Magistrate may, on the joint application of such labourers, equalize the terms of their respective contracts, *and may for this purpose add to the term of the contract which expires first and deduct from the term of the contract which expires last in such proportions as may appear to him to be equitable.*

Power to equalize terms of contract in case of husband and wife.

"Every such addition or deduction from the term of any contract shall be certified by such Inspector or Magistrate on the back of both the employer's and the labourer's copies of the contract, or, if the same be not forthcoming, by writing under the Inspector or Magistrate's hand, copies of which shall be delivered to the employer and the labourer.

F.—Repatriation of labourers and others.

"142B. If any labourer, not being a native of the labour-districts, whose contract is determined under section 122, desires to be sent back to his native district, the Inspector may, instead of awarding a sum as receivable by such labourer from his employer, as provided by that section, order the employer to deposit such amount, whether in excess of the three months' wages awardable under that section or otherwise, as shall, in the Inspector's opinion, be sufficient to cover the entire expenses of sending the labourer to such district. Such amount shall be deposited by the employer in the Inspector's office and shall be expended by the Inspector in sending the labourer back to his native district.

Repatriation of labourers whose contract is determined under section 122.

"On failure of the employer to deposit such amount within twenty-four hours in accordance with any such order, the Inspector may pay the same, and any amount so paid shall be recoverable from the employer as if it were an arrear of wages.

"142C. If any person, being a native of India but not being a labourer, *who has emigrated from his native district to a labour-district for the purpose of labouring for hire in any estate situate therein, or being a dependent of any person who has so emigrated,* has no means of subsistence and is, in the opinion of the Inspector or Magistrate, permanently incapacitated from earning his livelihood in a labour-district, the Inspector or Magistrate may, on the application of such person, send him back *together with his dependents* (*if any*) to his native district, and may, subject to the control of the Local Government, charge the expenses incurred in so doing to the Inland Labour Transport Fund.

Repatriation of immigrants not under contract who are physically incapacitated.

"142D. Subject to any orders which the Local Government may issue in this behalf, the Inspector or Magistrate may send back to his native district any labourer, together with his dependents (if any), whose contract has been cancelled under section 111A *or* 111B on the ground of coercion, undue influence, fraud or misrepresentation, or of any irregularity in connection with his recruitment or the execution of his contract, and may recover, as if it were an arrear of wages, from the employer on whose estate such labourer was under contract to labour, the whole or any part of the expenses incurred in so sending him back.

Repatriation of labourers wrongfully recruited.

"142E. If it appears to the Inspector or Magistrate, on complaint made before him or otherwise, that there is reason to suppose that any native of India, not being a labourer, has been induced by any coercion, undue influence, fraud or misrepresentation to emigrate to a labour-district, the Inspector or Magistrate shall call upon the employer on whose behalf such person was made or induced to emigrate, or to whose estate he is being or has been conveyed, or, if the employer cannot be communicated with without undue delay, upon his agent or any one accompanying such person or conveying him to any labour-district or estate, to appear before the Inspector or Magistrate and show cause why such person should not be sent back to his native district.

Repatriation of persons not under contract wrongfully recruited.

"If the Inspector or Magistrate is of opinion after such inquiry as he thinks sufficient that such person was engaged or compelled or induced to emigrate by any such coercion, undue influence, fraud or misrepresentation, as would justify his being sent back to his native district, the Inspector or Magistrate shall record a finding to this effect and shall send such person, if he so desires, together with any other persons dependent on him (if any) back to his native district.

"Subject to any orders which the Local Government may issue in this behalf, the whole or any part of the amount expended in sending a person back to his native district under this section may be recovered as if it were an arrear of wages from the employer on whose behalf such person was induced to emigrate or to whose estate he was being or had been conveyed ; or if the employer is not known, or if there is no such employer, by distress and sale of any moveable property belonging to the person accompanying such person or conveying him to any labour-district or estate.

"142F. In any case in which a labourer or other person is sent back to his native district under the provisions of section 142D or section 142E, the Inspector or Magistrate may provide an escort or make such other arrangements as may appear to him to be necessary for ensuring that such labourer or person is actually conveyed to such district. Any expenditure incurred in providing such escort or making such arrangements may be recovered as part of the amount expended in sending such labourer or other person back to his native district."

Arrangements may be made for escorting persons ordered to be repatriated.

26. To section 143 of the said Act the words "In addition to any other power to make rules conferred by this Act" shall be prefixed ; and in section 145 of the said Act for the

Amendment of sections 143 and 145.

word "hereunder" the words "under this Act" shall be substituted.

Addition to section 151.

27. *For section 151 of the said Act the following shall be substituted :—*

Garden-sardar failing to report himself, &c.

"151. *Whoever being a garden-sardar,*

fails, within fourteen days after his arrival in the local area within which he is authorized to enter into contracts under this Act, to report himself to the local agent (if any) specified in his certificate, or

fails without sufficient cause to return to his employer within the time specified in his certificate, or

fails to account for the money advanced to him by his employer for the purpose of engaging labourers, and

whoever being a garden-sardar or a person appointed under section fifty or section seventy-three to accompany labourers to a labour-district wilfully abandons any labourer or his dependent on the way to such district, or

removes or attempts to remove any person to a labour-district before he has been registered as provided by section sixty-six, or

induces or attempts to induce any person to go to a labour-district or to leave the local area specified in the certificate of such sardar before he has been so registered or aids or attempts to aid him in proceeding to a labour-district or in leaving any such local area before he has been so registered,

shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Substitution of new section for section 152.

28. For section 152 of the said Act the following shall be substituted, namely :—

Garden-sardar making over labourers to contractors, *or committing like offences.*

"152. Any garden-sardar who makes over to any contractor, sub-contractor or recruiter, or to the garden-sardar or local agent of any employer other than the employer by whom his certificate was granted or, without authority from his employer, to any other person, any persons whom he has engaged or intends to engage as labourers, or

places any such person in a contractor's depôt or in the place of accommodation provided by a recruiter in accordance with the provisions of section 27, or

allows any persons engaged as labourers by any contractor or sub-contractor or recruiter to share the accommodation provided by him under section 57,

shall be punished with imprisonment for a term which may extend to three months or with fine which may extend to one hundred rupees or with both; and his certificate may be impounded by the convicting Magistrate.

"Any Magistrate impounding a certificate under this section shall send it for cancellation to the Magistrate by whom it was countersigned."

Amendment of section 164.

29. In section 164 of the said Act, after the word "inquiry" the words "or omits to comply with any requisition" shall be inserted.

Amendment of section 170.

30. In the second paragraph of section 170 of the said Act, after the words "any Inspector who receives any such statement shall" the words "if the employer so desires" be inserted, and to the same section the following shall be added, namely :—

"The Inspector may also at any time other than that of his visit to the estate on the application of either the employer or the labourer, after due inquiry, endorse such days of absence on, and add them to the term of, the labour-contract: Provided that an employer who omits to apply for the endorsement of such days on any labourer's labour-contract when the Inspector is actually visiting the estate shall be debarred, in the absence of sufficient reasons to the contrary shown to the satisfaction of the Inspector, from applying afterwards for such endorsement so far as days of absence reported in statements sent to the Inspector previous to the date of his last visit are concerned."

Addition of new section after section 171.

31. After section 171 of the said Act the following section shall be inserted, namely :—

Statement of deserters.

"171A. Every employer may on or before the fifteenth day of each month send to the Inspector a statement in writing in such form as the Local Government may prescribe containing the names of all or any of his labourers who have deserted from his service during the preceding month, or who, having deserted at any previous time, have been absent during the preceding month, or who, having deserted during the month or previously, have been arrested or have returned to his service during the preceding month."

Substitution of new section for section 173.

32. For section 173 of the said Act the following shall be substituted, namely :—

Procedure at police-station.

"173. The police-officer in charge of such station shall, on the appearance of the parties, take down in writing the statements of the labourer arrested and of the person arresting the labourer.

"If the labourer admits the contract and does not claim to be forwarded to a Magistrate, the police-officer may permit the person arresting the labourer to convey him to the estate on which he is under contract to labour, and shall then transmit the statements recorded and a report of his proceedings to the Magistrate within the local limits of whose jurisdiction the police-station is situated.

"If the labourer does not admit the contract or claims to be forwarded to the Magistrate, or if, for any reason, it appears to the police-officer desirable that he should be so forwarded, the police-officer shall forthwith send such labourer, together with the statements recorded as aforesaid and a report of his proceedings, to the Magistrate within the local limits of whose jurisdiction the police-station is situated.

"If the estate on which the labourer is under contract to labour is not situate within the local limits of the jurisdiction of the Magistrate referred to in the last two preceding paragraphs, such Magistrate shall forward the statements and report received by him from the police to the Magistrate within the local limits of whose jurisdiction such estate is situate. He shall also, when the labourer has been sent to him by the police, either forward the labourer to, or take security for his appearance before, such Magistrate.

"On receipt of such statements and report, the Magistrate within the local limits of whose jurisdiction such estate lies may, after making such inquiry as he considers desirable into the case, pass such order in accordance with law as he thinks proper. For the purpose of any such inquiry such Magistrate may, if he thinks fit, in any case in which the labourer arrested has not been sent to, or appeared before, him require the labourer to appear before him."

Additions to section 175.

33. *In section 175 of the said Act—*

(*a*) *after the words "one month" the words "or with fine which may extend to twenty rupees or with both,"*

(*b*) *after the words "two months" the words "or with fine which may extend to fifty rupees or with both," and*

(*c*) *after the words "three months" the words "or with fine which may extend to one hundred rupees or with both,"*

shall be added respectively.

Substitution of new sections for section 182.

34. For section 182 of the said Act the following shall be substituted, namely :—

Endorsement on contract of period of unlawful absence or imprisonment for offence against Act.

"182. When any labourer is convicted under section 171 of absence from labour or is sentenced to imprisonment for an offence under this Act, the Magistrate so convicting or sentencing him shall endorse on employer's copy of the labour-contract the period during which such labourer is convicted under the section aforesaid of being absent from his labour or the term for which he is sentenced to imprisonment, or both, as the case may be.

Endorsement on contract of period of desertion or imprisonment for desertion.

"182A. When any labourer is convicted under section 175 of desertion from his employer's service, the Magistrate convicting him shall, on the application of the employer or his agent, endorse on the employer's copy of the labour-contract (in addition to the term of imprisonment to which the labourer may be sentenced for such desertion), the period during which the Magistrate finds that the labourer was absent from his labour in contravention of his contract owing to such desertion :

"Provided that no such endorsement shall be made in any case in which *the labour-contract has been cancelled under the provisions of section* 177 *or in any case in which* the original term of the labour-contract has expired on the date of the conviction, *and* more than three years have elapsed from the date of the labourer's desertion to that of his arrest :

"Provided also that the employer has duly reported the particulars of the desertion in the monthly statement provided for in section 171A.

Endorsement on contract of period of any other imprisonment.

"182B. When any labourer is sentenced to imprisonment for any *time not exceeding three years for any* offence other than an offence under this Act, the Court or Magistrate so sentencing him shall, *if* the employer or his agent *shall so request*, endorse on the employer's copy of the labour-contract the period for which the labourer is sentenced to imprisonment, or, if such period exceeds the unexpired term of the labour-contract on the date of the sentence, so much of such period as is equal to such unexpired term.

Periods endorsed to be added to term of contract.

"182C. The periods endorsed under the three last preceding sections shall be added to the term for which the labourer contracted to serve; and such labourer shall not be deemed to have performed his labour-contract till he has served for the term specified therein in addition to the periods so endorsed."

Addition of new section after section 183.

35. After section 183 of the said Act the following shall be inserted, namely :—

Failure to forward contract under section 111 or to cause labourer to appear under section 111B.

"183A. Whoever, being bound under section 111 to forward any labour-contract to the Inspector, or under section 111B to cause any labourer to appear before the Inspector or Magistrate, wilfully omits or neglects so to forward such labour-contract to the Inspector at or within the time specified, or to cause such labourer to appear before the Inspector or Magistrate within a reasonable time, shall be punished with fine which may extend to two hundred rupees."

Amendment of section 192.

36. In section 192 of the said Act, after the words "leave allowances" the words "for meeting the cost of sending labourers and other persons back to their native districts" shall be inserted.

Amendments of schedule.

37. (1) In the schedule to the said Act opposite the word "labour" where it first occurs, the following note shall be inserted, namely :—

"* State nature of labour, if the labourer is to be required to work under the ground.

(2) In the same schedule, for the portion which follows the tabular statement, headed

"Form of Description of Labourer," the following shall be substituted, namely :—

"[*Endorsement to be filled up by Registering Officer before whom the contract is executed.*]

I hereby certify that, before the said A, B, signed this contract, I personally explained it to him.

Dated at
This day of } Signed
Registering Officer or Inspector or Magistrate.

[*Endorsements on labourer's copy of contract, to be filled up when the contract is determined or cancelled.*]

I hereby certify that the foregoing contract has been determined by effluxion of time.

Dated at
This day of } *Signature of Employer or Inspector.*

I hereby certify that the foregoing contract has been cancelled under the provisions of section of Act

Dated at
This day of } *Signature of Inspector or Magistrate.*"

Repeal of Act XXII of 1891.

38. Act XXII of 1891 (*an Act to extend the Inland Emigration Act*, 1882) is hereby repealed.

J. M. MACPHERSON,
Offg. Secretary to the Government of India.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS : PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

The following Further and Final Report of the Select Committee on the Bill to amend the Land Acquisition Act, 1870, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 23rd March 1893 :—

We, the undersigned Members of the Select Committee to which the Bill to amend the Land Acquisition Act, 1870, was referred, have considered the Bill as amended by our Preliminary Report of the 1st February and the papers noted in the margin, and have now the honour to submit this our Further and Final Report. In our Report of February last we recommended that the Act of 1870 should be wholly repealed and re-enacted with such amendments as might be approved by the Council. We have now acted upon this recommendation, and we attach to this Report a Bill repealing the Act of 1870 and re-enacting it with amendments.

Memorandum by Mr. P. R. Desai, Pleader, District Court, Ratnagiri, dated 14th February 1893 [Paper No. 1]
From Agent to Governor-General in Baluchistan, No. 248 F.C., dated 17th February 1893 [Paper No. 2].
From Assistant Secretary to Chief Commissioner, Central Provinces, No. 1297, dated 21st February 1893 [Paper No. 3].
From Junior Secretary to Government, Punjab, No. 236, dated 22nd February 1893 [Paper No. 4].
From Secretary to Chief Commissioner, Coorg, No. 281-68-92, dated 23rd February 1893 [Paper No. 5].
From Secretary to Chief Commissioner, Burma, No. 643—1A-10, dated 25th February 1893 [Paper No. 6].
From Chief Secretary to Government, North-Western Provinces and Oudh, No. 499, dated 27th February 1893, and enclosures [Paper No. 7].
From Registrar, High Court, Calcutta, No. 529, dated 6th March 1893 [Paper No. 8].
From Secretary for Berar to Resident, Hyderabad, No. 66, dated 1st March 1893, and enclosures [Papers No. 9].
From Chief Commissioner, Ajmere-Merwara, No. 295 C., dated 3rd March 1893, and enclosure [Papers No. 10].
From Acting Chief Secretary to Government, Bombay No. 1655, dated 6th March 1893 ; from Chief Secretary to Government, Bombay, No. 972, dated 4th February 1893, and enclosures [Papers No. 11].
Telegram from Chief Commissioner, Assam, No. 307 T., dated 12th March 1893 [Paper No. 12].
From Secretary to Government, Bengal, No. 1249, dated 14th March 1893, and enclosure [Papers No. 13].
Endorsement from Government of India, Revenue and Agricultural Department, No. 570—23, dated 13th March 1893, and enclosure [Papers No. 14].

2. We have made few changes in the recommendations made in February. In the subsequent remarks the references are to the sections of the Bill which we now present.

3. In section 3, the interpretation-clause, we have added, at the instance of the Governments of Bombay and the Punjab and the Chief Commissioner of Burma, a provision which will enable the Local Government to apply the Act for the acquisition of village-sites in those parts of the country where it may be customary for the State to provide village-sites. The Committee are in concert with the great majority of the authorities consulted in declining to recommend any further extension of the scope of the Act.

4. In section 17 we have introduced a sub-section permitting a shorter procedure under the direct orders of Government in those cases where sudden changes in the course of a river require new land to be immediately taken for the convenience of the traffic on a railway.

5. In section 19 we have, on the suggestion of the High Court of Bengal, added to the particulars which will be included in the report of the Collector to the Judge when a matter of dispute is referred for the decision of the Civil Court.

6. In section 27 we have widened the discretion of the Judge in the apportionment of costs to meet an objection pressed by the Lieutenant-Governor of Bengal. It is represented that the owners of land frequently suppress the evidence as to the value of their property, which it is their duty to adduce before the Collector, hoping to deploy it to greater advantage before the Judge. We have now given express power to the Judge to give effect to this consideration in his award of costs when he is of opinion that evidence given before him has been wilfully kept back in the proceedings before the Collector.

7. We have removed to Part VIII the sections which now stand there as sections 53 and 54. They concern questions of procedure in the Civil Court, and, being thus made generally applicable, several sections in earlier parts of the present Act become superfluous and have been accordingly omitted.

8. Section 31 contains the regulations as to the payment of the compensation-money. To this we have added additional sections laying down the procedure of the Collector and the Judge in those cases in which the occupant of the land acquired is from any disability incompetent to alienate it, or in which the compensation-money must remain in deposit till the settlement of a dispute as to title. One of the objections urged by Local Governments against the present law was that excessive charges of interest accumulated against Government when owners refused the Collector's award. The revised Bill met this objection by requiring the Collector to make immediate payment of his award, and empowering the owner to take payment of the compensation tendered, without prejudice to a protest regarding the sufficiency of it. In the cases above mentioned, however, it is only fair to the owner that the compensation-money deposited by the Collector should be immediately so invested as to yield him interest till the title to it is settled. We have added a clause giving formal power to the Collector, with the sanction of the Local Government, to adjust compensation by an exchange of land, a method of settlement which has been found in some provinces useful and convenient to all parties.

9. In this connection we may remark, in answer to a criticism by the Bengal Board of Revenue, that a deposit of money by the Collector in a Civil Court is, we understand, a paper transaction which merely places the amount at the credit of the Court in its personal ledger in the Collector's treasury.

10. Part VI of the revised Bill, as of the present Act, concerning the temporary occupation of land, permits a reference to the Civil Court as to the sufficiency of the Collector's compensation. The Governments of Bombay and the North-Western Provinces have asked that the reference may include a question as to the apportionment of the compensation. We have adopted this suggestion.

11. We have altered the terms of the first clause of section 48, which gives certain powers to Government to withdraw from a contemplated acquisition of land, so as to make it quite clear that this withdrawal may be made at any time before possession is taken, but not afterwards. Instances were quoted in our Preliminary Report in which the Collector was proved by the Judge's award to have been seriously misled as to the value of the land, and in which the Government would not have acquired the land had it received a correct appraisement. We think that a Government which provides compensation from the taxes of the Empire should have larger powers of withdrawal than are given by the present Act, but we are of opinion that no such power should be given after possession has once been taken, and that each Local Government must protect itself by executive instructions to Collectors to refrain from taking possession, until after the award of the Judge, in every case in which there is material difference between the Collector and the owner as to the value of the property.

12. To section 50 we have added, at the desire of the Government of Bombay, a clause permitting the appearance before the Collector or the Court of the representative of a local authority or company on whose behalf land is being acquired. We cannot, however, agree that this authority should be permitted to appeal from the Collector's award. We have not given to Government itself power to make this appeal, because the Collector is only the agent of Government in the acquisition of land; his action is taken under rules laid down for his guidance, which include a preliminary valuation; and these rules ordinarily provide, and ought to provide, that, where the Collector finds cause to anticipate that his eventual award will substantially exceed his provisional estimate, he shall stay proceedings till he receives the further instructions of higher authority. No local authority or company is compelled to proceed under the Land Acquisition Act. If it can procure its land more cheaply by private negotiation, it is entirely at liberty to do so, but, if it elects to set in motion the very special powers given to Government for public objects, it can expect no higher privileges and powers than those given to Government itself.

13. We may explain, in answer to a criticism by the Board of Revenue, Lower Provinces, that power was given to the Collector in section 17 to give special damages for sudden dispossession in order to cover injuries which sudden dispossessions constantly entail. If, for instance, an owner is suddenly deprived of a pasture meadow, the market-value of the meadow may not represent the actual amount of his loss. It may be impossible to find fresh pasture for his cattle in the emergency except at special charges. We think it right that the Collector should be empowered, whenever he deprives a man suddenly of his land, to meet liberally the exceptional expenses to which the owner may be put.

14. We have again considered the question of a definition of the term "market-value," but we adhere to the opinion of our Preliminary Report that it is preferable to leave the term undefined. No material difficulty has arisen in the interpretation of it; the decisions of the several High Courts are at one in giving it the reasonable meaning of the price a willing buyer would give to a willing seller; but the introduction of a specific definition would sow the field for fresh harvest of decisions; and no definition could lay down for universal guidance in the widely divergent conditions of India any further rule by which that price should be ascertained.

15. The Bombay Government have pointed out the difficulty of discriminating accurately between clause (3) of section 24 and clause (4) of section 25 of the present Act. The former permits to be taken into consideration in an award of compensation any damage sustained by reason of the acquisition injuriously affecting other property of the owner. The latter excludes from consideration any damage caused by the use to which the land acquired will be put, and it was contended that under the latter clause it was doubtful whether an owner could be compensated for the damage caused to the rest of a building-site by the construction on part of it of a public latrine. We think that, even as the Act at present stands, there is no doubt of the right of the owner to compensation for damage of this sort; but we have so altered clause (4), section 24 of the Bill, as to make it quite clear that we exclude from compensation only a possible depreciation of the acquired land itself from the use to which it will be put; that is to say, if garden lands are appropriated for a latrine, the owner will get compensation as for garden lands without reference to the lower value they will subsequently have.

16. The other alterations are merely verbal amendments, and need not be referred to in detail.

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

In English.

Gazette.	Date.
Gazette of India	4th February 1893.
Fort St. George Gazette	14th February 1893.
Bombay Government Gazette	9th February 1893.
Calcutta Gazette	9th February 1893.
North-Western Provinces and Oudh Government Gazette	11th February 1893.
Punjab Government Gazette	16th February 1893.
Central Provinces Gazette	18th February 1893.
Burma Gazette	18th February 1893.
Assam Gazette	18th February 1893.
Coorg District Gazette	1st March 1893.

18. We do not think that the additional amendments now proposed are of sufficient importance to require re-publication, and we recommend that the Bill appended to this Report be passed into law.

J. WOODBURN.
PHIL. P. HUTCHINS.
ALEX. EDW. MILLER.
C. B. PRITCHARD.
RASHBEHARY GHOSE.
P. CHENTSAL RAO.
C. C. STEVENS.

The 22nd March 1893.

No. III.

THE LAND ACQUISITION BILL, 1893.

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No. III.

A Bill to amend the law for the acquisition of land for public purposes and for Companies.

WHEREAS it is expedient to amend the law for the acquisition of land needed for public purposes and for Companies, and for determining the amount of compensation to be made on account of such acquisition; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Short title, extent and commencement.

1. (1) This Act may be called the Land Acquisition Act, 1893.

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

(3) *It shall come into force at once.*

Act I of 1870. Repeal.

2. (1) *The land Acquisition Act*, 1870, *is hereby repealed.*

(2) *But all proceedings commenced, officers appointed or authorized, agreements published and rules made under the said Act shall, as far as may be, be deemed to have been respectively commenced, appointed or authorized, published and made under this Act.*

(3) *Any enactment or document referring to the said Act or to any enactment thereby repealed 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*,—

(*a*) the expression "land" includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth:

(*b*) the expression "person interested" includes all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act:

(*c*) the expression "Collector" means the Collector of a district, and includes a Deputy Commissioner and any officer specially appointed by the Local Government to perform the functions of a Collector under this Act:

(*d*) *the expression "Court" means a principal Civil Court of original jurisdiction, unless the Local Government has appointed (as it is hereby empowered to do) a special judicial officer within any specified local limits to perform the functions of the Court under this Act:*

(*e*) the expression "Company" means a Company registered under the Indian Companies Act, 1882, *or under the (English) Companies Acts*, 1862 *to* 1890, *or incorporated by an Act of Parliament or of the Governor-General in Council*, or by Royal Charter or Letters Patent:

(*f*) *the expression "public purpose" includes the provision of village-sites in districts in which the Local Government shall have declared by notification in the official Gazette that it is customary for the Government to make such provision: and*

(*g*) the following persons shall be deemed persons "entitled to act" as and to the extent hereinafter provided (that is to say)—

trustees for other persons beneficially interested shall be deemed the persons entitled to act with reference to any such case, and that to the same extent as the persons beneficially interested could have acted if free from disability:—

a married woman, in cases to which the English law is applicable, shall be deemed the person so entitled to act, and, whether of full age or not, to the same extent as if she were unmarried and of full age; and

the guardians of minors and the committees or *managers* of lunatics or idiots shall be deemed respectively the persons so entitled to act, to the same extent as the minors, lunatics or idiots themselves, if free from disability, could have acted:

Provided that—

(*i*) *no person shall be deemed "entitled to act" whose interest in the subject-matter shall be shown to the satisfaction of the Collector or Court to be adverse to the interest of the person interested for whom he would otherwise be entitled to act;*

(*ii*) *in every such case the person interested may appear by a next friend, or, in default of his appearance by a next friend, the Collector or Court, as the case may be, shall appoint a guardian for the case to act on his behalf in the conduct thereof;*

(*iii*) *the provisions of Chapter XXXI of the Code* XIV of 1882 *of Civil Procedure shall, mutatis mutandis, apply in the case of persons interested appearing before a Collector or Court by a next friend, or by a guardian for the case, in proceedings under this Act; and*

(*iv*) *no person "entitled to act" shall be competent to receive the compensation money payable to the person for whom he is entitled to act, unless he would have been competent to alienate the land and receive and give a good discharge for the purchase-money on a voluntary sale.*

PART II.

ACQUISITION.

Preliminary Investigation.

Publication of preliminary Notification, and powers of officers thereupon.

4. (1) Whenever it appears to the Local Government that land in any locality is likely to be needed for any public purpose, a notification to that effect shall be published in the *official* Gazette, and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality.

(2) Thereupon it shall be lawful for any officer, either generally or specially authorized by such Government in this behalf, and for his servants and workmen,—

to enter upon and survey and take levels of any land in such locality;

to dig or bore into the subsoil;

to do all other acts necessary to ascertain whether the land is adapted for such purpose;

to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon;

to mark such levels, boundaries and line by placing marks and cutting trenches;

and, where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle:

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

Payment for damage.

5. The officer so authorized shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector, and such decision shall be final.

Declaration of intended Acquisition.

Declaration that land is required for a public purpose.

6. (1) Subject to the provisions of Part VII of this Act, whenever it appears to the Local Government that any particular land is needed for a public purpose, or for a Company, a declaration shall be made to that effect under the signature of a Secretary to such Government or of some officer duly authorized to certify its orders:

Provided that no such declaration shall be made unless the compensation to be awarded for such property is to be paid out of public revenues, *out of some fund controlled or managed by a local authority*, or by a Company.

(2) The declaration shall be published in the official Gazette, and shall state the district or other territorial division in which the land is situate, the purpose for which it is needed, its approximate area, and, where a plan shall have been made of the land, the place where such plan may be inspected.

(3) The said declaration shall be conclusive evidence that the land is needed for a public purpose or for a Company, as the case may be; and, after making such declaration, the Local Government may acquire the land in manner hereinafter appearing.

After declaration, Collector to take order for acquisition.

7. Whenever any land shall have been so declared to be needed for a public purpose, or for a Company, the Local Government, or some officer authorized by the Local Government in this behalf, shall direct the Collector to take order for the acquisition of the land.

Land to be marked out, measured and planned.

8. The Collector shall thereupon cause the land (unless it has been already marked out under section 4) to be marked out. He shall also cause it to be measured and (if no plan has been made thereof) a plan to be made of the same.

Notice to persons interested.

9. (1) The Collector shall then cause public notice to be given at convenient places on or near the land to be taken, stating that the Government intends to take possession of the land, and that claims to compensation for all interests in such land may be made to him.

(2) Such notice shall state the particulars of the land so needed, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests, *and their objections (if any) to the measurements made under section* 8.

(3) The Collector shall also serve notice to the same effect on the occupier (if any) of such land and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside, or have agents authorized to receive service on their behalf, within the revenue-district in which the land is situate.

(4) In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by post *in a letter addressed to him and registered under Part III of the Indian Post* XIV of 1866. *Office Act*, 1866.

Power to require and enforce the making of statements as to names and interests.

10. (1) The Collector may also require any such person to *make or* deliver to him, *at a time and place mentioned (such time not being earlier than fifteen days after the date of the requisition)*, a statement containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof as co-proprietor, sub-proprietor, mortgagee tenant or otherwise, and of the nature of such interest, and of the rents and profits (if any) received or receivable on account thereof for the year next preceding the date of the statement.

(2) Every person required to make or deliver a statement under this section or section 9 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian XLV of 1860. Penal Code.

Enquiry into measurements, Value and Claims, and Award by the Collector.

Enquiry and award by Collector.

11. *On the day so fixed or on any other day to which the enquiry has been adjourned, the Collector shall proceed to enquire into the objections (if any) which any person interested has stated pursuant to a notice given under section* 9, *to the measurements made under section* 8, *and into the value of the land, and into the respective interests of the persons claiming the compensation, and shall make an award under his hand of—*

(*i*) *the true area of the land;*

(*ii*) *the compensation which in his opinion should be allowed for the land; and*

(iii) *the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom, or of whose claims, he has information whether or not they have respectively appeared before him.*

Award of Collector when to be final.

12. (1) *Such award shall be filed in the Collector's office and shall, except as hereinafter provided, be final and conclusive evidence, as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area and value of the land, and the apportionment of the compensation among the persons interested.*

(2) *The Collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made.*

Adjournment of enquiry.

13. *The Collector may, for any cause he thinks fit, from time to time, adjourn the enquiry to a day to be fixed by him.*

Power to summon and enforce attendance of witnesses and production of documents.

14. *For the purpose of enquiries under this Act, the Collector shall have power to summon and enforce the attendance of witnesses and to compel the production of documents by the same means, and (so far as may be) in the same manner, as is provided in the case of a* XIV of 1882. *Civil Court under the Code of Civil Procedure.*

Matters to be considered and neglected.

15. *In determining the amount of compensation, the Collector shall be guided by the provisions contained in sections 23 and 24.*

Taking Possession.

Power to take possession.

16. When the Collector has made an award under section 11, he may take possession of the land, which shall thereupon vest absolutely in the Government, free from all encumbrances.

Special powers in case of urgency.

17. (1) In cases of urgency, whenever the Local Government so directs, the Collector, *though no such award has been made* may, on the expiration of fifteen days from the publication of the notice mentioned in the first paragraph of section 9, take possession of any waste or arable land needed for public purposes or for a Company. Such land shall thereupon vest absolutely in the Government, free from all encumbrances.

(2) *Whenever, owing to any sudden change in the channel of any navigable river or other unforeseen emergency, it becomes necessary for any Railway Administration to acquire the immediate possession of any land for the purpose of making thereon a river-side or ghat station, or of providing convenient connection with or access to any such station, the Collector may, immediately after the publication of the notice mentioned in sub-section* (1) *and with the previous sanction of the Local Government, enter upon and take possession of such land, which shall thereupon vest absolutely in the Government free from all encumbrances:*

Provided that the Collector shall not take possession of any building or part of a building under this sub-section without giving to the occupier thereof at least forty-eight hours' notice of his intention so to do, or such longer notice as may be reasonably sufficient to enable such occupier to remove his moveable property from such building without unnecessary inconvenience.

(3) *In every case under either of the preceding sub-sections the* Collector shall *at the time of taking possession* offer to the persons interested compensation for the standing crops and trees (if any) on such land *and for any other damage sustained by them caused by such sudden dispossession and not expected in section* 24: and, in case such offer is not accepted, the value of such crops and trees *and the amount of such other damage* shall be allowed for in awarding compensation for the land under the provision herein contained.

PART III.

REFERENCE TO COURT AND PROCEDURE THEREON.

Reference to Court.

18. (1) *Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, or the apportionment of the compensation among the persons interested.*

(2) *The application shall state the grounds on which objection to the award is taken:*

Provided that every such application shall be made,—

(a) *if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;*

(b) *in other cases within six weeks of the receipt of the notice from the Collector under section* 12, *or within six months from the date of the Collector's award, whichever period shall first expire.*

Collector's statement to the Court.

19. *In making the reference, the Collector shall state, for the information of the Court, in writing under his hand,—*

(a) *the situation and extent of the land, with particulars of any trees, buildings or standing crops thereon;*

(b) *the names of the persons whom he has reason to think interested in such land;*

(c) *the amount awarded for damages and paid or tendered under sections* 5 *and* 17, *or either of them, and the amount of compensation awarded under section* 11; *and,*

(d) *if the objection be to the amount of the compensation, the grounds on which the amount of compensation was determined.*

Service of notice.

20. *The Court shall thereupon cause a notice, specifying the day on which the Court will proceed to determine the objection, and directing their appearance before the Court on that day, to be served on the following persons, namely:—*

(a) *the applicant;*

(b) *all persons interested in the objection except such (if any) of them as have consented without protest to receive payment of the compensation awarded; and,*

(c) *if the objection is in regard to the area of the land or to the amount of the compensation, the Collector.*

Restriction on scope of proceedings.

21. *The scope of the inquiry in every such proceeding shall be restricted to a consideration of the interests of the persons affected by the objection,*

Proceedings to be in open Court.

22. *Every such proceeding shall take place in open Court, and all persons entitled to practise in any Civil Court in the Province shall be entitled to appear, plead and act (as the case may be) in such proceeding.*

Matters to be considered in determining compensation.

23. (1) *In determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration—*

first, the market-value of the land at the date of the publication of the declaration relating thereto under section 6;

secondly, the damage sustained by the person interested, by reason of the taking of any standing crops or trees which may be on the land at the time of the Collector's taking possession thereof;

thirdly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of severing such land from his other land;

fourthly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, moveable or immoveable, in any other manner, or his earnings;

fifthly, if, in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business the reasonable expenses (if any) incidental to such change; and

sixthly, the damage (if any) bond fide resulting from diminution of the profits of the land between the time of the publication of the declaration under section 6 *and the time of the Collector's taking possession of the land.*

(2) *In addition to the market-value of the land, as above provided, the Court shall in every case award a sum of fifteen per centum on such market-value, in consideration of the compulsory nature of the acquisition.*

Matters to be neglected in determining compensation.

24. *But the Court shall not take into consideration—*

first, the degree of urgency which has led to the acquisition;

secondly, any disinclination of the person interested to part with the land acquired;

thirdly, any damage sustained by him which, if caused by a private person, would not render such person liable to a suit;

fourthly, any damage which, after the date of the publication of the declaration under section 6, *is likely to be caused to the land acquired by or in consequence of the use to which it will be put;*

fifthly, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired;

sixthly, any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put; or

seventhly, any outlay or improvements on the land acquired, commenced, made or effected after the date of the publication of the declaration under section 6.

Rules as to amount of compensation.

25. (1) *When the applicant has made a claim to compensation, pursuant to any notice given under section* 9, *the amount awarded to him by the Court shall not exceed the amount so claimed or be less than the amount awarded by the Collector under section* 11.

(2) *When the applicant has refused to make such claim, or has omitted without sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded by the Court shall in no case exceed the amount awarded by the Collector.*

(3) *When the applicant has omitted for a sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded to him by the Court shall not be less than and may exceed the amount awarded by the Collector.*

Form of awards.

26. *Every award under this Part shall be in writing signed by the Judge, and shall specify the amount awarded under the first clause of sub-section* (1) *of section* 23, *and also the amounts (if any) respectively awarded under each of the other clauses of the same sub-section together with the grounds of awarding each of the said mounts.*

Costs.

27. (1) *Every such award shall also state the amount of costs incurred in the proceedings under this Part, and by what persons and in what proportions they are to be paid.*

(2) *When the award of the Collector is not upheld, the costs shall ordinarily be paid by the Collector, unless the Court shall be of opinion that the claim of the applicant was so extravagant or that he was so negligent in putting his case before the Collector that some deduction from his costs should be made or that he should pay a part of the Collector's costs.*

Collector may be directed to pay interest on excess compensation.

28. *If the sum which, in the opinion of the Court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the Court may direct that the Collector shall pay interest on such excess at the rate of six per centum per annum from the date on which he took possession of the land to the date of payment of such excess into Court.*

PART IV.

APPORTIONMENT OF COMPENSATION.

Particulars of apportionment to be specified.

29. Where there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

Dispute as to apportionment.

30. When the amount of compensation has been settled under section 11, if any dispute arises as to the apportionment of the same or any part thereof, *or as to the persons to whom the same or any part thereof is payable*, the Collector may refer such dispute to the decision of the Court.

PART V.

PAYMENT.

Payment of compensation or deposit of same in Court.

31. (1) *On making an award under section* 11, *the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award, and shall pay it to them if they shall consent to receive it.*

(2) *If they shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the Court to which a reference under section* 18 *would be submitted:*

Provided that any person interested may receive such payment under protest as to the sufficiency of the amount:

Provided also that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18:

Provided also that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

(3) *Notwithstanding anything in this section the Collector may, with the sanction of the Local Government, instead of awarding a money compensation in respect of any land, make any arrangement with a person having a limited interest in such land, either by the grant of other lands in exchange, the remission of land-revenue on other lands held under the same title or in such other way as may be equitable having regard to the interests of the parties concerned.*

(4) *Nothing in the last foregoing sub-section shall be construed to interfere with or limit the power of the Collector to enter into any arrangement with any person interested in the land and competent to contract in respect thereof.*

[L.C.C.Act, 1845, ss. 69 and 78.]

Investment of money deposited in respect of lands belonging to persons incompetent to alienate.

32. (1) *If any money shall be deposited in Court under sub-section (2) of the last preceding section and it appears that the land in respect whereof the same was awarded belonged to any person who had no power to alienate the same, the Court shall—*

[Ibid., s. 69.]

(*a*) *order the money to be invested in the purchase of other lands to be held under the like title and conditions of ownership as the land in respect of which such money shall have been deposited was held, or*

(*b*) *if such purchase cannot be effected forthwith, then in such Government or other approved securities as the Court shall think fit;*

[Ibid., s. 78.] *and shall direct the payment of the interest or other proceeds arising from such investment to the person or persons who would for the time being have been entitled to the possession of the said land, and such moneys shall remain so deposited and invested*

[L.C.C.Act, s. 69.] *until the same be applied—*

(*i*) *in the purchase of such other lands as aforesaid; or*

(*ii*) *in payment to any person or persons becoming absolutely entitled thereto.*

[L.C.C.Act, s. 80.] (2) *In all cases of moneys deposited to which this section applies the Court shall order the costs of the following matters, including therein all reasonable charges and expenses incident thereto, to be paid by the Collector, namely:—*

(*a*) *the costs of such investments as aforesaid;*

(*b*) *the costs of the orders for the payment of the interest or other proceeds of the securities upon which such moneys are for the time being invested, and for the payment out of Court of the principal of such moneys, and of all proceedings relating thereto, except such as may be occasioned by litigation between adverse claimants.*

[L.C.C.Act, s. 74.]

Investment of money deposited in other cases.

33. *When any money shall have been deposited in Court under this Act for any cause other than that mentioned in the last preceding section the Court may, on the application of any party interested or claiming an interest in such money, order the same to be invested in such Government or other approved securities as it may think proper, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as it may consider will give the parties interested therein the same benefit therefrom as they might have had from the land in respect whereof such money shall have been deposited or as near thereto as may be.*

Payment of interest.

34. *When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of six per centum per annum from the time of so taking possession until it shall have been so paid or deposited.*

PART VI.

TEMPORARY OCCUPATION OF LAND.

Temporary occupation of waste or arable land. Procedure when difference as to compensation exists.

35. (1) Subject to the provisions of Part VII of this Act, whenever it appears to the Local Government that the temporary occupation and use of any waste or arable land are needed for any public purpose, or for a Company, the Local Government may direct the Collector to procure the occupation and use of the same for such term as it shall think fit, not exceeding three years from the commencement of such occupation.

(2) The Collector shall thereupon give notice in writing to the persons interested in such land of the purpose for which the same is needed, and shall, for the occupation and use thereof for such term as aforesaid, and for the materials (if any) to be taken therefrom, pay to them such compensation, either in a gross sum of money, or by monthly or other periodical payments, as shall be agreed upon in writing between him and such persons respectively.

(3) In case the Collector and the persons interested differ as to the sufficiency of the compensation, *or apportionment thereof*, the Collector shall refer such difference *to the decision* of the Court.

Power to enter and take possession, and compensation on restoration.

36. (1) On payment of such compensation, or on executing such agreement, or on making a reference under section 35, the Collector may enter upon and take possession of the land, and use or permit the use thereof in accordance with the terms of the said notice.

(2) On the expiration of the term, the Collector shall make or tender to the persons interested compensation for the damage (if any) done to the land and not provided for by the agreement, and shall restore the land to the persons interested therein:

Provided that, if the land has become permanently unfit to be used for the purpose for which it was used immediately before the commencement of such term, and if the persons interested shall so require, the Local Government shall proceed under this Act to acquire the land as if it was needed permanently for a public purpose or for a Company.

Difference as to condition of land.

37. In case the Collector and persons interested differ as to the condition of the land at the expiration of the term, or as to any matter connected with the said agreement, the Collector shall refer such difference *to the decision* of the Court.

PART VII.

ACQUISITION OF LAND FOR COMPANIES.

Company may be authorized to enter and survey.

38. (1) Subject to such rules as the Governor-General of India in Council may from time to time prescribe in this behalf, the Local Government may authorize any officer of any Company desiring to acquire land for its purposes to exercise the powers conferred by section 4.

(2) In every such case section 4 shall be construed as if, for the words "for such purpose," the words "for the purposes of the Company" were substituted; and section 5 shall be construed as if, after the words "the officer," the words "of the Company," were inserted.

Previous consent of Local Government and execution of agreement necessary.

39. The provisions of sections 6 to 37 (both inclusive) shall not be put in force in order to acquire land for any Company, unless with the previous consent of the Local Government, nor unless the Company shall have executed the agreement hereinafter mentioned.

Previous enquiry.

40. (1) Such consent shall not be given unless the Local Government be satisfied, by an enquiry held as hereinafter provided.—

(*a*) that such acquisition is needed for the construction of some work, and

(*b*) that such work is likely to prove useful to the public.

(2) Such enquiry shall be held by such officer and at such time and place as the Local Government shall appoint.

(3) Such officer may summon and enforce the attendance of witnesses and compel the production of documents by the same means and, as far as possible, in the same manner as is provided by
IV of 1892. the Code of Civil Procedure in the case of a Civil Court.

Agreement with Secretary of State in Council.

41. Such officer shall report to the Local Government the result of the enquiry, and, if the Local Government is satisfied that the proposed acquisition is needed for the construction of a work, and that such work is likely to prove useful to the public, it shall, subject to such rules as the Governor-General of India in Council may from time to time prescribe in this behalf, require the Company to enter into an agreement with the Secretary of State for India in Council, providing to the satisfaction of the Local Government for the following matters, namely:—

(1) the payment to Government of the cost of the acquisition;

(2) the transfer, on such payment, of the land to the Company;

(3) the terms on which the land shall be held by the Company.

(4) the time within which, and the conditions on which, the work shall be executed and maintained; and

(5) the terms on which the public shall be entitled to use the work.

Publication of agreement.

42. Every such agreement shall, as soon as may be after its execution, be published in the *Gazette of India*, and also in the local official Gazette, and shall thereupon (so far as regards the terms on which the public shall be entitled to use the work) have the same effect as if it had formed part of this Act.

Sections 39 to 42 not to apply where Government bound by agreement to provide land for Companies.

X of 1870. 43. *The provisions of sections 39 to 42 both inclusive shall not apply, and the corresponding sections of the Land Acquisition Act*, 1870, *shall be deemed never to have applied, to the acquisition of land for any Railway or other Company, for the purposes of which, under any agreement between such Company and the Secretary of State for India in Council, the Government is, or was, bound to provide land.*

When agreement between Railway Company and Secretary of State need not be proved.

44. *In the case of the acquisition of land for the purposes of a Railway Company, the existence of such an agreement as is mentioned in section 43 may be proved by the production of a printed copy thereof purporting to be printed by order of Government.*

PART VIII.

MISCELLANEOUS.

Service of notices.

45. (1) Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed, in the case of a notice under section 4, by the officer therein mentioned, and, in the case of any other notice, by or by order of the Collector or the Judge.

(2) Whenever it may be practicable, the service of the notice shall be made on the person therein named.

(3) When such person cannot be found, the service may be made on any adult male member of his family residing with him; and, if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business, *or by fixing a copy thereof in some conspicuous place in the office of the officer aforesaid or of the Collector or in the court house, and also in some conspicuous part of the land to be acquired;*

Provided that, if the Collector or Judge shall so direct, a notice may be sent by post, in a letter addressed to the person named therein and registered under Part III of the Indian Post Office Act, 1866, XIV of 1866 *and service of it may be proved by the production of the addressee's receipt.*

Penalty for obstructing acquisition of land.

46 Whoever wilfully obstructs any person in doing any of the acts authorized by section 4 or section 8, or wilfully fills up, destroys, damages or displaces any trench or mark made under section 4, shall, on conviction before a Magistrate, be liable to imprisonment for any term not exceeding one month, or to fine not exceeding fifty rupees, or to both.

Magistrate to enforce surrender.

47. If the Collector is opposed or impeded in taking possession under this Act of any land, he shall, if a Magistrate, enforce the surrender of the land to himself, and, if not a Magistrate, he shall apply to a Magistrate or (within the towns of Calcutta, Madras and Bombay) to the Commissioner of Police, and such Magistrate or Commissioner (as the case may be) shall enforce the surrender of the land to the Collector.

Completion of acquisition not compulsory, but compensation to be awarded when not completed.

48. (1) *Except in the case provided for in section 36, the Government shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken.*

(2) *Whenever the Government withdraws from any such acquisition, the Collector shall determine the amount of compensation due for the damage suffered by the owner in consequence of the notice or of any proceedings thereunder, and shall pay such amount to the person interested, together with all costs reasonably incurred by him in the prosecution of the proceedings under this Act relating to the said land.*

(3) *The provisions of Part III of this Act shall apply, so far as may be, to the determination of the compensation payable under this section.*

Acquisition of part of house or building.

49. (1) The provisions of this Act shall not be put in force for the purpose of acquiring a part only of any house, manufactory or other building, if the owner desire that the whole of such house, manufactory or building shall be so acquired:

Provided that the owner may, at any time before the Collector has made his award under section 11, by notice in writing, withdraw or modify his expressed

desire that the whole of such house, manufactory or building shall be so acquired :

Provided also that, if any question shall arise as to whether any land proposed to be taken under this Act does or not form part of a house, manufactory or building within the meaning of this section, the Collector shall refer the determination of such question to the Court and shall not take possession of such land until after the question has been determined.

(2) *If, in the case of any claim under section 23, sub-section (1), thirdly by a person interested, on account of the severing of the land to be acquired from his other land the Local Government is of opinion that the claim is unreasonable or excessive, it may, at any time before the Collector has made his award, order the acquisition of the whole of the land of which the land first sought to be acquired forms a part.*

(3) *In the case last hereinbefore provided for, no fresh declaration or other proceedings under sections 6 to 10 both inclusive, shall be necessary ; but the Collector shall without delay furnish a copy of the order of the Local Government to the person interested, and shall thereafter proceed to make his award under section 11.*

Acquisition of land at cost of a local authority or Company.

50. (1) Where the provisions of this Act are put in force for the purpose of acquiring land at the cost of *any fund controlled or managed by a local authority* or of any company, the charges *of and incidental to such acquisition* shall be defrayed from or by such fund or Company.

(2) *In any proceeding held before a Collector or Court in such cases the local authority or Company concerned may appear and adduce evidence for the purpose of determining the amount of compensation :*

Provided that no such local authority or Company shall be entitled to demand a reference under section 18.

Exemption from stamp-duty and fees.

51. No award or agreement made under this Act shall be chargeable with stamp-duty, and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same.

Notice in case of suits for anything done in pursuance of Act.

52. No suit or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended proceeding, and of the cause thereof, nor after tender of sufficient amends.

Code of Civil Procedure to apply to proceedings before Court.

53. *Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the Code of Civil Procedure shall apply to all proceedings before the Court under this Act.* XIV of 1882.

Appeals in proceedings before Court.

54. *Subject to the provisions of the Code of Civil Procedure applicable to appeals from original decrees, an appeal shall lie to the High Court from the award or from any part of the award of the Court in any proceedings under this Act.* XIV of 1882.

Power to make rules.

55. (1) The Local Government shall have power to make rules consistent with this Act for the guidance of officers in all matters connected with its enforcement, and may from time to time alter and add to the rules so made.

(2) All such rules, alterations and additions shall, when sanctioned by the Governor-General in Council, be published in the official Gazette, and shall thereupon have the force of law.

J. M. MACPHERSON.
Offg. Secretary to the Government of India.

(Republished by order of the Right Honorable the Governor in Council).

J. F. PRICE.
Chief Secretary.

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MADRAS RECORD OFFICE

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

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 3rd August 1893 :—

No. 9 OF 1893.

A Bill to amend the Indian Tariff Act, 1882, as amended by subsequent Acts.

WHEREAS it is expedient to amend the Indian Tariff Act, 1882, as amended by subsequent Acts ; It is hereby enacted as follows :— I of 1882.

Import of dry and wet salt-fish into Burma.

1. After No. 4 (Salt) in the second schedule to the Act aforesaid, the following is hereby inserted, namely :

No.	Names of Articles.	Per	Tariff valuation.	Rate of Duty.
4A	Dry salt-fish and wet salt-fish (*ngapi*) imported into Burma from any place beyond the limits of British India.	Indian maund of 82⅔ lb. avoirdupois weight.	..	Such rate of duty, not exceeding twelve annas, as the Governor-General in Council may, by notification in the *Gazette of India*, from time to time prescribe.

Export of rice-flour.

2. To the words "Rice whether husked or unhusked" in the first column of the third schedule to the Act aforesaid, the words "including rice-flour" are hereby added.

STATEMENT OF OBJECTS AND REASONS.

In January 1888, the duty on imported salt in Burma was raised from three annas to one rupee the maund. Following on this increase of duty, the consumption declined, and it has not yet reached the level to which it had attained before the increase of the duty, though the population has materially increased. As the people of Burma are on the whole very well off and the incidence of the salt tax is far lower than it is in India, it seemed clear that the restriction of consumption was not the result of any undue pressure of the tax. It has in fact been found that there is no real restriction in consumption, but that taxed salt has been displaced by salt paying no tax. This has happened in two ways—first, by an increase of locally manufactured salt, and, secondly, by an increase in the imports of salted fish, wet and dry, which have been free of duty.

On locally manufactured salt a duty is levied on the estimated quantity of salt made in a working season based on the capacity of the pots used. Before this duty was increased so as to equalise it with the duty on imported salt and closer attention was paid to the framing of the estimates of manufacture, a great stimulus was given to manufacturers to pass salt into the market largely in excess of the quantity on which they paid duty. Endeavours are now being made by executive action to secure that the duty paid on salt locally manufactured shall be exactly the same as the duty on imported salt.

There remain to be dealt with the imports of salted fish. This article is in Burma universally consumed with rice, which is the staple food of the people. Until the increase of the salt duty in 1888, the supply of salted fish was derived mainly from local sources, the salt used in curing paying duty. Immediately after the increase of the duty, however, the imports of dry salted fish largely increased, and since then the quantity imported annually has been more than double the quantity imported up to 1888. The import of wet salted fish (*ngapi*) was unknown until the salt-duty was increased; it began immediately afterwards, and last year nearly fourteen million pounds of the article were imported.

The salt used in the imported fish displaces an equivalent quantity of salt on which duty is paid, and it is estimated that the State loses a considerable revenue in consequence. It is also unfair to the local curers of fish, who pay a rental for the fisheries and full duty on the salt they use in curing, that these untaxed imports from neighbouring countries should be allowed to compete with the local article on terms which place the local curer at a great disadvantage.

This Bill proposes to remove this unfairness, and at the same time secure the revenue of the State by giving power to Government to impose on these imports a duty which will represent the equivalent of one rupee a maund on the salt contained in the fish.

The opportunity has been taken of making another amendment in the Tariff Act. Enquiries have been made of the Government whether rice-flour is dutiable as rice on export, and it appears that, on a strict construction of the law as it stands, it may be held that it is not liable to duty. It was never intended, however, that ground rice should not be liable to duty like unground rice, and there is no reason for any distinction between the two. The present Bill accordingly amends the law by including rice-flour with rice.

D. BARBOUR.

The 1st August 1893.

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

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

FORT ST. GEORGE GAZETTE SUPPLEMENT.

TUESDAY EVENING, SEPTEMBER 5, 1893.

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

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 17th August 1893 :

No. 13 OF 1893.

A Bill to amend the Code of Criminal Procedure, 1882, and the Indian Penal Code.

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1882, and the Indian Penal Code; It is hereby enacted as follows :—

V of 1882. XLV of 1860.

Code of Criminal Procedure, 1882.

X of 1882. Addition to section 44 of Code of Criminal Procedure, 1882.

1. To section 44 of the Code of Criminal Procedure, 1882, the following shall be added, namely :

"*Explanation.*—In this section any act committed in any place out of British India, which, if committed in British India, would be punishable under any of the following sections of the Indian Penal Code, namely, 302, 395, 396, 397, 398, 399 and 402, shall be deemed to be an offence punishable under that section."

XLV of 1860.

X of 1882. Substitution of new *Explanation* to section 45 of same Code.

2. For the *Explanation* appended to section 45 of the Code of Criminal Procedure, 1882, the following shall be substituted, namely :

"*Explanation.*—In this section—

(i) 'village' includes village-land;

(ii) the word 'offence' includes an act committed at any place out of British India, which, if committed in British India, would be punishable under any of the following sections of the Indian Penal Code, namely, 302, 395, 396, 397, 398, 399 and 402; and

XLV of 1860.

(iii) the expression 'proclaimed offender' includes any person proclaimed as an offender in any part of India by any Court established by the Governor-General in Council in respect of any such Act."

Indian Penal Code.

XLV of 1860. Addition to section 177 of Indian Penal Code.

3. To section 177 of the Indian Penal Code the following shall be added, namely :

"*Explanation.*—In section 176 and in this section the word 'offence' includes any act committed, or intended to be committed, at any place out of British India, which, if committed in British India, would be punishable under any of the following sections, namely, 302, 395, 396, 397, 398, 399 and 402; and the word 'offender' includes any person who is alleged to have been guilty of any such act."

Addition to section 203 of same Code.

4. To section 203 of the said Code the following shall be added, namely :

"*Explanation.*—In sections 201 and 202 and in this section the word 'offence' includes any act committed at any place out of British India, which, if committed in British India, would be punishable under any of the following sections, namely, 302, 395, 396, 397, 398, 399 and 402."

Amendment of section 216 of same Code.

5. For the second paragraph of section 216 of the same Code, as inserted by section 23 of Act X of 1886, the following shall be substituted, namely :

"In section 212 and in this section—

(i) the word 'offence' includes any act of which a person is alleged to have been guilty out of British India, which, if it had been committed in British India, would have been punishable under any of the following sections of this Code, namely, 302, 395, 396, 397, 398, 399 and 402; and every such act shall, for the purposes of section 212 and of this section, be deemed to be punishable as if the accused had been guilty of it in British India; and

(ii) the word 'harbours' includes the supplying a person with food, clothes, arms or ammunition, and the assisting a person in any way to escape from apprehension."

Addition of new section after section 216 of same Code.

6. After section 216 of the said Code the following shall be inserted, namely :

Penalty for harbouring dacoits.

"216A. Whoever, knowing or having reason to believe that five or more persons are assembled for the purpose of committing dacoity, or after having committed dacoity, supplies all or any of such persons with food, clothes, arms or ammunition, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

"*Explanation.*—For the purposes of this section it is immaterial whether the dacoity has been committed, or is intended to be committed, within British India or not."

STATEMENT OF OBJECTS AND REASONS.

This Bill has been rendered necessary by the operations of dacoits who, after committing dacoity in Central India and other States, come into British territory for shelter. Our law needs strengthening for the prevention of the harbouring of these brigands in any way.

Men who have committed dacoity in British India have, on the other hand, been harboured by confederates in Central India and other States. These States have been, and are, actively co-operating with the British Government in the suppression of the evil which so seriously affects both their own and British subjects.

Advantage has been taken of this opportunity to explain what is meant by the expression "harbouring."

PHIL. P. HUTCHINS.

The 3rd August 1893.

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

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 12th October 1893:—

No. 14 OF 1893.

A Bill to provide for certain matters relating to Fisheries in British India.

WHEREAS it is expedient to provide for certain matters relating to fisheries in British India; It it hereby enacted as follows:—

Title, extent and commencement.

1. (1) This Act may be called the Indian Fisheries Act, 1893.

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

(3) It shall come into force at once.

Act to be read as supplemental to other Fisheries Laws.

2. Subject to the provisions of sections 8 and 10 of the General Clauses Act, 1887, this Act shall be read as supplemental to any other enactment for the time being in force relating to fisheries in any part of British India.

I of 1887

Definitions.

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

(1) "fish" includes shell-fish and turtles:

(2) "fixed engine" means any net, cage, trap or other contrivance for taking fish fixed in the soil or made stationary in any other way: and

(3) "private water" means water which is the exclusive property of any person, or in which any person has an exclusive right of fishery.

Destruction of fish by explosives in inland waters and on coasts.

4. (1) If any person uses any dynamite or other explosive substance in any water frequented by fish with intent thereby to catch or destroy any of the fish that may be therein, he shall be punished with imprisonment for a term which may extend to two months, or with fine which may extend to two hundred rupees.

(2) In sub-section (1) the word "water" includes the sea within a distance of one marine league of the sea-coast: and an offence committed under that sub-section in such sea shall be deemed to have been committed on the land abutting on such coast and may be tried and punished accordingly.

Destruction of fish by poisoning of waters.

5. (1) If any person puts any poison, lime or noxious material into any water with intent thereby to catch or destroy any fish, he shall be punished with imprisonment for a term which may extend to two months, or with fine which may extend to two hundred rupees.

(2) The words specified in the third column of the schedule to this Act against the several enactments respectively mentioned in the first and second columns of that schedule, and any rules which may be in force immediately before the passing of this Act with respect to the regulation of the poisoning of water for the purpose of catching or destroying fish, are hereby repealed and cancelled respectively.

Offences.

6. Any person who fishes, or erects, places, maintains or uses any fixed engine, in any private water without the permission of the owner of the water or fishery shall be punished for a first offence with fine which may extend to fifty rupees,

and for a subsequent offence with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both:

Provided that nothing in this section shall apply to any act done by any person in the exercise of a *bonâ fide* claim of right, or shall prevent any person from angling with a rod and line or with a line only in any portion of a navigable river.

Forfeitures.

7. (1) Any fixed engine erected, placed, maintained or used in contravention of the last foregoing section, and any fish taken by means of any such engine or otherwise in contravention of this Act, shall be forfeited; and

(2) Any such fixed engine as aforesaid may be removed or taken possession of by the District Magistrate or by any person empowered by him in this behalf.

Entry upon land of another or upon private waters with intent to commit an offence under section 6.

8. Whoever enters upon land in the possession of another or upon any private water with intent to commit any of the offences specified in section 6 shall be punished with fine which may extend to fifty rupees.

Protection of fish in selected waters by rules of Local Government.

9. (1) The Local Government may, with the previous sanction of the Governor-General in Council, make rules for the purposes hereinafter in this section mentioned, and may by a notification in the official Gazette apply all or any of such rules to such waters, being the property of the State, as such Government may specify in the said notification.

(2) The Local Government may also, by a like notification, apply such rules or any of them to other waters with the consent of the owner thereof and all other persons, if any, interested therein.

(3) Such rules may prohibit or regulate all or any of the following matters, that is to say:

(*a*) the erection, placing, maintenance and use of fixed engines;

(*b*) the construction of weirs;

(*c*) the use in all or any waters notified under sub-section (1) or sub-section (2) during all or any seasons of the year of nets with a mesh smaller than a specified size measured from knot to knot when the mesh is wet;

(*d*) the capture or sale of all or any kinds of fish during any season appointed as a close season; and

(*e*) the diversion or baling of any water for the purpose of catching fish.

(4) Such rules may also prohibit all fishing in any specified water for a period not exceeding two years.

(5) In making any rule under this section the Local Government may—

(*a*) direct that a breach of it shall be punishable with fine which may extend to one hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to ten rupees for every day after the first during which the breach continues; and

(*b*) provide for—

(i) the seizure, forfeiture and removal of fixed engines erected, placed, maintained or used, or nets used, in contravention of the rule;

(ii) the forfeiture of any fish taken by means of any such fixed engine or net; and

(iii) the recovery from the person erecting, placing, maintaining or using any such fixed engine of the cost of removing it,

and may provide that such cost shall be recoverable as if it were an arrear of land revenue.

(6) the power to make rules under this section is subject to the condition that they shall be made after previous publication.

Arrest without warrant for offences under this Act.

10. Any person specially empowered by the Local Government in this behalf, by name or by office, may, without an order from a Magistrate and without warrant, arrest any person who has been concerned in any offence punishable under section 4, 5, 6 or 8 or under any rule under section 9, or against whom a reasonable complaint has been made, or credible information has been received, of his having been so concerned.

THE SCHEDULE.

REPEAL OF PORTIONS OF ENACTMENTS.

(*See section* 5, *sub-section* (2).)

Enactment.	Portion of enactment in which words repealed occur.	Words repealed in such portion.
Acts of the Governor-General in Council.		
VII of 1878 ..	Section 25, clause (*i*).	"poisons water".
	Section 31, clause (*j*).	"poisoning water".
XIX of 1881 ..	Section 25, clause (*d*).	"poisons water".
	Section 37, clause (*f*).	"poisoning water".
Act of the Governor of Madras in Council.		
V of 1882 ..	Section 21, clause (*h*).	"poisons water".
	Section 26, clause (*f*).	"poisoning water".
Regulation under the Statute 33 *Vict.*, *c.* 3, *s.* 1.		
V of 1890 ..	Section 7, clause (*d*).	"poisons water".

STATEMENT OF OBJECTS AND REASONS.

The subject of legislating for the protection of fresh-water fishes was opened with an enquiry made so long ago as 1869 by Dr. F. Day, of the Madras Medical Service, who had been placed on special duty for that purpose. This was followed by a resolution issued in October 1871, on Dr. Day's report for the North-Western Provinces, in which he recommended a Fisheries Act. Dr. Day's recommendations, as well as the action taken or proposals made up to 1888 by the various Local Governments, were summarised in a note prepared for the Agricultural Conference held at Delhi in that year.

2. Briefly, the action taken by the several provinces was as follows: In 1875 a Fisheries Act was passed for British (now Lower) Burma. In 1880 the Punjab Government submitted a draft Act and Rules. In 1881 the Bombay Government submited a Bill for the preservation of game and fish. In 1883 the Government of Madras submitted a draft Fishery Bill. In 1889 the North-Western Provinces Government submitted recommendations made by the Commissioner of Kumaon for preserving fish in the hills.

3. The Conference at Delhi was unanimous in making the following five recommendations:

(1) the prevention of dynamite and other explosives being used for the destruction of fish;

(2) the prevention of poisoning waters;

(3) the enforcement of fish-ladders on weirs and other works in rivers of any size: ten yards width being suggested as a minimum;

(4) the regulation of fixed obstructions and engines in such rivers;

(5) the protection of stock-pools.

The members of the Conference differed as to the expediency of—

(*a*) regulating the size of the mesh of nets;

(*b*) prohibiting or regulating the baling out rivers and streams for the purpose of catching fish; and

(*c*) conferring on the Government power to assume control of the right to fish in the waters or rivers of a province.

The proceedings of the Conference were circulated and the opinions of Local Governments obtained. The disposal of the case was still, however, deferred pending a reply from Madras.

4. In the meantime the Bengal Government had passed an Act, II of 1889, for the prevention of poaching in private waters.

5. In the opinion of the Government of India the importance of maintaining to the fullest extent compatible with private interests one of the most considerable food-supplies of the country is so great as to justify legislation. Although this has been long recognised, and although the question has now been under consideration for upwards of twenty years, but little advance has yet been made owing to the natural and proper hesitation of Local Governments to take any measures which are at all likely to interfere with private rights. It may be that this reluctance to take positive action for the protection of fish in waters in which private interests are concerned is due not so much to an assurance that legislative restriction will entail injurious consequences to individuals as to doubts regarding the character of the consequences; but it is not now proposed to interfere in any way with private rights. What is proposed in the way of immediate action is to forbid certain practices which are undoubtedly injurious, and to empower Local Governments to take under management some selected streams or head-waters belonging to the State and other selected streams and waters with the consent of the owners thereof or persons interested therein. It is thought that this will afford practical experience as to the measures most essential to ensure the desired results.

At present it is not proposed to do more in regard to private waters than to extend the provisions of Bengal Act II of 1889 (*an Act for the protection of the right of fishing in private waters*) so as to cover all private fisheries throughout the country.

6. There are two points on which definite conclusions can be at once formed: the first is that the use of dynamite and poisoning, which are overt acts more or less easily repressible, should, in view of the wanton and useless destruction of food caused thereby, be universally forbidden. The second point is that other restrictions are either not needed or are impossible on the larger rivers, which are, on the one hand, as Dr. Day indicated, naturally protected by the heavy floods in the rainy season, when most of the important fish spawn, and, on the other hand, are beyond the control of river police. These considerations generally confine the issues involved to the question of enforcing further restrictions for the preservation of fish in the smaller rivers.

7. The objects of the legislation now proposed are—

(1) to prohibit the use of dynamite and poison in all waters within British jurisdiction, the prohibition with respect to dynamite extending to territorial waters;

(2) to make the provisions of the Bengal Private Fisheries Protection Act, 1889, of general application;

(3) to empower each Local Government, with the previous sanction of the Government of India, to make rules for the undermentioned purposes, and to apply them to any selected streams or other waters which are the property of the State, or to any other streams or waters with the consent of the persons owning them or interested therein:—

(*a*) the prohibition or regulation of (*i*) the use of fixed engines for the capture of fish, and (ii) the construction of weirs;

(*b*) the prohibition or regulation of the use of nets with a mesh below a minimum size;

(*c*) the prohibition or regulation of the capture or sale of all or any kinds of fish during any close season; and

(*d*) the total closure of any waters for a period not exceeding two years;

(4) to provide suitable penalties for breaches of the proposed law and of the rules thereunder; and

(5) to confer on persons specially empowered in this behalf by the Local Government power to arrest without warrant for offences against such law or rules.

PHIL. P. HUTCHINS.

The 28th September 1893.

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

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 19th October 1893 :—

No. 15 OF 1893.

A Bill to amend the Indian Stamp Act, 1879, *with respect to Policies of Sea-insurance and Sale-certificates.*

of 1879.

WHEREAS it is expedient to amend the Indian Stamp Act, 1879, with respect to policies of sea-insurance and sale-certificates; It is hereby enacted as follows:—

Policies of Sea-insurance.

Insertion of new section between sections 7 and 8, Act I, 1879, respecting sea-insurance.

1879.

1. Between section 7 and section 8 of the Indian Stamp Act, 1879, the following section shall be inserted, namely:

Policies of sea-insurance.

"7A. (1) No contract for sea-insurance (other than such insurance as is referred to in section 55 of the Merchant Shipping Act Amendment Act, 1862) shall be valid unless the same is expressed in a policy of sea-insurance.

5 & 26 Vict., c. 63.

"(2) No policy of sea-insurance made for time shall be made for any time exceeding twelve months.

"(3) No policy of sea-insurance shall be valid unless it specifies the particular risk or adventure, or the time for which it is made, the names of the subscribers or underwriters, and the amount or amounts insured.

"(4) Where any sea-insurance is made for or upon a voyage and also for time, or to extend to or cover any time beyond thirty days after the ship shall have arrived at her destination and been there moored at anchor, the policy shall be charged with duty as a policy for or upon a voyage, and also with duty as a policy for time."

Amendment of Schedule I, Act I, 1879, respecting sea-insurance.

2. For division (*a*) of article 49 of Schedule I of the said Act, as amended by Act I of 1888, relating to sea-insurance, the following shall be substituted, namely:

Description of Instrument.		Proper Stamp-duty.
		Rs. A. P.
Policy of Insurance.	(*a*) In the case of sea-insurance—	
	(1) for or upon any voyage—	
	(i) where the premium or consideration does not exceed the rate of two annas or one-eighth per centum of the amount insured by the policy	0 1 0
	(ii) in any other case, in respect of every full sum of one-thousand rupees and also any fractional part of one thousand rupees insured by the policy	0 2 0
	(2) for time—	
	(iii) in respect of every full sum of one thousand rupees and also any fractional part of one thousand rupees insured by the policy—	
	where the insurance shall be made for any time not exceeding six months ..	0 3 0
	where the insurance shall be made for any time exceeding six months and not exceeding twelve months ..	0 6 0

Sale-certificates.

Inapplicability of section 24, Act I, 1879, to sale-certificates.

3. Section 24 of the said Act shall be held not to apply and never to have applied to any such certificate of sale as is mentioned in article 16 of Schedule I of that Act:

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

Amendment of Schedule I, Act I, 1879, respecting sale-certificates.

4. In the third column of Schedule I of the said Act, after the words "the purchase-money" against article 16, the word "only" shall be added.

STATEMENT OF OBJECTS AND REASONS.

The objects of this Bill are (*a*) to assimilate, as far as possible, the Stamp Law of India respect-

ing policies of sea-insurance to that enacted for the United Kingdom by the Stamp Act, 1891 (54 and 55 Vict., c. 39, sections 93 and 94, and Schedule I), and (*b*) to determine the construction which is to be placed on Schedule I, article 16, of the Indian Stamp Act, 1879, read with section 24 of that Act, in relation to sale-certificates.

Policies of Sea-insurance.

2. The rates of stamp duty on policies of sea-insurance in India are now generally heavier than in other countries, and the consequence is the displacement of a good deal of sea-insurance business which used to be transacted in India.

Representations on the subject have been received from Calcutta and Bombay, and the Governor-General in Council is of opinion that the request made therein for reduced rates of stamp-duty on policies of sea-insurance ought generally to be granted.

Sale-certificates.

3. The question in regard to these documents, which is one of very great importance to the community at large, is as to the consideration for which stamp-duty is to be charged. At present there is a difference of opinion on the question—one opinion being held by the Calcutta, Madras and Allahabad High Courts,* and another by the Bombay High Court.†

* I.L.R., 10 Cal., 92.
,, 5 Mad., 18.
,, 7 Mad., 421.
,, 15 All., 107.

† I.L.R., 5 Bom., 470
,, 9 Bom., 47.
,, 15 Bom., 532

The question must, in the opinion of the Governor-General in Council, be set at rest as soon as possible, and, so far as may be, retrospectively, as well as prospectively, in the manner required by the majority of the authorities, which happens to be that most favorable to the subject.

D. BARBOUR.

The 20th October 1893.

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

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

FORT ST. GEORGE GAZETTE SUPPLEMENT.

TUESDAY EVENING, NOVEMBER 7, 1893.

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

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 19th October 1893:—

No. 16 OF 1893.

A Bill to amend the Prisoners Act, 1871.

WHEREAS it is expedient to amend the Prisoners Act, 1871; It is hereby enacted as follows:—

Addition to section 1, Act V, 1871.

1. To section 1 of the said Act the following shall be added, namely:

"Any reference in Part III or Part V of this Act to a prison or jail, or to imprisonment or confinement, may be read as referring to, or to confinement in, a reformatory, or reformatory school."

Repeal of section 9, Act V, 1871.

2. Section 9 of the said Act is hereby repealed.

Amendment of, and addition to, section 16, Act V, 1871.

3. (1) In section 16 of the said Act, for the words "acting under the authority" the words "acting, whether within or without British India, under the general or special authority" shall be substituted.

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

"or, with the previous sanction of the Governor-General in Council in each case, to any sentence or order or warrant for the detention of any person passed or issued by any Court or tribunal of any Native Prince or State in alliance with Her Majesty.

"Where a Court or tribunal of such a Native Prince or State has passed a sentence which cannot be executed without the concurrence of an officer of the British Government, and such sentence has been judicially considered on the merits and confirmed by any such officer specially authorised by name or by office in that behalf, such sentence, and any order or warrant issued in pursuance thereof, shall be deemed to be the sentence, order or warrant of a Court or tribunal acting under the authority of the Governor-General in Council."

Amendment of, and addition to, section 19, Act V, 1871.

4. (1) For the first sixteen words of section 19 of the said Act the following shall be substituted, namely:

"The Governor-General in Council or the Local Government may authorise the reception, detention or imprisonment in any place in British India, or in any place under such Government, as the case may be,".

(2) In the same section, after the words "theft of cattle" the following shall be inserted, namely:

"or for any other act (referred to in this section as an offence) which would, if done in British India, have constituted an offence against any of the sections of the Indian Penal Code mentioned in the schedule to the Foreign Jurisdiction and Extradition Act, 1879,". XLV of 1860. XXI of 1879.

(3) For the proviso to the same section the following shall be substituted, namely:

"Provided that such sentences have been pronounced after trial before a tribunal of which the presiding Judge, or, if the Court consisted of more than one Judge, at least one of such Judges, was an officer of the British Government authorised to act as such Judge by the Native Prince or State or by the Governor-General in Council."

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to remove certain defects in the Prisoners Act, 1871, which have from time to time been brought to the notice of the Government of India by Local Governments and other authorities.

2. The amendments proposed which appear to call for remark are noticed in this paragraph:

Section 1.—The object of this section is to remove certain difficulties which have arisen from a reformatory or reformatory school having been held to be neither a jail nor a prison within the meaning of the Act.

Section 2.—Section 9 of the Act, which had reference to the annual Mutiny Acts, has been obsolete for nearly fourteen years.

Section 3.—This section is designed to remove doubts which have from time to time been expressed as to the application of section 16 of the Prisoners Act. There are occasions on which, in consequence of the want of safe and proper places of confinement in certain territories beyond the limits of British India, or for some other cause, it is desirable that prisoners should undergo their sentences in British Indian jails where they can be held in secure custody.

Section 4.—Section 19 of the Act has been found to be defective in several respects.

Sub-section (1).—There are cases in which a Local Government cannot act as promptly as circumstances may require with respect to the reception, detention and imprisonment of prisoners,

and in which only the orders of the Governor-General in Council can readily secure the object to be attained. Such a case frequently occurring is the transfer of convicts from Native States to the settlement of Port Blair, that settlement being for the use of India generally, and therefore necessarily more directly controlled than any other part of India by the Governor-General in Council.

Sub-section (2).—This sub-section enacts the substance of the notification of the Government of India, No. 158, dated the 12th August 1872.

Sub-section (3).—The amendment of the proviso to section 19 of the Act will set at rest the question whether that section relates only to sentences passed by mixed Courts in the exercise of original criminal jurisdiction.

ALEX. EDW. MILLER.

The 18th October 1893.

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

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

FORT ST. GEORGE GAZETTE SUPPLEMENT.

TUESDAY EVENING, MARCH 7, 1893.

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

The following Report of the Select Committee on the Bill to amend the Law of Partition was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 16th February 1893:—

We, the undersigned, Members of the Select Committee to which the Bill to amend the Law of Partition 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.

Memorandum by Mr. P. R. Desai, Pleader, District Court, Ratnagiri, dated 8th April 1892 [Paper No. 1].
From Chief Commissioner, Coorg, No. 787—50-92, dated 3rd June 1892 [Paper No. 2].
From Secretary, Sujan Samaj, Benares, No. 23—S.S., dated 31st May 1892 [Paper No. 3].
From Registrar, High Court, Calcutta, No. 1721, dated 18th June 1892 [Paper No. 4].
From Secretary for Berar to Resident, Hyderabad, No. 179, dated 28th June 1892, and enclosures [Papers No. 5].
From Governor-General's Agent in Baluchistan, No. 3706, dated 29th June 1892 [Paper No. 6].
From Officiating Secretary to Chief Commissioner, Central Provinces, No. 4495, dated 6th July 1892 [Paper No. 7].
From Secretary to Chief Commissioner, Assam, No. 3082 J., dated 9th July 1892, and enclosures [Papers No. 8].
From Secretary to Government, Bombay, No. 3998, dated 25th July 1892, and enclosures [Papers No. 9].
From Junior Secretary to Chief Commissioner, Burma, No. 329—L.-9, dated 15th July 1892, and enclosures [Papers No. 10].
From Chief Secretary to Government, Madras, No. 1479, dated 12th August 1892, and enclosures [Papers No. 11].
From Offg. Secretary to Government, North-Western Provinces and Oudh, No. 761—VII-247 B., dated 25th August 1892, and enclosures [Papers No. 12].
From Secretary, British Indian Association, dated 22nd August 1892 [Paper No. 13].
From Chief Commissioner, Ajmere-Merwara, No. 1003, dated 28th September 1892, and enclosures [Papers No. 14].
From Secretary to Government, Bengal, No. 677 J.-D., dated 27th September, 1892, and enclosures [Papers No. 15].
From Junior Secretary to Government, Punjab, No. 88, dated 23rd January 1893, and enclosures [Papers No. 16].
From Babu Piyarimohan De, Halisahar, 24-Parganas, dated 23rd January 1893 [Paper No. 17].

2. We have made it clear by the substitution of the word "shareholders" for the expression "parties interested" in section 2 that the section is not intended to include mortgagees or others having only a special interest in the property.

3. In section 3, we have completed sub-section (1) by inserting words requiring the Court to offer to sell the share in question to the shareholders undertaking to buy, and we have added a new sub-section (3) making a shareholder, who fails to buy after applying for leave so to do, liable to pay the costs incidental to his application.

4. We have made section 5 somewhat more elastic by only requiring the Court to be *of opinion* that the sale of purchase will be beneficial before complying with a request or undertaking under the section.

5. Clauses (*a*) and (*b*) of section 7 have been altered so as to bring sales under a decree or order of the Recorder of Rangoon, whose Court has a procedure in such matters similar to that of the High Courts at Calcutta, Madras and Bombay, within the former clause.

6. We have omitted sections 8 and 9 of the Bill as introduced, as they appear to us to be superfluous.

7 In section 8 (formerly section 10) we have, in deference to a suggestion made by the High Court at Calcutta, put an order for sale under section 3 as well as one under sections 2 and 4 on the footing of a decree under the Code.

8. The first words of section 9 (formerly section 11) have been recast so as to make what was the intention of the section more clear.

9. Section 10 (formerly section 12) has been revised with the object of extending the benefit of the proposed Act to pending suits which may be at any stage prior to the final approval of the partition by the Court.

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

In English.

Gazette.	Date.
Gazette of India	26th March 1892.
Fort St. George Gazette	5th April 1892.
Bombay Government Gazette	31st March 1892.
Calcutta Gazette	30th March 1892.
North-Western Provinces and Oudh Government Gazette	2nd April 1892.
Punjab Government Gazette	7th April 1892.
Central Provinces Gazette	2nd April 1892.
Burma Gazette	9th April 1892.
Assam Gazette	9th April 1892.
Coorg District Gazette	2nd May 1892.
Sind Official Gazette	19th May 1892.

In the Vernaculars.

Province.	Language.	Date.
Madras	Kanarese	17th May 1892.
	Tamil	31st May 1892.
	Telugu	31st May 1892.
	Malayalam	31st May 1892.
	Hindustani	14th June 1892.
Bombay	Marathi	16th June 1892.
	Gujarathi	16th June 1892.
	Kanarese	18th June 1892.
Bengal	Bengali	3rd May 1892.
	Uriya	12th May 1892.
	Hindi	17th May 1892.
North-Western Provinces and Oudh	Urdu	16th July 1892.
Central Provinces	Hindi	3rd August 1892.
Burma	Burmese	23rd April 1892.
Assam	Bengali	14th May 1892.
Sindh	Sindhi	19th May 1892.

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

RASHBEHARY GHOSE.
PHIL. P. HUTCHINS.
ALEX. EDW. MILLER.
P. CHENTSAL RAO.
G. H. P. EVANS.

The 15th February 1893.

No. II.

A Bill to amend the Law relating to Partition.

WHEREAS it is expedient to amend the law *relating to* partition ; It is hereby enacted as follows :—

Title, extent, commencement and saving

1. (1) This Act may be called the Partition Act, 1893.

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

(3) It shall come into force at once.

(4) But nothing herein contained shall be deemed to affect any local law providing for the partition of immoveable property paying revenue to Government.

Power to Court to order sale instead of division in partition suits.

2. Whenever in any suit for partition in which, if instituted prior to the commencement of this Act, a decree for partition might have been made, it appears to the Court that, by reason of the nature of the property to which the suit relates, or of the number of *the shareholders* therein, or of any other special circumstance, a division of the property cannot reasonably or conveniently be made, and that a sale of the property and distribution of the proceeds would be more beneficial for all the *shareholders*, the Court may, if it thinks fit, on the request of any *of such shareholders* interested individually or collectively to the extent of one moiety or upwards, direct a sale of the property and a distribution of the proceeds.

Procedure when sharer undertakes to buy.

3. (1) If, in any case in which the Court is requested under the last foregoing section to direct a sale, any other shareholder *applies for leave* to buy *at a valuation* the share or shares of the party or parties asking for sale, the Court shall order a valuation of the share or shares in such manner as it *may think fit and offer to sell the same to such shareholder at the price so ascertained*, and may give all necessary and proper directions in that behalf.

(2) If two or more shareholders *severally apply for leave* to buy as provided in sub-section (1), the Court shall *order a sale of* the share or shares to the shareholder who offers to pay the highest price above the valuation made by the Court.

(3) *If no such shareholder is willing to buy such share or shares at the price so ascertained, the applicant or applicants shall be liable to pay all costs of or incident to the application or applications.*

Partition suit by transferee of share in dwelling-house.

4. (1) Where a share of a dwelling-house belonging to an undivided family *has been transferred to a person who is* not a member of *such* family *and such transferee* sues for partition, the Court shall, if any member of the family shall undertake to buy the share of such transferee, make a valuation of such share in such manner as it thinks fit and direct the transfer of the share on payment of the purchase-money so fixed by the Court.

(2) If in any case described in sub-section (1) two or more members of the family undertake to buy *such share*, but do not agree as between or among themselves with regard to the respective proportions in which they should buy, the Court shall follow the procedure prescribed by sub-section (2) of the last foregoing section.

Representation of parties under disability.

(5) In any suit for partition a request for sale may be made or an undertaking to buy given on behalf of any party under disability by any person authorized to act on behalf of such party in such suit, but the Court shall not be bound to comply with any such request or undertaking unless it is *of opinion* that the sale or purchase will be for the benefit of the party under such disability.

Power to shareholders to bid at sale.

6. (1) On any sale under this Act any of the *shareholders* shall be at liberty to bid at the sale on such terms as to non-payment of deposit or as to setting off or accounting for the purchase-money or any part thereof instead of paying the same as to the Court may seem reasonable.

(2) If two or more persons, of whom one is a shareholder in the property, respectively advance the same sum at any bidding at such sale, such bidding shall be deemed to be the bidding of the shareholder.

Procedure to be followed in case of sales.

7. When any property is directed to be sold under this Act, the following procedure shall, as far as practicable, be adopted, namely :

(*a*) if the property be *sold under a decree or order of the High Court* of Calcutta, Madras or Bombay *in the exercise of its original jurisdiction, or of the Court of the Recorder of Rangoon*, the procedure of *such* Court in its original civil jurisdiction for the sale of property by the Registrar ;

(*b*) if the property be *sold under a decree or order of any other Court*, such procedure as the High Court may from time to time by rules prescribe in this behalf, and until such rules are made the procedure prescribed in the Code of Civil Procedure in respect ofsales in execution of decrees. XIV of 1882.

Orders for sale to be deemed decrees.

8. Any order *for sale* made by the Court under section 2, 3 or 4 shall be deemed to be a decree within the meaning of section 2 of the Code of Civil Procedure. XIV of 1882.

Saving of power to order partly partition and partly sale.

9. *In any suit for partition the Court may, if it shall think fit, make* a decree for a partition of part of the property to which the suit relates and a sale of the remainder under this Act.

Application of Act to pending suits.

10. This Act shall apply to suits *instituted before* the commencement thereof, in which *no scheme for the partition of the property has been finally approved by the Court.*

J. M. MACPHERSON,
Offg. Secy. to the Government of India.

(Republished by order of the Right Honorable the Governor in Council.)

C. A. GALTON,
Acting Chief Secretary.

MADRAS : PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

The following Report of the Select Committee on the Bill to legalize in certain cases the execution within British India of capital sentences which have been passed by British Courts exercising in or with respect to foreign territory jurisdiction which the Governor-General in Council has in such territory was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 23rd February 1893 : —

We, the undersigned Members of the Select Committee to which the Bill to legalize in certain cases the execution within British India of capital sentences which have been passed by British Courts exercising in or with respect to foreign territory jurisdiction which the Governor-General in Council has in such territory 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 Resident at Hyderabad, No. 294, dated 26th October 1892 [Paper No. 1].
From Officiating Agent to Governor-General in Baluchistan, No. 6715, dated 28th October 1892 [Paper No. 2].
From Chief Commissioner, Ajmere-Merwara, No. 61 C.—690, dated 24th November 1892 [Paper No. 3].
From Secretary to Chief Commissioner, Assam, No. 5289 J., dated 28th November 1892, and enclosures [Paper No. 4].
From Chief Secretary to Government, Madras, No. 2215, dated 2nd December 1892, and enclosures [Papers No. 5].
From Chief Secretary to Government, Bengal, No. 4477 J., dated 10th December 1892, and enclosures [Papers No. 6].
From Secretary to Chief Commissioner, Central Provinces, No. 8569, dated 9th December 1892, and enclosure [Papers No. 7].
From Registrar, High Court, Calcutta, No. 2832, dated 12th December 1892 [Paper No. 8].
From Secretary to Chief Commissioner, Coorg, No. 1937—152-92, dated 8th December 1892 [Paper No. 9].
Telegram from Junior Secretary to Chief Commissioner, Burma, No. 500, dated 14th December 1892 [Paper No. 10].
From Officiating Secretary to Government, North-Western Provinces and Oudh, No. 4005—VI-98-C., dated 14th December 1892, and enclosures [Papers No. 11].
From Junior Secretary to Government, Punjab, No. 1218, dated 21st December 1892, and enclosures [Papers No. 12].
From Secretary to Government, Bombay, No. 212, dated 11th January 1893, and enclosures [Papers No. 13].

2. Having regard to the limited nature of the extra-territorial authority possessed by the Legislative Council of the Governor-General, to which our attention has been drawn by the Standing Counsel and Public Prosecutor to the Government of the North-Western Provinces and Oudh, we have thought it desirable to redraft the Bill so as to make it clear that it only legalizes the execution of the capital sentences in question, so far as concerns the action of the superintendents or keepers of jails in British India to whom warrants for their execution may be sent. In order to empower the British Courts in the territory referred to to issue warrants for execution of such sentences in British India, the Bill requires, in our opinion, to be supplemented by a notification of the Governor-General in Council in the Foreign Department of the nature of the draft appended to this Report which we recommend for issue should this Bill become law.

3. In accordance with a suggestion made by the Resident at Hyderabad we have substituted the expression "territory beyond the limits of British India" for "foreign territory" in the title and first paragraph of the preamble to the Bill, as containing a more fitting description of the nature of the territory referred to.

4. We have altered the language of the Bill, which speaks of the "execution of the *person*" sentenced to death, into "execution of the *sentence*" of death, as being more in accordance with that generally in use in Indian enactments.

5. Our attention has been drawn to a despatch from the Secretary of State, in which His Lordship notices that the Bill does not extend to all the Courts provided for by section 19 of the Prisoners Act, 1871; the same point has been referred to by the Government of Bombay. We understand, however,

that it never was intended that the operation of this Bill should be co-extensive with that of the Prisoners Act, and that it is—rightly, as we think—meant to be restricted to a very limited class of sentences of death, passed under exceptional circumstances by some British Courts sitting in places beyond British India.

6. Lastly, we have considered the various suggestions made for the incorporation of the provisions of the Bill in the Prisioners Act, and for the amendment otherwise of that Act; but we are of opinion that any amendments which may be required in that Act should stand over for future consideration, and meantime that the subject-matter of this Bill should be provided for by a separate enactment.

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

In English.

Gazette.	*Date.*
Gazette of India	15th October 1892
Fort St. George Gazette	1st November 1892.
Bombay Government Gazette	20th October 1892.
Calcutta Gazette	26th October 1892.
North-Western Provinces and Oudh Government Gazette ..	22nd October 1892.
Punjab Government Gazette	20th October 1892.
Central Provinces Gazette	29th October 1892.
Burma Gazette	5th November 1892.
Assam Gazette	5th November 1892.
Coorg District Gazette	1st November 1892.

In the Vernaculars.

Province.	*Language.*	*Date.*
Madras	Tamil	22nd November 1892.
	Telugu	22nd November 1892.
	Hindustani	22nd November 1892.
	Kanarese	22nd November 1892.
	Malayalam	22nd November 1892.
Bombay	Marathi	24th November 1892.
	Gujarathi	24th November 1892.
	Kanarese	24th November 1892.
Bengal	Bengali	8th November 1892.
	Uriya	10th November 1892
	Hindi	15th November 1892.
North-Western Provinces and Oudh.	Urdu	12th November 1892.
Burma	Burmese	12th November 1892
Assam	Bengali	19th November 1892.
Coorg	Kanarese	1st January 1893.

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

ALEX. EDW. MILLER.
PHIL. P. HUTCHINS.
G. H. P. EVANS.

The 22nd February 1893.

No. , DATED CALCUTTA THE 1893.

NOTIFICATION—By the Government of India in the Foreign Department.

WHEREAS a capital sentence is occasionally passed by a British Court exercising in or with respect to territory beyond the limits of British India jurisdiction which the Governor-General in Council has in such territory;

And whereas there may be in such territory no secure place for the confinement of a prisoner under sentence of death or no suitable appliances for his execution in a decent and humane manner;

In exercise of the powers conferred by sections 4 and 5 of the Foreign Jurisdiction and Extradition Act XXI of 1879, and of all other powers enabling him in this behalf, the Governor-General in Council is pleased to direct as follows:—

1. When any person is sentenced to death by a British Court in the exercise of such jurisdiction as is referred to in the first paragraph of the preamble to this notification, and, in the opinion of the Court, such sentence should for any such reason as is referred to in the second paragraph of the said preamble be executed in British India, the Court shall issue its warrant for such execution to the superintendent or keeper of a jail in British India, and shall in such warrant prescribe, as nearly as may be, the place in British India were such superintendent or keeper is to cause the execution to be carried out.

2. The jail in British India to which the Court is to send its warrant shall be such as the Governor-General in Council, or a Local Government authorised by him in this behalf, may by general or special order direct.

No. II.

A Bill to Legalise in certain cases the execution within British India of capital sentences which have been passed by British Courts exercising in or with respect to territory beyond the limits of British India jurisdiction which the Governor-General in Council has in such territory.

WHEREAS a capital sentence is occasionally passed by a British Court exercising in or with respect to territory *beyond the limits of British India* jurisdiction which the Governor-General in Council has in such territory;

And whereas there may be in such territory no secure place for the confinement of a prisoner under sentence of death or no suitable appliances for his execution in a decent and humane manner;

It is hereby enacted as follows:—

Execution in British India of certain capital sentences not ordinarily executable there.

1. When a British Court in the exercise of such jurisdiction as is referred to in the first paragraph of the preamble to this Act—

(*a*) *has sentenced any person to death*, and,

(*b*) *being of* opinion *that such sentence* should for any such reason as is referred to in the second paragraph of the said preamble be executed in British India, *has* issued its warrant for *the* execution *of such sentence* to the superintendent or keeper of a jail in British India,

such superintendent or keeper *shall, on receipt of such warrant*, cause the execution to be carried out *at such place as may be prescribed therein in the same manner and subject to the same conditions in all respects as if it were a warrant duly issued under the provisions of section* 381 *of the Code of Criminal Procedure*, 1882. X of 1882.

Jails in which sentences are to be executed.

2. The jails *of which the superintendents or keepers are to execute sentences under any such warrants* shall be such as the Governor-General in Council, or a Local Government authorised by him in this behalf, may by general or special order direct.

J. M. MACPHERSON,
Offg. Secretary to the Govt. of India.

(Republished by order of the Right Honorable the Governor in Council.)

C. A. GALTON,
Acting Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

THE PRISONS BILL.

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ENACTMENTS REPEALED.

A Bill to amend the law relating to Prisons.

WHEREAS it is expedient to amend the law relating to prisons in British India, and to provide rules for the regulation of such prisons; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (1) This Act may be called the Prisons Act, 1894.

(2) It extends to the whole of British India, inclusive of Upper Burma, British Baluchistan, the Santal Parganas, the Hill Tracts of Chittagong, the Chutia Nagpur Division, the Tarai Parganas, the Pargana of Spiti, and the Zamindari and Amani Estates of Ganjam and Vizagapatam, and the Presidency-towns of Calcutta, Madras and Bombay; and

(3) It shall come into force on the day of .

Repeal.

2. (1) On and after that day the enactments mentioned in the schedule shall be repealed to the extent specified in the third column thereof.

(2) But all rules and appointments made, directions given and orders issued under any of these enactments shall, so far as they are consistent with this Act, be deemed to have been respectively made, given, and issued under this Act.

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

Definitions.

3 In this Act—

(1) "prison" means any central or district or temporary gaol or house of correction or penitentiary, and includes all grounds or buildings appurtenant to or occupied for the use of the prison, but does not include a subsidiary gaol or a place (other than a gaol) specially appointed by the Local Government under section 541 of the Code of Criminal Procedure, 1882, except as to any of the provisions of this Act or the rules made under it which may have been extended to such gaol or place by rule made under section 58 : X of 1882

(2) "a subsidiary gaol" means a gaol not being a central or district gaol, in which only civil or unconvicted criminal prisoners or convicted criminal prisoners under a sentence not exceeding a period to be fixed in the case of each such gaol by the Local Government are confined, except when it is necessary to detain prisoners with longer sentences in a subsidiary gaol pending removal to a central or district gaol or as convict officers or menials :

(3) "criminal prisoner" means any prisoner charged with or convicted of an offence or confined under the provisions of the Code of Criminal Procedure, 1882, or by order of a Court-martial.

(4) "convicted criminal prisoner" means any criminal prisoner under sentence of a Court or Court-martial, and includes a person detained in prison under the provisions of Chapter. VIII of the Criminal Procedure Code, 1882 :

(5) "civil prisoner" means any prisoner who is not a criminal prisoner as defined above :

(6) "remission system" means the rules for the time being in force regulating the award of marks to, and the consequent shortening of sentences of, prisoners in gaols : and

(7) "history-ticket" means the record to be kept by a prisoner of such information as is required in respect of such prisoner by this Act or the rules made under it.

CHAPTER II.

MAINTENANCE AND OFFICERS OF PRISONS.

Accommodation for prisoners.

4. The Local Government shall provide, for the prisoners in the territories under such Government, accommodation in prisons constructed and regulated in such manner as to comply with the requisitions of this Act in respect of the separation of prisoners.

Temporary accommodation for prisoners.

5. (1) Whenever it appears to the Inspector-General of Prisons that the number of prisoners in any prison is greater than can conveniently or safely be kept therein, and it is not convenient to transfer the excess number to some other prison,

or whenever from the outbreak of epidemic disease within any prison, or for any other reason, it is desirable to provide for the temporary shelter and safe custody of any prisoners,

provision shall be made, by such officer and in such manner as the Local Government may from time to time direct, for the temporary shelter and safe custody of so many of the prisoners as cannot be conveniently or safely kept in the prison.

(2) Prisoners for whom such temporary shelter is provided shall be subject to the same rules as if they were within the prison.

Inspector-General of Prisons.

6. An Inspector-General of Prisons shall be appointed for the territories subject to each Local Government, and shall exercise, subject to the order of the Local Government, the general control and superintendence of all prisons situate in the territories under such Government :

Provided always that civil gaols in the Presidency of Bombay shall continue to be managed under the provisions of sections 8 to 16 of Bombay Act II of 1874.

Officers of prisons.

7. For every prison there shall be a Superintendent, a Medical Officer (who may also be the Superintendent), a Gaoler and such other officers as the Local Government thinks necessary :

Provided that in the Presidency of Bombay it shall be competent to the Local Government to declare that in certain prisons the office of Gaoler shall be held by the person appointed Superintendent.

CHAPTER III.

DUTIES OF OFFICERS.

Generally.

Control and duties of officers of prisons.

8. All officers of a prison shall obey the directions of the Superintendent; all subordinate officers shall perform such duties as may be directed by the Gaoler with the sanction of the Superintendent; and the duties of each subordinate officer shall be inserted in a book to be kept by such officer.

Officers not to sell, etc., to prisoners.

9. No officer of a prison shall sell or let, nor shall any person in trust for or employed by him sell or let, or derive any benefit from selling or letting, any article to any prisoner.

Officers not to contract, etc.

10. No officer of a prison shall, nor shall any person in trust for or employed by him, have any interest, direct or indirect, in any contract for the supply of the prison : nor shall he derive any benefit, directly or indirectly, from the sale or purchase of any article on behalf of the prison or belonging to a prisoner.

Superintendent.

Superintendent.

11. (1) Subject to the orders of the Inspector-General of Prisons, the Superintendent shall manage the prison in all matters relating to discipline, labour, expenditure, punishment and control.

(2) Subject to such directions as may from time to time be given by the Local Government, the Superintendent of a prison other than a central gaol or a prison situate in a Presidency-town shall obey all lawful orders respecting the prison given by the District Magistrate, and shall report to the Inspector-General all such orders and the action taken thereon.

Medical Officer.

Duties of Medical Officer.

12. The Medical Officer shall have charge of the sanitary administration of the prison, and shall perform such duties as may be prescribed by rules made by the Local Government under section 59.

Medical Officer to report in certain cases.

13. Whenever the Medical Officer has reason to believe that the mind of a prisoner is, or is likely to be, injuriously affected by the discipline or treatment to which he is subjected, the Medical Officer shall report the case in writing to the Superintendent, together with such observations as the Medical Officer thinks proper.

Report on death of prisoner.

14. On the death of any prisoner, the Medical Officer shall forthwith record in writing the following particulars, namely :—

(1) when the deceased was taken ill,
(2) when the Medical Officer was first informed of the illness,
(3) the nature of the disease,
(4) when the prisoner died, and
(5) (in cases where a *post-mortem* examination is made) an account of the appearances after death,

together with any special remarks that appear to the Medical Officer to be required.

Gaoler.

Gaoler.

15. (1) The Gaoler shall reside in the prison, unless the Superintendent permits him in writing to reside elsewhere.

(2) The Gaoler shall not, without the Inspector-General's sanction, be concerned in any other employment.

Gaoler to give notice of death of prisoner.

16. Upon the death of a prisoner, the Gaoler shall give immediate notice thereof to the Superintendent and the Medical Officer.

Gaoler to keep records.

17. The Gaoler shall keep, or cause to be kept, the following records :—

(1) a register of prisoners admitted ;
(2) a book showing when each prisoner is to be released ;
(3) a punishment-book for the entry of the punishments inflicted on prisoners for prison-offences ;
(4) a visitors' book for the entry of any observations made by visitors to the prison ;
(5) a record of the money and other articles taken from prisoners ;

and all such other records as may be prescribed by rules made under section 58 or section 59.

Responsibility of Gaoler.

18. The Gaoler shall be responsible for the safe custody of the records to be kept by him under section 17, for the commitment warrants and all other documents confided to his care, and also for the money and other articles taken from prisoners.

19. The Gaoler shall not be absent from the prison for a night without permission in writing from the Superintendent; but, if absent without leave for a night from unavoidable necessity, he shall immediately report the fact and the cause of it to the Superintendent.

Gaoler to be present at night.

20. Where a Deputy Gaoler is appointed to a prison, he shall be competent to perform any duty required by this Act or by any rule made under section 58 or section 59 to be performed by the Gaoler.

Powers of Deputy Gaoler.

Subordinate Officers.

21. The officer acting as gate-keeper, or any other officer of the prison, may examine anything carried in or out of the prison, and may stop and search any person suspected of bringing in spirits or other prohibited articles into the prison, or of carrying out any property belonging to the prison, and, if any such articles or property be found, shall give immediate notice thereof to the Gaoler.

Duties of gate-keeper.

22. Subordinate officers shall not be absent from the prison without leave from the Superintendent or from the Gaoler, and before absenting themselves they shall leave their keys in the Gaoler's office.

Subordinate officers not to be absent without leave.

CHAPTER IV.

ADMISSION, REMOVAL AND DISCHARGE OF PRISONERS.

23. (1) When a prisoner is first admitted, and whenever he afterwards enters the prison, he shall be searched, and all weapons and prohibited articles shall be taken from him.

Prisoners to be examined on admission.

(2) Every criminal prisoner shall also, as soon as possible after admission, be examined by the Medical Officer, who shall enter in a book, to be kept by the Gaoler, a record of the state of the prisoner's health, and of any wounds or marks on his person, the class of labour he is fit for if sentenced to rigorous imprisonment, and any observations which the Medical Officer thinks fit to add.

(3) In the case of female prisoners the search and examination shall be carried out by the matron under the orders of the Medical Officer.

24. All money or other articles in respect whereof no order of a competent Court has been made, and which may be brought into the prison by any criminal prisoner, or sent to the prison for his use, shall be placed in the custody of the Gaoler.

Effects of prisoners.

25. (1) All prisoners, previously to being removed to any other prison, shall be examined by the Medical Officer.

Removal and discharge of prisoners.

(2) No prisoner shall be removed to any other prison, unless the Medical Officer certifies that the prisoner is free from any illness rendering him unfit for removal.

(3) No prisoner shall be discharged against his will from prison, if laboring under any acute or dangerous distemper, nor until, in the opinion of the Medical Officer, such discharge is without danger to himself or other persons.

CHAPTER V.

DISCIPLINE OF PRISONERS.

26. The requisitions of this Act with respect to the separation of prisoners are as follows:—

Segregation of prisoners.

(1) in a prison containing female prisoners as well as males, the females shall be imprisoned in separate buildings, or separate parts of the same building, in such manner as to prevent their seeing, or conversing or holding any intercourse with, the males;

(2) in a prison where male prisoners under the age of eighteen are confined, means shall be provided for separating them altogether from the other prisoners and for separating those of them who have arrived at the age of puberty from those who have not;

(3) unconvicted criminal prisoners shall be kept apart from convicted criminal prisoners; and

(4) civil prisoners shall be kept apart from criminal prisoners.

27. The Local Government shall have power to make rules—

Rules as to separation of prisoners.

(1) as to the description and construction of the cells to be used for the partial or entire seclusion of prisoners under the provisions of this Act;

(2) as to the time during which prisoners not guilty of offences against prison rules may be confined separately.

28. No cell shall be used for solitary confinement unless it is furnished with the means of enabling the prisoner to communicate at any time with an officer of the prison, and every prisoner confined in a cell for not less than twenty-four hours, whether as a punishment or otherwise, shall be visited at least once a day by the Medical Officer or a medical subordinate.

Solitary confinement.

29. (1) Every prisoner under sentence of death shall, immediately on his arrival in the prison after sentence, be searched by, or by order of, the Gaoler, and all articles shall be taken from him which the Gaoler deems it dangerous or inexpedient to leave in his possession.

Prisoners under sentence of death.

(2) Every such prisoner shall be confined in a cell apart from all other prisoners, and shall be placed by day and by night under the charge of a guard.

CHAPTER VI.

FOOD, CLOTHING AND BEDDING OF CIVIL AND UNCONVICTED CRIMINAL PRISONERS.

30. A civil prisoner or an unconvicted criminal prisoner shall be permitted to maintain himself, and to purchase, or receive from private sources at proper hours, food, clothing, bedding or other necessaries, but subject to examination and to such rules as may be approved by the Inspector-General.

Certain prisoners may maintain and feed themselves.

31. No part of any food, clothing, bedding or other necessaries belonging to any civil or unconvicted criminal prisoner shall be given or sold to any other prisoner; and any such prisoner transgressing this regulation shall lose the privilege of purchasing food or

Restriction on transfer of food, clothing, etc., between certain prisoners.

receiving it from private sources, for such time as the Superintendent thinks proper.

32. (1) Every civil prisoner and unconvicted criminal prisoner unable to provide himself with sufficient clothing and bedding shall be supplied by the Superintendent with such clothing and bedding as may be necessary.

Supply of clothing and bedding to civil and unconvicted criminal prisoners.

(2) When any civil prisoner has been committed to prison in execution of a decree in favour of a private person, such person, or his representative, shall be liable to pay to the Superintendent on demand the cost of the clothing and bedding so supplied to the prisoner; and in default of such payment the prisoner shall be released.

CHAPTER VII.

EMPLOYMENT OF PRISONERS.

33. (1) Civil prisoners may, with the Superintendent's permission, work and follow any trade or profession.

Employments of civil prisoners.

(2) Civil prisoners finding their own implements, and not maintained at the expense of the prison, shall be allowed to receive the whole of their earnings; but the earnings of such as are furnished with implements or are maintained at the expense of the prison shall be subject to a deduction, to be determined by the Superintendent, for the use of implements and the cost of maintenance.

34. (1) No criminal prisoner sentenced to labour or employed on labour at his own desire shall, except on an emergency with the sanction in writing of the Superintendent, be so employed for more than nine hours in any one day.

Employment of criminal prisoners.

(2) The Medical Officer shall from time to time examine the labouring prisoners while they are employed, and shall at least once in every fortnight have recorded upon the history-ticket of each prisoner employed on labour the weight of such prisoner at the time.

(3) When the Medical Officer is of opinion that the health of any prisoner is likely to be injured by a continuance of any kind or class of labour, he shall not be employed on such labour, but shall be placed on such other kind or class of labour as the Medical Officer may consider suited for him.

35. (1) Provision shall be made by the Superintendent for the employment (as long as they so desire) of all criminal prisoners sentenced to simple imprisonment.

Employment of criminal prisoners sentenced to simple imprisonment.

(2) The Superintendent shall make rules as to the amount and nature of such employment; but no prisoner not sentenced to rigorous imprisonment shall be punished for neglect of work excepting by such alteration in the scale of diet as may be established by the rules of the prison in the case of neglect of work by such prisoners.

CHAPTER VIII.

HEALTH OF PRISONERS.

36. (1) The names of prisoners desiring to see the Medical Officer or appearing out of health in mind or body shall be reported by the officer in immediate charge of them to the Gaoler.

Sick prisoners.

(2) The Gaoler shall, without delay, call the attention of the Medical Officer to any prisoner desiring to see him, or who is ill, or whose state of mind or body appears to require attention,

and shall carry into effect all lawful directions given by the Medical Officer in writing respecting alterations of the discipline or treatment of any such prisoner.

37. All directions given by the Medical Officer in relation to any prisoner, with the exception of orders for the supply of medicines or directions relating to such matters as are carried into effect by the Medical Officer himself or under his superintendence, shall be entered day by day in the prisoner's history-ticket or in such other record as the Local Government may by rule direct, and the Gaoler shall make an entry in its proper place stating in respect of each direction the fact of its having been or not having been complied with, accompanied by such observations, if any, as the Gaoler thinks fit to make, and the date of the entry.

Record of directions of Medical Officer.

38. In every prison an infirmary or proper place for the reception of sick prisoners shall be provided.

Infirmary.

CHAPTER IX.

VISITS TO, AND CORRESPONDENCE OF, PRISONERS.

39. (1) Due provision shall be made for the admission, at proper times and under proper restrictions, into every prison of persons with whom civil or unconvicted criminal prisoners may desire to communicate.

Visits to civil and unconvicted criminal prisoners.

(2) The Local Government shall regulate the communication and correspondence of prisoners with their friends in such manner as it may think necessary for the maintenance of good order and discipline.

40. (1) The Gaoler may demand the name and address of any visitor to a prisoner, and, when the Gaoler has any ground for suspicion, may search any visitor, or cause him to be searched, but the search shall not be made in the presence of any prisoner or of another visitor.

Gaoler may search visitors.

(2) In case of any such visitor refusing to permit himself to be searched, the Gaoler may deny him admission; and the grounds of such proceeding, with the particulars thereof, shall be entered in his journal.

CHAPTER X.

OFFENCES IN RELATION TO PRISONS.

41. Whoever, contrary to the rules made under section 59, brings, throws or attempts by any means whatever to introduce into any prison or any place provided under section 5 for the temporary shelter and safe custody of prisoners, or gives or attempts to give to any prisoner outside the limits of a prison, any article mentioned in the said rules,

Penalty for introduction of prohibited articles into prison and communication with prisoners.

and every officer of a prison who, contrary to such rules, knowingly suffers any such article to be introduced into any such prison or place, to be

possessed by any prisoner or to be given to any prisoner outside the limits of a prison,

and whoever, contrary to such rules, communicates or attempts to communicate with any prisoner,

and whoever abets any offence made punishable by this section,

shall, on conviction before a Magistrate, be liable to rigorous imprisonment for a term not exceeding six months, or to fine not exceeding two hundred rupees, or to both.

Power to arrest for offence under section 41.

42. When any person, in the presence of any officer of a prison, commits any offence specified in the preceding section, and refuses on demand of such officer to state his name and residence, or gives a name or residence which such officer knows, or has reason to believe, to be false, such officer may arrest him, and shall without unnecessary delay make him over to a Police-officer, and thereupon such Police-officer shall proceed as if the offence had been committed in his presence.

Publication of penalties.

43. The Superintendent shall cause to be affixed, in a conspicuous place outside the prison or the place provided as aforesaid, a notice in English and the local Vernacular setting forth the penalties incurred by persons committing any offence under section 41.

CHAPTER XI.

PRISON-OFFENCES.

Prison-offences.

44. The following acts are declared to be prison-offences when committed by a prisoner:—

(1) such wilful disobedience to the regulations of the prison by any prisoner as shall have been declared by rules made under section 58 to be a prison offence;

(2) an assault or use of criminal force by any prisoner;

(3) the use of insulting or threatening language by any prisoner;

(4) immoral or indecent or disorderly behaviour by any prisoner;

(5) wilfully disabling himself from labour;

(6) contumaciously refusing to work;

(7) filing, cutting, altering or removing handcuffs, fetters or bars;

(8) wilful idleness or negligence at work by any prisoner sentenced to rigorous imprisonment;

(9) wilful mismanagement of work by any prisoner sentenced to rigorous imprisonment;

(10) wilful damage to prison property;

(11) tampering with or altering or defacing history-tickets, records or documents;

(12) receiving, possessing or transferring any articles contrary to the rules made under section 59 of this Act;

(13) feigning illness or concealing illness;

(14) wilfully bringing false accusations against any officer or prisoner;

(15) omitting or refusing to report, as soon as it comes to his knowledge, the occurrence of any fire, any plot or conspiracy, any escape, attempt or preparation to escape, and any attack or preparation for attack upon any prisoner or gaol official;

(16) conspiring to escape, or to assist in escaping, or to commit any other of the offences aforesaid.

Punishment of such offences.

45. The Superintendent may examine any person touching any such offence, and determine thereupon, and punish such offence by—

(1) a formal warning:

EXPLANATION.—A formal warning shall mean a warning personally addressed to a prisoner by the Superintendent and recorded in the punishment-book and on the prisoner's history-ticket;

(2) change of labour to some more irksome or severe form;

(3) hard labour for a period not exceeding seven days in the case of prisoners not sentenced to rigorous imprisonment;

(4) such loss of privileges admissible under the remission system for the time being in force as may be prescribed by rules made by the Governor-General in Council.

(5) penal diet, that is, restriction of diet in such manner and subject to such conditions regarding labour as may be prescribed by the Local Government:

Provided that such restriction of diet shall in no case be applied to a prisoner for more than ninety-six consecutive hours, and shall not be repeated except for a fresh offence nor until after an interval of one week;

(6) solitary confinement for any period not exceeding seven days:

Provided that after each period of solitary confinement an interval of not less duration than such period must elapse before the prisoner is again sentenced to solitary or separate confinement:

EXPLANATION.—Solitary confinement means such confinement with or without labour as entirely secludes the prisoner both from sight of, and communication with, other prisoners;

(7) separate confinement for any period not exceeding fourteen days:

Provided that after each period of separate confinement an interval of not less duration than such period must elapse before the prisoner is again sentenced to separate or solitary confinement:

EXPLANATION.—Separate confinement means such confinement with or without labour as entirely secludes a prisoner from communication with, but not from sight of, other prisoners;

(8) cellular confinement for any period not exceeding six months:

EXPLANATION.—Cellular confinement means such confinement with or without labour as secludes a prisoner from communication with, but not from sight of, other prisoners, and allows him not less than one hour's exercise per diem;

(9) penal diet as defined in clause (5) combined with solitary confinement as defined in clause (6);

(10) imposition of handcuffs of such pattern, and subject to such rules as to manner and period of imposition, as may be prescribed by rules made by the Governor-General in Council;

(11) imposition of fetters of such pattern and weight, in such manner and for such period, as may be prescribed by rules made by the Governor-General in Council;

(12) the substitution of gunny for clothing of other material for a period which shall not exceed three months;

(13) whipping, provided that the number of stripes shall not exceed thirty:

Provided that nothing in this section shall render any female or civil prisoner liable to the imposition of any form of handcuffs or fetters, or to whipping.

Plurality of punishments under section 45.

46. Any two of the punishments enumerated in section 45 may be awarded for any such offence in combination, subject to the following exceptions, namely:—

(1) formal warning shall not be combined with any other punishment;

(2) penal diet shall not be combined with "change of labour," nor shall any additional period of penal diet awarded singly be combined with any period of penal diet awarded in combination with solitary confinement;

(3) solitary confinement shall not be combined with separate confinement or with cellular confinement, or separate confinement with cellular confinement, so as to prolong the total period of seclusion to which the prisoner shall be liable;

(4) whipping shall not be combined with any other form of punishment except separate confinement and loss of privileges under the remission system.

Plurality of punishments under sections 45 and 46.

47. (1) The Superintendent shall have power to award any of the punishments enumerated in sections 45 and 46 of this Act, subject, in the case of cellular confinement for a period exceeding one month, to the previous confirmation of the Inspector-General.

(2) No officer subordinate to the Superintendent shall have power to award any punishment whatever.

Punishments to be in accordance with foregoing sections.

48. (1) No punishment other than those specified in the foregoing sections shall be inflicted on any prisoner, and no punishment shall be inflicted on any prisoner otherwise than in accordance with the provisions of the foregoing sections.

(2) Any Gaoler or subordinate officer of a gaol contravening this section shall be held to have committed an offence punishable under section 53 of this Act.

Medical officer to certify to fitness of prisoner for punishment.

49. (1) No punishment of penal diet, either singly or in combination, or of whipping, shall be executed until the prisoner awarded such punishment has been examined by the Medical officer, who, if he considers the prisoner fit to undergo the punishment awarded, shall certify accordingly in the appropriate column of the punishment-book prescribed in section 17.

(2) If he considers the prisoner unfit to undergo the punishment awarded, he shall in like manner record his opinion in writing and shall state whether the prisoner is absolutely unfit for punishment of the kind awarded, or whether he considers any modification necessary.

(3) In the latter case he shall state what extent of punishment he thinks the prisoner can undergo without injury to his health.

Entries in punishment-book.

50. (1) In the punishment-book prescribed in section 17 of this Act there shall be recorded, in respect of every punishment inflicted, the prisoner's name, register number and the class (whether habitual or not) to which he belongs, the offence of which he was guilty, the date on which such offence was committed, the number of previous offences recorded against the prisoner, and the date of his last offence, the punishment awarded and the date of infliction.

(2) In the case of every serious offence, the names of the witnesses proving the offence shall be recorded, and, in the case of offences for which whipping is awarded, the Superintendent shall record the substance of the evidence of the witnesses, the defence of the prisoner, and the finding with the reasons therefor.

(3) Against the entries relating to each punishment the Gaoler and Superintendent shall affix their initials as evidence of the correctness of the entries.

Procedure on committal of heinous offence.

51. If any prisoner is guilty of any offence against gaol discipline which, by reason of his having frequently committed such offences or otherwise, in the opinion of the Superintendent, is not adequately punishable by the infliction of any punishment awardable by himself under this Act, the Superintendent may forward such prisoner to the Court of the District Magistrate or of any Magistrate of the first class having jurisdiction, together with a statement of the circumstances, and such Magistrate shall thereupon inquire into and try the charge so brought against the prisoner, and, upon conviction, may sentence him to imprisonment of either description which may extend to one year, such term to be in addition to any term for which such prisoner was undergoing imprisonment when he committed such offence, or may sentence him to any of the forms of punishment specified in sections 45 and 46 of this Act:

Provided that no person shall be punished twice for the same offence.

Whipping.

52. (1) No punishment of whipping shall be inflicted in instalments, or except in the presence of the Superintendent and Medical officer or medical subordinate.

(2) Whipping shall be inflicted with a light rattan not less than half an inch in diameter on the buttocks, and in case of prisoners under the age of sixteen it shall be inflicted with a lighter rattan in the same manner.

Punishment of officers of gaol.

53. (1) Every Gaoler or subordinate officer of a prison ill-treating any prisoner, or wilfully violating or neglecting any provision of this Act or any rule made under section 58 or section 59, shall be liable, under the orders of the Superintendent or Inspector-General, to fine not exceeding three months' pay.

(2) Any fine imposed under this section may be recovered, either by deductions from the officer's salary, or under the law for the time being in force for the recovery of fines.

Offences by officers of gaol.

54. (1) Every Gaoler or subordinate officer of a prison who shall be guilty of any violation of duty or wilful breach or neglect of any rule or regulation or lawful order made by competent authority, or who shall withdraw from the duties of his office without permission, or without having given previous notice in writing of his intention for the period of two months, or who shall engage without authority in any employment other than his gaol duty, or who shall be guilty of cowardice, or who shall offer any personal violence not warranted by the circumstances to any person in his custody, shall be liable, on conviction before a Magistrate, to a penalty not exceeding two hundred rupees, or to imprisonment, with or without hard labour, for a period not exceeding three months', or to both.

(2) No person shall, under this section or section 53, be punished twice for the same offence.

CHAPTER XII.

MISCELLANEOUS.

Confinement in irons.

55. Whenever the Superintendent considers it necessary (with reference either to the state of the prison or the character of the prisoners) for the safe custody of any prisoners that they should be confined in irons, he may, subject to such rules and instructions as may be laid down by the Inspector-General with the sanction of the Local Government, so confine them.

Confinement of prisoners under sentence of transportation in irons.

56. (1) Prisoners under sentence of transportation shall, subject to any rules made under section 59, be confined in fetters for the first three months after admission to prison.

(2) Should the Superintendent consider it necessary, either for the safe custody of the prisoner himself or for any other reason, that fetters should be retained on any such prisoner for more than three months, he shall apply to the Inspector-General of Prisons for sanction to their retention for the period for which he considers their retention necessary, and the Inspector-General may sanction such retention accordingly.

Prisoners not to be ironed by Gaoler except under necessity.

57. No prisoner shall be put in irons or under mechanical restraint by the Gaoler of his own authority, except in case of urgent necessity, in which case notice thereof shall be forthwith given to the Superintendent.

Power to make rules.

58. The Governor-General in Council may for any part of British India, and each Local Government with the previous sanction of the Governor-General in Council may for the territories under its administration, make rules consistent with this Act—

(1) defining the acts which shall constitute prison offences;

(2) determining the classification of such offences into serious and minor offences;

(3) fixing the punishments admissible under this Act which shall be awardable for commission of such offences or classes of offences;

(4) declaring the circumstances in which acts constituting both a prison-offence and an offence under the Indian Penal Code may or may not be dealt with as a prison-offence; XLV of 1860.

(5) for the award of marks and the shortening of sentences;

(6) authorising the use of arms against any prisoner or body of prisoners in the case of an outbreak or attempt to escape;

(7) extending any or all of the provisions of this Act and of any rules made thereunder to subsidiary gaols, or special places of confinement appointed under section 541 of the Code of Criminal Procedure, 1882, and to the officers in charge thereof. X of 1882.

Power of Local Government to make rules.

59. (1) The Local Government may, subject to the control of the Governor-General in Council, make rules consistent with this Act—

(1) for the government of prisons and for the guidance of all officers appointed under this Act;

(2) as to the food, bedding and clothing of criminal prisoners and of civil prisoners maintained otherwise than at their own cost;

(3) for the employment and control of convicts within or without prisons, and for the guidance of the guard in charge of such convicts;

(4) for defining articles the introduction of which into prisons without due authority is prohibited;

(5) for the classification of the forms of labour;

(6) for regulating the manner in which the proceeds of the employment of prisoners shall be disposed of;

(7) for regulating the confinement in fetters of prisoners sentenced to transportation;

(8) for the classification and the separation of prisoners;

(9) for the preparation and maintenance of history-tickets;

(10) for the selection and appointment of prisoners as officers of prisons;

(11) for rewards for good conduct;

(12) for regulating the transfer or removal of prisoners from one prison or place to another;

(13) for the treatment, transfer and disposal of criminal lunatics or recovered criminal lunatics confined in prisons;

(14) for regulating the transmission of appeals and petitions from prisoners;

(15) for the appointment and guidance of visitors of prisons; and

(16) generally, in regard to the admission, custody, employment, dieting, treatment and release of prisoners, and for other purposes consistent with this Act.

(2) Copies of such rules, so far as they affect the government of prisons, shall be exhibited in some place to which all persons employed within a prison have access.

Validation of certain existing rules.

60. All rules now in force relating to any of the matters mentioned in sections 12, 27, 35, 55, 56, 58 and 59 shall, so far as such rules are consistent with this Act, be deemed to have been made under those sections respectively, and the existing officers of prisons shall be deemed to have been appointed under this Act.

Exercise of powers of Superintendent.

61. All or any of the powers and duties conferred and imposed by this Act on a Superintendent may be exercised and performed by such other officer as the Local Government may from time to time appoint in this behalf either by name or by his official designation.

THE SCHEDULE.

ENACTMENTS REPEALED.

(*See section* 2.)

Year.	No.	Title or short title.	Extent of repeal.
Acts of the Governor-General in Council.			
1856..	VIII..	An Act for the better control of the jails within the Presidency of Bombay.	So much as has not been repealed.

THE SCHEDULE—*cont.*

Year.	No.	Title or short title.	Extent of repeal.
Acts of the Governor-General in Council—cont.			
1870..	XXVI.	Prisons Act, 1870 ..	So much as has not been repealed.
1874..	XV ..	Laws Local Extent Act, 1874.	So much of Part (*b*) of the third schedule as relates to Act VIII of 1856.
1878..	XIV ..	An Act to assimilate certain powers of the Local Governments of the North-Western Provinces and Oudh.	Section 2.
1886..	XX ..	Upper Burma Laws Act, 1886.	So much as relates to Act XXVI of 1870.
1891..	XII ..	Repealing and Amending Act, 1891.	So much of the second schedule as relates to Acts VIII of 1856 and XXVI of 1870.
Acts of the Governor of Fort St. George in Council.			
1869..	V ..	Madras Jails Act, 1869.	So much as has not been repealed.
1882..	VII ..	Madras Jails Act Amendment Act, 1882.	The whole.
1889..	II ..	An Act to amend the Madras Jails Act, 1869.	The whole.
Acts of the Governor of Bombay in Council.			
1874..	II ..	An Act for the regulation of Jails in the City and Presidency of Bombay and the enforcement of discipline therein.	So much as has not been repealed.
1882..	II ..	An Act to amend Bombay Act II of 1874.	The whole.
1883..	IV ..	An Act to amend the Law concerning the confinement of civil prisoners liable to imprisonment under the Criminal Procedure Code.	The whole.
1887..	I ..	An Act to further amend Bombay Act II of 1874.	The whole.
Acts of the Lieutenant-Governor of Bengal in Council.			
1864..	II ..	An Act for the regulation of Jails and the enforcement of discipline therein.	So much as has not been repealed.
1865..	V ..	An Act to amend Act II of 1864, passed by the Lieutenant-Governor of Bengal in Council, and to extend the provisions thereof to the Presidency Jail.	So much as has not been repealed.
Regulations made under the Statute 33 Victoria, Chapter 3.			
1872..	III ..	Santhal Parganas Settlement Regulation.	So much of the schedule (as amended by Regulation III of 1886) as relates to Bengal Acts II of 1864 and V of 1865.
1874..	IX ..	Arakan Hill District Laws Regulation, 1874.	So much as relates to Act XXVI of 1870.
1875..	II ..	Assam Prisons Regulation, 1875.	The whole.
1890..	I ..	British Baluchistan Laws Regulation, 1890.	So much as relates to Act XXVI of 1870.

STATEMENT OF OBJECTS AND REASONS.

THERE are at present four different Acts in force for the regulation of jails in British India and for the enforcement of discipline therein. These Acts differ *inter se* in various important points, namely, as to the jail-offences enumerated in them, as to the punishments which might be inflicted for these offences, and as to the authorities competent to inflict these punishments. In consequence divergent systems of jail management have grown up in the several provinces, whereby there has been a sacrifice of that uniform enforcement of sentences of imprisonment which effective general administration requires. The object of this Bill is to repeal the four local Acts and to prescribe a uniform system of prison management in India.

2. The Bill is mainly based on Act XXVI of 1870 (*an Act to amend the law relating to Prisons*), which is in force in the North-Western Provinces and Oudh, the Punjab, the Central Provinces, Coorg and Burma, with amendments embodying the conclusions arrived at by the Government of India on the Report of the Jail Committee of 1889 and the Report of the Prison Conference of 1892, as stated in the Resolution recorded in the Home Department of the 9th November 1892, and in the circular letter to Local Governments and Administrations, dated the 25th March 1893, to which it appeared necessary to give legislative form.

3. The details of the Bill which appear to call for remark are noticed in this paragraph.

Section 3 provides for clearer definitions of the terms "prison," "subsidiary gaol," "criminal prisoner" "convicted criminal prisoner," and "civil prisoner," and adds definitions of the terms "remission system" and "history-tickets."

Section 11.—The powers of a District Magistrate to issue orders to the Superintendent of a prison have been restricted to prisons other than central gaols or prisons situated in a Presidency-town.

Section 12.—The sanitary administration of a prison has been vested in the Medical Officer.

Section 23.—An addition has been made to this section, which provides a useful precaution against false charges of police torture or the means of detecting such malpractices, if committed. It also makes separate provision for the search and examination of female prisoners after admission into prison.

Section 26 makes provision for the separation of juveniles who have arrived at the age of puberty from those who have not.

Section 28 requires the Medical Officer or a Subordinate Medical Officer to visit each prisoner confined in cells at least once a day.

Section 34 restricts the employment of criminal prisoners sentenced to labour to nine hours in any one day, except on an emergency, and then only with the sanction in writing of the Superintendent. With the view of watching more closely the health of prisoners, this section provides for recording the weight of criminal prisoners at least once a fortnight upon their history-tickets, and places upon the Medical Officer the responsibility of seeing that a prisoner's health is not injured by the work on which he is employed.

Section 44.—This section follows the general principles embodied in the existing Prisons Acts (themselves based upon English legislation) and includes in the law itself a statement of the most important jail-offences. A few additional offences which seemed of sufficient importance have been included in this section, but it is still necessary to reserve the power of making rules the breach of which involve penal consequences, since every breach of a jail regulation is a jail-offence, and it is not possible to include in the Act all the regu-

lations which have to be observed in jails or expedient to make legislation necessary for the purpose of adding to or altering them. In order to provide for the equal treatment of prisoners throughout India, however the first clause of this section, relating to prison regulations generally, has been restricted by providing that, to make disobedience to such regulations punishable, the rules creating offences must be sanctioned by the Governor-General in Council.

Section 45.– Hitherto there have been in use in jails, besides the punishments prescribed in the existing laws, other forms of punishments, consisting in the modification, to the disadvantage of a prisoner, of matters of discipline or treatment left to the discretion of the executive, such as loss of marks, relegation to a disagreeable form of labour, modification of diet, forfeiture of privileges, &c. In order, however, to prevent the introduction of objectionable forms of punishment and to secure the due record of all punishments of whatever nature, it has been considered desirable to specify exhaustively all the forms of punishment which may be resorted to; and while the section retains those forms of punishment which are laid down in the present law, clauses (1), (2), (4) and (5) introduce into it the descriptions of punishment which have hitherto prevailed at the discretion of the executive. In some of the remaining clauses modifications have also been made. Clauses (6), (7) and (8) distinguish between the different degrees of solitary, separate and cellular confinement which may be used as a punishment and are borrowed from Provincial Jail Codes where they have been found successful. Clause (9) provides for the combination of penal diet and solitary confinement; the maximum period for which penal diet may [under clause (5)] be imposed at one time is entered at ninety-six hours instead of seventy-two hours as in section 48 (2) of the Act of 1870, but this is in accordance with the law in force in Bombay (Bombay Act II of 1874, section 35, proviso) and has met with general approval. Clauses (10) and (11) relate to the imposition of irons as a punishment, which under the Act of 1870 can in other provinces than Bengal only be ordered by the Magistrate under section 49 of the Act of 1870. The restrictions which have of late years been placed on the employment of corporal punishment, and the objections to the frequent use of penal diet, make it necessary to invest Superintendents with some additional means of coercion for the control of unruly and hardened criminals. Clause (12) adds a minor punishment which has been found useful in Bengal in connection with thefts and destruction of prison clothing. Female and civil prisoners are specially excluded from the punishments of handcuffs or fetters and from whipping.

Sections 46 *to* 50 have been recommended by the Conference of experts on jail management from all provinces who were convened by the Government of India in the early part of 1892 for the purpose of preparing an amended and consolidated Prisons Bill for all India.

Section 51 reproduces the section bearing number 49 in the Act of 1870, but the period of additional imprisonment which may be ordered by the Magistrate after judicial trial has been increased from six months to one year. It also provides that the court may resort to any of the ordinary forms of jail punishment as it thinks fit, to meet the case of a Magistrate taking a different view from the Superintendent of the gravity of the prisoner's offence.

Section 54 is borrowed from the Police Act, V of 1861, section 29, and is likely to prove a useful provision.

Sections 55 *and* 56.—These sections are based on the rules in force in Madras and have been accepted generally by Local Governments and Administrations.

Sections 58 *and* 59.— These sections make provision for framing the necessary rules for regulating the matters which are left by the previous sections of the Bill to be dealt with by such rules.

A. P. MACDONNELL.

The 11th January 1894.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

FORT ST. GEORGE GAZETTE SUPPLEMENT.

TUESDAY EVENING, FEBRUARY 13, 1894.

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

The following Report of the Select Committee on the Bill to amend the Land Acquisition Act, 1870, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 25th January 1894:—

We, the undersigned, Members of the Select Committee to which the Bill to amend the Land Acquisition Act, 1870, has been recommitted, have considered the Bill as amended by the former Select Committee and appended to their report dated 22nd March 1893, together with the papers noted in the margin, and have now the honour to submit this our Report.

From Chief Secretary to Government, Madras, No. 2147, dated 14th October 1893, and enclosures [Papers No. 1 to Bill No. III].
From Officiating Revenue Secretary to Government, Punjab, No. 1162, dated 26th October 1893, and enclosures [Papers No. 2 to Bill No. III].
From Secretary, Bengal Chamber of Commerce, No. 67—94, dated 15th January 1894, and enclosure [Papers No. 3 to Bill No. III].

2. We have only a few changes to recommend in the amended Bill. They will be found printed in italics in the copy of that Bill which we attach to this Report.

3. We propose that the Bill should not come into force until the 1st March 1894, so as to allow of an interval between the date of its passing and its coming into force during which the officers concerned may become acquainted with its provisions.

4. In order to prevent any doubt as to the right to compensation of persons who own easements affecting lands taken up under the Bill, we have added an explanation to the definition of "person interested" making the definition expressly cover such persons.

5. We have amended section 5 so as to restrict references of disputes as to the amount to be paid for damage under that section to the chief revenue-officers of districts, as we are of opinion that such references should be decided by these officers only.

6. The object of the amendment we have suggested in the proviso to section 6 is to enable land to be acquired under the Bill for the purposes of colleges, hospitals and other public institutions which are in some cases only partly supported out of public revenues or the funds of local authorities.

7. The words we have added to section 9 (2) will enable the Collector to require persons to put their statements in writing in all cases in which he may consider this course necessary or desirable. Since the Collector is bound to make an award under section 11, it will prevent misunderstanding to give him this power.

8. A question having been raised as to the competency of the Collector to summon the parties interested as witnesses under section 14, we have thought it well to remove all doubt by inserting a specific reference to such parties in the section.

9. We have proposed the addition to section 17 (2) of the words printed in italics, as the language of the sub-section as settled by the former Select Committe did not appear to us to be sufficiently wide to provide for all the cases in which it may be desirable that a Railway Administration should acquire the immediate possession of land. Such acquisition is sometimes necessary for the maintenance of the traffic of a line when no river-side station is involved.

10. The object of the slight addition made by us to section 18 (1) is to make the provisions of that section as to disputes concerning apportionment the same as those of section 30 on that subject.

11. The new sub-section we have added to section 19 will ensure the submission by the Collector of an accurate and complete descriptive list of all the relevant papers which may be required by the Court.

12. We are of opinion that only such land should be deemed to be part of a house, manufactory or building which it is proposed to take under the Act, as can be held to be reasonably required for the full and unimpaired use of such house, manufactory or building. We have, therefore, added a clause to section 49 (1) directing the Court to have regard to this question when deciding any reference which may be made to it under the section.

13. In accordance with a suggestion made by the Bengal Chamber of Commerce we have required rules under section 55 to be made after previous publication, so as to give the public an opportunity of criticizing them before they are finally adopted.

14. We do not think that the amendments now proposed are of sufficient importance to require re-publication, and we recommend that the Bill appended to this Report be passed into law

ALEX. EDW. MILLER.
A. P. MACDONNELL.
RASHBEHARY GHOSE.
C. C. STEVENS.
W. LEE-WARNER.

The 24th January 1894.

No. IV.

THE LAND ACQUISITION BILL.

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No. IV.

A Bill to amend the law for the acquisition of land for public purposes and for Companies.

WHEREAS it is expedient to amend the law for the acquisition of land needed for public purposes and for Companies and for determining the amount of compensation to be made on account of such acquisition; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Short title, extent and commencement.

1. (1) This Act may be called the Land Acquisition Act, 1894.

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

(3) It shall come into force *on the first day of March* 1894.

X of 1870. XVIII of 1884.

Repeal.

2. (1) The Land Acquisition Act, 1870, *and section 74 of the Punjab Courts Act*, 1884, *are* hereby repealed.

(2) But all proceedings commenced, officers appointed or authorized, agreements published and rules made under the said *Land Acquisition* Act shall, as far as may be, be deemed to have been respectively commenced, appointed or authorised, published and made under this Act.

(3) Any enactment or document referring to the said *Land Acquisition* Act or to any enactment thereby repealed 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,—

(*a*) the expression "land" includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth:

(*b*) the expression "person interested" includes all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act; *and a person shall be deemed to be interested in land if he is interested in an easement affecting the land:*

(*c*) the expression "Collector" means the Collector of a district, and includes a Deputy Commissioner and any officer specially appointed by the Local Government to perform the functions of a Collector under this Act:

(*d*) the expression "Court" means a principal Civil Court of original jurisdiction, unless the Local Government has appointed (as it is hereby empowered to do) a special judicial officer within any specified local limits to perform the functions of the Court under this Act:

(*e*) the expression "Company" means a Company registered under the Indian Companies Act, 1882, or under the (English) Companies Acts, 1862 to 1890, or incorporated by an Act of Parliament or of the Governor-General in Council, or by Royal Charter or Letters Patent: VI of 1882.

(*f*) the expression "public purpose" includes the provision of village-sites in districts in which the Local Government shall have declared by notification in the official Gazette that it is customary for the Government to make such provision: and

(*g*) the following persons shall be deemed persons "entitled to act" as and to the extent hereinafter provided (that is to say)—

trustees for other persons beneficially interested shall be deemed the persons entitled to act with reference to any such case, and that to the same extent as the persons beneficially interested could have acted if free from disability:

a married woman, in cases to which the English law is applicable, shall be deemed the person so entitled to act, and, whether of full age or not, to the same extent as if she were unmarried and of full age; and

the guardians of minors and the committees or managers of lunatics or idiots shall be deemed respectively the persons so entitled to act, to the same extent as the minors, lunatics or idiots themselves, if free from disability, could have acted:

Provided that—

(*i*) no person shall be deemed "entitled to act" whose interest in the subject-matter shall be shown to the satisfaction of the Collector or Court to be adverse to the interest of the person interested for whom he would otherwise be entitled to act;

(*ii*) in every such case the person interested may appear by a next friend, or, in default of his appearance by a next friend, the Collector or Court, as the case may be, shall appoint a guardian for the case to act on his behalf in the conduct thereof;

(*iii*) the provisions of Chapter XXXI of the Code of Civil Procedure shall, *mutatis mutandis*, apply in the case of persons interested appearing before a Collector or Court by a next friend, or by a guardian for the case, in proceedings under this Act; and XIV of 1882.

(*iv*) no person "entitled to act" shall be competent to receive the compensation-money payable to the person for whom he is entitled to act, unless he would have been competent to alienate the land and receive and give a good discharge for the purchase money on a voluntary sale.

PART II.

ACQUISITION.

Preliminary Investigation.

Publication of preliminary notification and powers of officers thereupon.

4. (1) Whenever it appears to the Local Government that land in any locality is likely to be needed for any public purpose, a notification to that effect shall be published in the official Gazette, and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality.

(2) Thereupon it shall be lawful for any officer, either generally or specially authorized by such Government in this behalf, and for his servants and workmen,—

to enter upon and survey and take levels of any land in such locality;

to dig or bore into the sub-soil;

to do all other acts necessary to ascertain whether the land is adapted for such purpose;

to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon;

to mark such levels, boundaries and line by placing marks and cutting trenches;

and, where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle:

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

Payment for damage.

5. The officer so authorized shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector *or other chief revenue-officer of the district*, and such decision shall be final.

Declaration of intended Acquisition.

Declaration that land is required for a public purpose.

6. (1) Subject to the provisions of Part VII of this Act, whenever it appears to the Local Government that any particular land is needed for a public purpose, or for a Company, a declaration shall be made to that effect under the signature of a Secretary to such Government or of some officer duly authorized to certify its orders:

Provided that no such declaration shall be made unless the compensation to be awarded for such property is to be paid by a Company, *or wholly or partly* out of public revenues *or* out of some fund controlled or managed by a local authority.

(2) The declaration shall be published in the official Gazette, and shall state the district or other territorial division in which the land is situate, the purpose for which it is needed, its approximate area, and, where a plan shall have been made of the land, the place where such plan may be inspected.

(3) The said declaration shall be conclusive evidence that the land is needed for a public purpose or for a Company, as the case may be; and, after making such declaration, the Local Government may acquire the land in manner hereinafter appearing.

After declaration, Collector to take order for acquisition.

7. Whenever any land shall have been so declared to be needed for a public purpose, or for a Company, the Local Government, or some officer authorized by the Local Government in this behalf, shall direct the Collector to take order for the acquisition of the land.

Land to be marked out, measured and planned.

8. The Collector shall thereupon cause the land (unless it has been already marked out under section 4) to be marked out. He shall also cause it to be measured, and (if no plan has been made thereof) a plan to be made of the same.

Notice to persons interested.

9. (1) The Collector shall then cause public notice to be given at convenient places on or near the land to be taken, stating that the Government intends to take possession of the land, and that claims to compensation for all interests in such land may be made to him.

(2) Such notice shall state the particulars of the land so needed, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests, and their objections (if any) to the measurements made under section 8. *The Collector may in any case require such statement to be made in writing and signed by the party or his agent.*

(3) The Collector shall also serve notice to the same effect on the occupier (if any) of such land and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside, or have agents authorized to receive service on their behalf, within the revenue district in which the land is situate.

(4) In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by post in a letter addressed to him and registered under Part III of the Indian Post Office Act, 1866. XIV of 1866

Power to require and enforce the making of statements as to names and interests.

10. (1) The Collector may also require any such person to make or deliver to him, at a time and place mentioned (such time not being earlier than fifteen days after the date of the requisition), a statement containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and of the nature of such interest, and of the rents and profits (if any) received or receivable on account thereof for the year next preceding the date of the statement.

(2) Every person required to make or deliver a statement under this section or section 9 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code. XLV of 1860

Enquiry into Measurements, Value and Claims, and Award by the Collector.

Enquiry and award by Collector.

11. On the day so fixed, or on any other day to which the enquiry has been adjourned, the Collector shall proceed to enquire into the objections (if any) which any person interested has stated pursuant to a notice given under section 9 to the measurements made under section 8,

and into the value of the land, and into the respective interests of the persons claiming the compensation, and shall make an award under his hand of—

(*i*) the true area of the land;

(*ii*) the compensation which in his opinion should be allowed for the land; and

(*iii*) the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom, or of whose claims, he has information, whether or not they have respectively appeared before him.

Award of Collector when to be final.

12. (1) Such award shall be filed in the Collector's office and shall, except as hereinafter provided, be final and conclusive evidence, as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area and value of the land, and the apportionment of the compensation among the persons interested.

(2) The Collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made.

Adjournment of enquiry.

13. The Collector may, for any cause he thinks fit, from time to time adjourn the enquiry to a day to be fixed by him.

Power to summon and enforce attendance of witnesses and production of documents.

14. For the purpose of enquiries under this Act, the Collector shall have power to summon and enforce the attendance of witnesses, *including the parties interested or any of them*, and to compel the production of documents by the same means, and (so far as may be) in the same manner, as is provided in the case of a Civil Court under the Code of Civil Procedure. XIV of 1882.

Matters to be considered and neglected.

15. In determining the amount of compensation, the Collector shall be guided by the provisions contained in sections 23 and 24.

Taking Possession.

Power to take possession.

16. When the Collector has made an award under section 11, he may take possession of the land, which shall thereupon vest absolutely in the Government, free from all encumbrances.

Special powers in cases of urgency.

17. (1) In cases of urgency, whenever the Local Government *so directs*, the Collector, though no such award has been made, may, on the expiration of fifteen days from the publication of the notice mentioned in section 9, sub-section (1), take possession of any waste or arable land needed for public purposes or for a Company. Such land shall thereupon vest absolutely in the Government, free from all encumbrances.

(2) Whenever, owing to any sudden change in the channel of any navigable river or other unforeseen emergency, it becomes necessary for any Railway Administration to acquire the immediate possession of any land for the *maintenance of their traffic or for the* purpose of making thereon a river-side or ghat station, or of providing convenient connection with or access to any such station, the Collector may, immediately after the publication of the notice mentioned in sub-section (1) and with the previous sanction of the Local Government, enter upon and take possession of such land, which shall thereupon vest absolutely in the Government free from all incumbrances:

Provided that the Collector shall not take possession of any building or part of a building under this sub-section without giving to the occupier thereof at least forty-eight hours' notice of his intention so to do or such longer notice as may be reasonably sufficient to enable such occupier to remove his moveable property from such building without unnecessary inconvenience.

(3) In every case under either of the preceding sub-sections the Collector shall at the time of taking possession offer to the persons interested compensation for the standing crops and trees (if any) on such land and for any other damage sustained by them caused by such sudden dispossession and not excepted in section 24; and, in case such offer is not accepted, the value of such crops and trees and the amount of such other damage shall be allowed for in awarding compensation for the land under the provisions herein contained.

PART III.

REFERENCE TO COURT AND PROCEDURE THEREON.

Reference to Court.

18. (1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, or the apportionment of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made,—

(*a*) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(*b*) in other cases, within six weeks of the receipt of the notice from the Collector under section 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire.

Collector's statement to the Court.

19. (1) In making the reference, the Collector shall state, for the information of the Court, in writing under his hand,—

(*a*) the situation and extent of the land, with particulars of any trees, buildings or standing crops thereon;

(*b*) the names of the persons whom he has reason to think interested in such land;

(*c*) the amount awarded for damages and paid or tendered under sections 5 and 17, or either of them, and the amount of compensation awarded under section 11; and

(*d*) if the objection be to the amount of the compensation, the grounds on which the amount of compensation was determined.

(2) *To the said statement shall be attached a schedule giving the particulars of the notices served upon, and of the statements in writing made or delivered by, the parties interested respectively.*

Service of Notice.

20. The Court shall thereupon cause a notice, specifying the day on which the Court will proceed to determine the objection, and directing their appear-

ance before the Court on that day, to be served on the following persons, namely:—

(*a*) the applicant;

(*b*) all persons interested in the objection, except such (if any) of them as have consented without protest to receive payment of the compensation awarded; and,

(*c*) if the objection is in regard to the area of the land or to the amount of the compensation, the Collector.

Restriction on scope of proceedings.

21. The scope of the inquiry in every such proceeding shall be restricted to a consideration of the interests of the persons affected by the objection.

Proceedings to be in open Court.

22. Every such proceeding shall take place in open Court, and all persons entitled to practise in any Civil Court in the province shall be entitled to appear, plead and act (as the case may be) in such proceeding.

Matters to be considered in determining compensation.

23. (1) In determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration—

first, the market-value of the land at the date of the publication of the declaration relating thereto under section 6;

secondly, the damage sustained by the person interested, by reason of the taking of any standing crops or trees which may be on the land at the time of the Collector's taking possession thereof;

thirdly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of severing such land from his other land;

fourthly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, moveable or immoveable, in any other manner, or his earnings;

fifthly, if, in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change; and

sixthly, the damage (if any) *bonâ fide* resulting from diminution of the profits of the land between the time of the publication of the declaration under section 6 and the time of the Collector's taking possession of the land.

(2) In addition to the market-value of the land, as above provided, the Court shall in every case award a sum of fifteen per centum on such market-value, in consideration of the compulsory nature of the acquisition.

Matters to be neglected in determining compensation.

24. But the Court shall not take into consideration,—

first, the degree of urgency which has led to the acquisition;

secondly, any disinclination of the person interested to part with the land acquired;

thirdly, any damage sustained by him which, if caused by a private person, would not render such person liable to a suit;

fourthly, any damage which is likely to be caused to the land acquired, after the date of the publication of the declaration under section 6, by or in consequence of the use to which it will be put;

fifthly, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired;

sixthly, any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put; or,

seventhly, any outlay or improvements on the land acquired, commenced, made or effected after the date of the publication of the declaration under section 6.

Rules as to amount of compensation.

25. (1) When the applicant has made a claim to compensation, pursuant to any notice given under section 9, the amount awarded to him by the Court shall not exceed the amount so claimed or be less than the amount awarded by the Collector under section 11.

(2) When the applicant has refused to make such claim, or has omitted without sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded by the Court shall in no case exceed the amount awarded by the Collector.

(3) When the applicant has omitted for a sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded to him by the Court shall not be less than, and may exceed, the amount awarded by the Collector.

Form of awards.

26. Every award under this Part shall be in writing signed by the Judge, and shall specify the amount awarded under clause *first*, of sub-section (1) of section 23, and also the amounts (if any) respectively awarded under each of the other clauses of the same sub-section, together with the grounds of awarding each of the said amounts.

Costs.

27. (1) Every such award shall also state the amount of costs incurred in the proceedings under this Part, and by what persons and in what proportions they are to be paid.

(2) When the award of the Collector is not upheld, the cost shall ordinarily be paid by the Collector, unless the Court shall be of opinion that the claim of the applicant was so extravagant or that he was so negligent in putting his case before the Collector that some deduction from his costs should be made or that he should pay a part of the Collector's costs.

Collector may be directed to pay interest on excess compensation.

28. If the sum which, in the opinion of the Court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the Court may direct that the Collector shall pay interest on such excess at the rate of six per centum per annum from the date on which he took possession of the land to the date of payment of such excess into Court.

PART IV.

APPORTIONMENT OF COMPENSATION.

Particulars of apportionment to be specified.

29. Where there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

Dispute as to apportionment.

30. When the amount of compensation has been settled under section 11, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute to the decision of the Court.

PART V.

PAYMENT.

Payment of compensation or deposit of same in Court.

31. (1) On making an award under section 11, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award, and shall pay it to them if they shall consent to receive it.

(2) If they shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the Court to which a reference under section 18 would be submitted:

Provided that any person interested may receive such payment under protest as to the sufficiency of the amount:

Provided also that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18:

Provided also that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

(3) Notwithstanding anything in this section, the Collector may, with the sanction of the Local Government, instead of awarding a money compensation in respect of any land, make any arrangement with a person having a limited interest in such land either by the grant of other lands in exchange, the remission of land-revenue on other lands held under the same title or in such other way as may be equitable having regard to the interests of the parties concerned.

(4) Nothing in the last foregoing sub-section shall be construed to interfere with or limit the power of the Collector to enter into any arrangement with any person interested in the land and competent to contract in respect thereof.

[L. C. C. Act, No. 45, ss. 69 and 78.]

Investment of money deposited in respect of lands belonging to persons incompetent to alienate.

32. (1) If any money shall be deposited in Court under sub-section (2) of the last preceding section and it appears that the land in respect whereof the same was awarded belonged to any person who had no power to alienate the same, the Court shall—

[Ibid., s. 69.]

(*a*) order the money to be invested in the purchase of other lands to be held under the like title and conditions of ownership as the land in respect of which such money shall have been deposited was held, or

(*b*) if such purchase cannot be effected forthwith, then in such Government or other approved securities as the Court shall think fit;

[Ibid., s. 78.]

and shall direct the payment of the interest or other proceeds arising from such investment to the person or persons who would for the time being have been entitled to the possession of the said land, and such moneys shall remain so deposited and invested until the same be applied—

[L. C. C. Act, s. 69.]

(*i*) in the purchase of such other lands as aforesaid; or

(*ii*) in payment to any person or persons becoming absolutely entitled thereto.

[L. C. C. Act, s. 80.]

(2) In all cases of money deposited to which this section applies the Court shall order the costs of the following matters, including therein all reasonable charges and expenses incident thereto, to be paid by the Collector, namely:—

(*a*) the costs of such investments as aforesaid;

(*b*) the costs of the orders for the payment of the interest or other proceeds of the securities upon which such moneys are for the time being invested, and for the payment out of Court of the principal of such moneys, and of all proceedings relating thereto, except such as may be occasioned by litigation between adverse claimants.

[L. C. C. Act, s. 74.]

Investment of money deposited in other cases.

33. When any money shall have been deposited in Court under this Act for any cause other than that mentioned in the last preceding section, the Court may, on the application of any party interested or claiming an interest in such money, order the same to be invested in such Government or other approved securities as it may think proper, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as it may consider will give the parties interested therein the same benefit therefrom as they might have had from the land in respect whereof such money shall have been deposited or as near thereto as may be.

Payment of interest.

34. When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of six per centum per annum from the time of so taking possession until it shall have been so paid or deposited.

PART VI.

TEMPORARY OCCUPATION OF LAND.

Temporary occupation of waste or arable land. Procedure when difference as to compensation exists.

35. (1) Subject to the provisions of Part VII of this Act, whenever it appears to the Local Government that the temporary occupation and use of any waste or arable land are needed for any public purpose, or for a Company, the Local Government may direct the Collector to procure the occupation and use of the same for such term as it shall think fit, not exceeding three years from the commencement of such occupation.

(2) The Collector shall thereupon give notice in writing to the persons interested in such land of the purpose for which the same is needed, and shall, for the occupation and use thereof for such term as aforesaid, and for the materials (if any) to be taken therefrom, pay to them such compensation, either in a gross sum of money, or by monthly or other periodical payments, as shall be agreed upon in writing between him and such persons respectively.

(3) In case the Collector and the persons interested differ as to the sufficiency of the compensation or apportionment thereof, the Collector shall refer such difference to the decision of the Court.

Power to enter and take possession, and compensation on restoration.

36. (1) On payment of such compensation, or on executing such agreement, or on making a reference under section 36,

the Collector may enter upon and take possession of the land, and use or permit the use thereof in accordance with the terms of the said notice.

(2) On the expiration of the term, the Collector shall make or tender to the persons interested compensation for the damage (if any) done to the land and not provided for by the agreement, and

shall restore the land to the persons interested therein:

Provided that, if the land has become permanently unfit to be used for the purpose for which it was used immediately before the commencement of such term, and if the persons interested shall so require, the Local Government shall proceed under this Act to acquire the land as if it was needed permanently for a public purpose or for a Company.

Difference as to condition of land.

37. In case the Collector and persons interested differ as to the condition of the land at the expiration of the term, or as to any matter connected with the said agreement, the Collector should refer such difference to the decision of the Court.

PART VII.

Acquisition of Land for Companies.

Company may be authorized to enter and survey.

38. (1) Subject to such rules as the Governor-General of India in Council may from time to time prescribe in this behalf, the Local Government may authorize any officer of any Company desiring to acquire land for its purposes to exercise the powers conferred by section 4.

(2) In every such case section 4 shall be construed as if for the words "for such purpose" the words "for the purposes of the Company" were substituted; and section 5 shall be construed as if after the words "the officer" the words "of the Company" were inserted.

Previous consent of Local Government and execution of agreement necessary.

39. The provisions of sections 6 to 37 (both inclusive) shall not be put in force in order to acquire land for any Company, unless with the previous consent of the Local Government, nor unless the Company shall have executed the agreement hereinafter mentioned.

Previous enquiry.

40. (1) Such consent shall not be given unless the Local Government be satisfied, by an enquiry held as hereinafter provided,—

(*a*) that such acquisition is needed for the construction of some work, and

(*b*) that such work is likely to prove useful to the public.

(2) Such enquiry shall be held by such officer and at such time and place as the Local Government shall appoint.

(3) such officer may summon and enforce the attendance of witnesses and compel the production of documents by the same means and, as far as possible, in the same manner as is provided by the Code of Civil Procedure in the case of a Civil Court. V of 1882.

Agreement with Secretary of State in Council.

41. Such officer shall report to the Local Government the result of the enquiry, and, if the Local Government is satisfied that the proposed acquisition is needed for the construction of a work, and that such work is likely to prove useful to the public, it shall, subject to such rules as the Governor-General of India in Council may from time to time prescribe in this behalf, require the Company to enter into an agreement with the Secretary of State for India in Council providing to the satisfaction of the Local Government for the following matters, namely:—

(1) the payment by the Company to the Government of the cost of the acquisition;

(2) the transfer, on such payment, of the land to the Company;

(3) the terms on which the land shall be held by the Company;

(4) the time within which, and the conditions on which, the work shall be executed and maintained; and

(5) the terms on which the public shall be entitled to use the work.

Publication of agreement.

42. Every such agreement shall, as soon as may be after its execution, be published in the Gazette of India, and also in the local official Gazette, and shall thereupon (so far as regards the terms on which the public shall be entitled to use the work) have the same effect as if it had formed part of this Act.

Sections 39 to 42 not to apply where Government bound by agreement to provide land for Companies.

43. The provisions of sections 39 to 42, both inclusive, shall not apply, and the corresponding sections of the Land Acquisition Act, 1870, shall be deemed never to have applied, to the acquisition of land for any Railway or other Company, for the purposes of which, under any agreement between such Company and the Secretary of State for India in Council, the Government is, or was, bound to provide land. X of 1870

How agreement between Railway Company and Secretary of State may be proved.

44. In the case of the acquisition of land for the purposes of a Railway Company, the existence of such an agreement as is mentioned in section 43 may be proved by the production of a printed copy thereof purporting to be printed by order of Government.

PART VIII.

Miscellaneous.

Service of notices.

45. (1) Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed, in the case of a notice under section 4, by the officer therein mentioned, and, in the case of any other notice, by or by order of the Collector or the Judge.

(2) Whenever it may be practicable, the service of the notice shall be made on the person therein named.

(3) When such person cannot be found, the service may be made on any adult male member of his family residing with him; and, if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business; or by fixing a copy thereof in some conspicuous place in the office of the officer aforesaid or of the Collector or in the court-house, and also in some conspicuous part of the land to be acquired:

Provided that, if the Collector or Judge shall so direct, a notice may be sent by post, in a letter addressed to the person named therein and registered under Part III of the Indian Post Office Act, 1866, and service of it may be proved by the production of the addressee's receipt. XIV of 1866

Penalty for obstructing acquisition of land.

46. Whoever wilfully obstructs any person in doing any of the acts authorized by section 4 or section 8, or wilfully fills up, destroys, damages or displaces any trench or mark made under section 4, shall, on conviction before a Magistrate, be liable to imprisonment for any term not exceeding one month, or to fine not exceeding fifty rupees, or to both.

Magistrate to enforce surrender.

47. If the Collector is opposed or impeded in taking possession under this Act of any land, he shall, if a Magistrate, enforce the surrender of the land to himself, and, if not a Magistrate, he shall apply to a Magistrate or (within the towns of Calcutta, Madras and Bombay) to the Commissioner of Police, and such Magistrate or Commissioner (as the case may be) shall enforce the surrender of the land to the Collector.

Completion of acquisition not compulsory, but compensation to be awarded when not completed.

48. (1) Except in the case provided for in section 36, the Government shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken.

(2) Whenever the Government withdraws from any such acquisition, the Collector shall determine the amount of compensation due for the damage suffered by the owner in consequence of the notice or of any proceedings thereunder, and shall pay such amount to the person interested, together with all costs reasonably incurred by him in the prosecution of the proceedings under this Act relating to the said land.

(3) The provisions of Part III of this Act shall apply, so far as may be, to the determination of the compensation payable under this section.

Acquisition of part of house or building.

49. (1) The provisions of this Act shall not be put in force for the purpose of acquiring a part only of any house, manufactory or other building, if the owner desire that the whole of such house, manufactory or building shall be so acquired:

Provided that the owner may, at any time before the Collector has made his award under section 11, by notice in writing, withdraw or modify his expressed desire that the whole of such house, manufactory or building shall be so acquired:

Provided also that, if any question shall arise as to whether any land proposed to be taken under this Act does or not form part of a house, manufactory or building within the meaning of this section, the Collector shall refer the determination of such question to the Court and shall not take possession of such land until after the question has been determined.

In deciding on such a reference the Court shall have regard to the question whether the land proposed to be taken is reasonably required for the full and unimpaired use of the house, manufactory or building.

(2) If, in the case of any claim under section 23, sub-section (1), *thirdly*, by a person interested, on account of the severing of the land to be acquired from his other land, the Local Government is of opinion that the claim is unreasonable or excessive, it may, at any time before the Collector has made his award, order the acquisition of the whole of the land of which the land first sought to be acquired forms a part.

(3) In the case last hereinbefore provided for, no fresh declaration or other proceedings under sections 6 to 10, both inclusive, shall be necessary; but the Collector shall without delay furnish a copy of the order of the Local Government to the person interested, and shall thereafter proceed to make his award under section 11.

Acquisition of land at cost of a local authority or Company.

50. (1) Where the provisions of this Act are put in force for the purpose of acquiring land at the cost of any fund controlled or managed by a local authority or of any Company, the charges of and incidental to such acquisition shall be defrayed from or by such fund or Company.

(2) In any proceeding held before a Collector or Court in such cases the local authority or Company concerned may appear and adduce evidence for the purpose of determining the amount of compensation:

Provided that no such local authority or Company shall be entitled to demand a reference under section 18.

Exemption from stamp-duty and fees.

51. No award or agreement made under this Act shall be chargeable with stamp-duty, and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same.

Notice in case of suits for anything done in pursuance of Act.

52. No suit or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended proceeding, and of the cause thereof, nor after tender of sufficient amends.

Code of Civil Procedure to apply to proceedings before Court.

53. Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the Code of Civil Procedure shall apply to all proceedings before the Court under this Act. XIV of 1882.

Appeals in proceedings before Court.

54. Subject to the provisions of the Code of Civil Procedure applicable to appeals from original decrees, an appeal shall lie to the High Court from the award or from any part of the award of the Court in any proceedings under this Act. XIV of 1882.

Power to make rules.

55. (1) The Local Government shall have power to make rules consistent with this Act for the guidance of officers in all matters connected with its enforcement, and may from time to time alter and add to the rules so made.

(2) *The power to make alter and add to rules under sub-section* (1) *shall be subject to the condition of the rules being made, altered or added to after previous publication.*

(3) All such rules, alterations and additions shall, when sanctioned by the Governor-General in Council, be published in the official Gazette, and shall thereupon have the force of law.

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

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 15th February 1894:—

No. 3 OF 1894.

A Bill to amend the Code of Criminal Procedure, 1882.

1882. WHEREAS it is expedient to amend the Code of Criminal Procedure, 1882; It is hereby enacted as follows:—

Amendment of section 44, Act X, 1882.

1. In section 44 of the said Code the figures "143, 144, 145, 147, 148," shall be inserted between the figure "130" and the figure "302."

Substitution of new section for section 45, Act X, 1882.

2. For section 45 of the said Code the following shall be substituted, namely:—

Village-headmen, accountants, landholders and others bound to report certain matters.

"45. Every village-headman, village-accountant, village-watchman, village-police-officer, owner or occupier of land, and the agent of any such owner or occupier, and every officer employed in the collection of revenue or rent of land on the part of Government or the Court of Wards, shall forthwith communicate to the nearest Magistrate or to the officer in charge of the nearest police-station, whichever is the nearer, any information which he may obtain respecting—

(*a*) the permanent or temporary residence of any notorious receiver or vendor of stolen property in any village of which he is headman, accountant, watchman or police-officer, or in which he owns or occupies land, or is agent, or collects revenue or rent;

(*b*) the resort to any place within, or the passage through, such village, of any person whom he knows, or reasonably suspects, to be a thief, robber, escaped convict or proclaimed offender;

1860. (*c*) the commission of, or intention to commit, in or near such village any non-bailable offence or any offence punishable under sections 143, 144, 145, 147 or 148 of the Indian Penal Code;

(*d*) the occurrence in or near such village of any sudden or unnatural death or of any death under suspicious circumstances;

(*e*) any matter likely to affect the maintenance of order or the prevention of crime or the safety of person or property respecting which the District Magistrate, by general or special order made with the previous sanction of the Local Government, has directed him to communicate information.

"EXPLANATION 1.—In this section village includes village-lands.

"EXPLANATION 2.—The District Magistrate may appoint one or more village-headmen for the purposes of this section in any village for which there is no such headman appointed under any other law."

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to impose on the public generally the obligation to give notice of the commission of, or intention to commit, the crimes of unlawful assembly and rioting of which they may have knowledge; to include village-accountants where they are established among the officers who, by section 45, Criminal Procedure Code, are bound to give information to the authorities; and to include among the subjects of which information is to be given unlawful assemblies; rioting and generally matters touching the maintenance of the peace and the prevention of crime. It is considered that all persons having knowledge should help the authorities to prevent disturbances of the public peace. The village-accountants have special facilities for acquiring such knowledge, and should, it is thought, be bound to communicate it to the Magistrate or the Police.

Power is taken to enable the Magistrate to appoint a village-headman for the purposes of the Bill where none is appointed under any other law.

A. P. MACDONNELL.

The 15th February 1894.

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

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

The following Report of the Select Committee on the Bill to amend the Code of Criminal Procedure, 1882, and the Indian Penal Code was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 15th February 1894 :—

We, the undersigned, Members of the Select Committee to which the Bill to amend the Code of Criminal Procedure, 1882, and the Indian Penal Code 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 Mr. P. R. Desai, Pleader, District Court, Ratnagiri, dated 2nd September 1893 [Paper No. 1].
From High Court, Calcutta, No. 3242-A., dated 12th September 1893 [Paper No. 2].
From Agent, Governor-General in Baluchistan, No. 5555, dated 17th October 1893 [Paper No. 3].
From Chief Commissioner, Burma, No. 872 L.—13, dated 28th October 1893, and enclosure [Papers No. 4].
From Chief Commissioner, Coorg, No. 1771—1491, dated 3rd November 1893 [Paper No. 5].
From Chief Commissioner, Central Provinces, No. 8498, dated 23rd November 1893, and enclosure [Papers No. 6].
From Chief Commissioner, Ajmere-Merwara, No. 11 G., dated 15th November 1893, and enclosures [Papers No. 7].
From Resident, Hyderabad, No. 350, dated 6th November 1893, and enclosures [Papers No. 8].
From Government, Bombay, No. 7046, dated 10th November 1893, and enclosures [Papers No. 9].
From Government, Bengal, No. 4661 J., dated 11th November 1893, and enclosures [Papers No. 10].
From Chief Commissioner, Assam, No. $\frac{147 \text{ L. L.}}{8443}$ J., dated 8th November 1893, and enclosures [Papers No. 11].
From Government, Madras, No. 2599, dated 11th December 1893, and enclosures [Papers No. 12].
From Government, Punjab, No. 1479, dated 23rd December 1893, and enclosures [Papers No. 13].
From Government, North-Western Provinces and Oudh, No. 3548-VI—327 B., dated 30th December 1893, and enclosures [Papers No. 14].

2. There have been many suggestions with respect to the amendment of the Bill, and we have given effect to most of them. But the importance of the suggestions is not such as to require from us any detailed explanation of the alterations which we have made.

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

In English.

Gazette.	Date.
Gazette of India	19th August 1893.
Fort St. George Gazette	5th September 1893.
Bombay Government Gazette	24th August 1893.
Calcutta Gazette	30th August 1893.
North-Western Provinces and Oudh Government Gazette	26th August 1893.
Punjab Government Gazette	24th August 1893.
Central Provinces Gazette	2nd September 1893.
Burma Gazette	9th September 1893.
Assam Gazette	9th September 1893.
Coorg District Gazette	1st September 1893.
Sindh Official Gazette	21st September 1893.

In the Vernaculars.

Province.	Language.	Date.
Madras	Tamil	26th September 1893.
	Telugu	26th September 1893.
	Hindustani	26th September 1893.
	Kanarese	26th September 1893.
	Malayalam	26th September 1893.
Bombay	Marathi	12th October 1893.
	Kanarese	12th October 1893.
	Gujarathi	16th October 1893.

In the Vernaculars.

Province.	Language.	Date.
Bengal	Bengali	19th September 1893.
	Uriya	21st September 1893.
	Hindi	26th September 1893.
North-Western Provinces and Oudh.	Urdu	7th October 1893.
Burma	Burmese	16th September 1893.
Assam	Bengali	30th September 1893.
Coorg	Kanarese	1st November 1893.
Sindh	Sindhi	21st September 1893.

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

A. S. LETHBRIDGE.
ALEX. EDW. MILLER.
C. B. PRITCHARD.
A. P. MACDONNELL.
RASHBEHARY GHOSE.
G. H. P. EVANS.
G. M. CHITNAVIS.

The 14th February 1894.

No. II.

A Bill to amend the Code of Criminal Procedure, 1882, and the Indian Penal Code.

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1882, and the Indian Penal Code; It is hereby enacted as follows:— X of 1882. XLV of 1860.

Code of Criminal Procedure, 1882.

1. To section 44 of the Code of Criminal Procedure, 1882, the following shall be added, namely:— X of 1882.

Addition to section 44 of Code of Criminal Procedure, 1882.

"Any act committed, at any place out of British India, which, if committed in British India, would be punishable under any of the following sections of the Indian Penal Code, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460, shall be deemed to be an offence for the purposes of this section." XLV of 1860.

2. In section 45 of the Code of Criminal Procedure, 1882, the following shall be added after clause (*d*) and substituted for the *Explanation*, namely:— X of 1882.

Addition to section 45 of same Code.

"(*e*) the commission of, or intention to commit, at any place out of British India near such village any act which, if committed in British India, would be an offence punishable under any of the following sections of the Indian Penal Code, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460. XLV of 1860.

"In this section—

(*i*) 'village' includes village-lands; and

(*ii*) the expression 'proclaimed offender' includes any person proclaimed as an offender by any Court or authority established or continued by the Governor-General in Council in any part of India in respect of any act which, if committed in British India, would be punishable under any of the following sections of the Indian Penal Code, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460." XLV of 1860.

3. In section 54 of the Code of Criminal Procedure, 1882, the word "and" in clause *fifthly* is repealed, the word "and" shall be added to clause *sixthly*, and the following shall be inserted after clause *sixthly*, namely:— X of 1882.

Amendment of, and addition to, section 54 of same Code.

"*seventhly*, any person who has been concerned in, or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been concerned in, any act committed at any place out of British India, which, if committed in British India, would have been punishable as an offence, and for which he is, under any law relating to extradition or under the Fugitive Offenders Act, 1881, or otherwise, liable to be apprehended or detained in custody in British India." 44 & 45 Vict. c. 69.

4. In Schedule II of the Code of Criminal Procedure, 1882, immediately after the entries relating to section 216 of the Indian Penal Code, the following shall be inserted, namely:— X of 1882. XLV of 1860.

Addition to Schedule II of same Code.

Column 1.	Column 2.	Column 3.	Column 4.	Column 5.	Column 6.	Column 7.	Column 8.
216A ..	Harbouring robbers or dacoits.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Rigorous imprisonment for seven years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

Indian Penal Code.

5. To section 177 of the Indian Penal Code the following shall be added, namely:— XLV of 1860.

Addition to section 177 of Indian Penal Code.

Explanation.—In section 176 and in this section the word 'offence' includes any act committed at any place out of British India, which, if committed in British India, would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460; and the word 'offender' includes any person who is alleged to have been guilty or any such act."

6. To section 203 of the said Code the following shall be added, namely: — Addition to section 203 of same Code.

Explanation.—In sections 201 and 202 and in this section the word 'offence' includes any act committed at any place out of British India, which, if committed in British India, would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460."

7. In section 212 of the Indian Penal Code, immediately before the *Exception* the following shall be inserted, namely:— XLV of 1860.

Addition to section 212 of same Code.

"'Offence' in this section includes any act committed at any place out of British India, which, if committed in British India, would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460; and every such act shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in British India."

8. After section 216 of the said Code the following shall be inserted namely:— Addition of new sections after section 216 of same Code.

216A. Whoever, knowing or having reason to believe that any persons are about to commit or have recently committed robbery or dacoity, harbours them or any of them, with the intention of facilitating the commission of such robbery or dacoity or of screening them or any of them from punishment, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine. Penalty for harbouring robbers or dacoits.

"*Explanation.*—For the purposes of this section it is immaterial whether the robbery or dacoity is intended to be committed, or has been committed, within or without British India.

"*Exception.*—This provision does not extend to the case in which the harbour is by the husband or wife of the offender.

"216B. In sections 212, 216 and 216A the word 'harbour' includes the supplying a person with shelter, food, drink, money, clothes, arms, ammunition or means of conveyance, or the assisting a person in any way to evade apprehension." Definition of 'harbour' in sections 212, 216 and 216A.

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

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

THE INDIAN TARIFF BILL.

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SCHEDULE I.—ACTS REPEALED.
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SCHEDULE V.—EXPORT TARIFF.

A Bill to amend the law relating to Customs-duties, and for other purposes.

WHEREAS it is expedient to amend the law relating to the duties of customs on goods imported and exported by sea, and to provide for the levy of duties on goods crossing the frontier of certain Foreign European Settlements in India and of the territories of certain Native Chiefs;

Preamble.

It is hereby enacted as follows:—

Short title. 1. This Act may be called the Indian Tariff Act, 1894.

Local extent. Commencement. It extends to the whole of British India except Aden and Perim; and it shall come into force on the passing thereof.

Repeal of Act. 2. The Acts mentioned in the first schedule are repealed to the extent specified therein.

Saving clause. But all notifications published, and rules and orders made, under any of such Acts, and now in force, shall, so far as they are consistent herewith, be deemed to have been respectively published and made hereunder:

All references made to the Indian Tariff Act, 1875, and the Indian Tariff Act, 1882, in Acts or Regulations passed before this Act comes into force, shall be deemed to be made to this Act: XVI of 1875. XI of 1882.

And nothing herein contained authorizes the levy of duties of customs on any article carried from one port in British India to another, except salt, opium and spirit.

Duties specified in schedules to be levied. 3. There shall be levied and collected, in every port to which this Act applies, the duties specified in the second, third, fourth and fifth schedules hereto annexed.

Export of pepper from Cochin. 4. On all pepper exported by sea from the port of Cochin there shall be levied such duty not exceeding nine rupees per khandi as the Governor of Fort Saint George in Council from time to time determines; and at the close of each year, or as soon thereafter as may be convenient, the Customs-Collector at the said port shall, after deducting the expenses of collection, pay the duty collected under this section to the Governments of Travancore and Cochin in such proportion and in such manner as the Governor of Fort Saint George in Council from time to time directs.

Duties on goods crossing frontiers— 5. Duties of customs shall be levied at the rates respectively prescribed in the second, third, fourth and fifth schedules hereto annexed on goods passing by land out of or into—

(*a*) Foreign European Settlements bordering on any part of the territories administered by the Governor of Fort Saint George in Council or by the Governor of Bombay in Council;

of Foreign European Settlements in Presidencies of Madras and Bombay:

(*b*) any territory declared, under the power next hereinafter conferred, to be foreign territory.

of foreign territory.

Subject to the control of the Governor-General in Council, the Governor of Fort Saint George in Council and the Governor of Bombay in Council may, from time to time, by notification in the local official Gazette, respectively declare that the territory of any Native Chief situate within, or bordering on, the territories respectively administered by such Governors, but not subject to the jurisdiction of the Courts and Civil authorities of such territories, shall be deemed, for the purposes of this section, to be foreign territory.

Power to declare territory foreign.

The Governor-General in Council may, from time to time, by notification in the Gazette of India, declare that the territory of any other Native Chief shall be deemed, for the purposes of this section, to be foreign territory.

XVI of 1863.

6. In Act No. XVI of 1863, section 1, for the words "calculated at ten" the words "not exceeding five" shall be substituted.

Amendment of Act XVI, 1863, section 1.

7. Spirit, opium and salt imported from any port in British India, and protected by the certificate of an officer empowered in that behalf by the Governor-General in Council or the Local Government, are chargeable with only the amount, if any, by which the duty leviable thereon under the second schedule hereto annexed exceeds the duty shown by such certificate to have been already paid in respect thereof.

Duty on spirit, opium and salt when protected by a certificate.

The amount, if any, paid to the Government as the price of such opium or salt is not duty within the meaning of this section.

Nothing in this section applies to spirit which is exported under bond for excise-duty from one customs-port to another customs-port under the provisions of Chapter XIV of the Sea Customs Act, 1878.

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8. So far as regards the Presidency of Fort Saint George, the unrepealed provisions of Act No. VI of 1844, and, so far as regards the Presidency of Bombay, the unrepealed provisions of Act No. XXIX of 1857, relating to the levy of duties and to dutiable goods, shall, *mutatis mutandis*, apply to duties levied and goods liable to duty under or by virtue of section 5, clause (*b*).

Application of certain provisions as to duties and goods.

9. All notifications published hereunder may be cancelled by the authority publishing the same.

Power to cancel notifications.

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,—

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

(*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

(*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.

11. In the first line of the second paragraph of section 23 of the Sea Customs Act, VIII of 1878, the words "with the previous sanction of the Governor-General in Council" shall be inserted after the word "may".

Amendment of Act VIII of 1878, s. 23, second paragraph.

SCHEDULE I.

ACTS REPEALED.

Number and year.	Short Title.	Extent of Repeal.
XI of 1882	The Indian Tariff Act, 1882	The whole.
I of 1892	An Act to amend the Indian Tariff Act, 1882	"
IX of 1893	" "	"

SCHEDULE II.—(IMPORT TARIFF.)

ARMS, AMMUNITION AND MILITARY STORES, INCLUDING IN ADDITION TO THE ARTICLES SPECIFICALLY MENTIONED IN THIS SCHEDULE,

(*a*) all articles which are either "arms" or "ammunition" within the meaning of the Indian Arms Act, XI of 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.

Names of Articles.	Duty.
	RS. A.
FIREARMS AND PARTS THEREOF—	
1. Firearms other than pistols, for each	50 0
2. Barrels for the same, whether single or double, for each	30 0
3. Pistols, for each	15 0
4. Barrels for the same, whether single or double, for each	10 0
5. Springs used for firearms, for each	8 0
6. Gunstocks, sights, blocks and rollers, for each	5 0
7. Revolver-breeches, for each cartridge they will carry	2 8
8. Extractors, nippers, heel-plates, pins, screws, tangs, bolts, thumb-pieces, triggers, trigger-guards, hammers, pistons, plates, and all other parts of a firearm not herein otherwise provided for, and all tools used for cleaning or putting together or loading the same, for each	1 8
9. Machines for making or loading or closing cartridges, for each	10 0
10. Machines for capping cartridges, for each	2 8
Exception I.—Articles falling under the 5th, 6th, 8th, 9th, or 10th head of the foregoing list, when they appertain to a firearm falling under the 1st or 3rd head, and are fitted into the same case with such firearm, are free.	
Exception II.—Arms forming part of the regular equipment of an officer entitled to wear diplomatic, military, or police uniform, and a revolver or a pair of pistols accompanying a military officer, are free.	
Proviso 1.—No duty in excess of ten per cent. *ad valorem* shall be levied upon any of the articles mentioned in the foregoing list, when they are imported in reasonable quantity, for his own private use, by any person lawfully entitled to possess the same.	
Proviso 2.—When any articles which have been otherwise imported, and upon which duty has been levied or is leviable under this number, are purchased retail from the importer by a person lawfully entitled as aforesaid, in reasonable quantity for his own private use, the importer may apply to the Customs-Collector for a refund or remission (as the case may be) of so much of the duty thereon as is in excess of ten per centum *ad valorem*; and if such Collector is satisfied as to the identity of the articles, and that such importer is in other respects entitled to such refund or remission, he shall grant the same accordingly.	

	Tariff valuation.	Rate of duty.
	RS. A.	
11. Gunpowder, common, per lb	0 5	10 per cent.
sporting, "	1 0	
12. All other sorts of arms, ammunition, and military stores not enumerated in this schedule, and not otherwise provided for, *ad valorem*		

SCHEDULE III.—(IMPORT TARIFF.)

LIQUORS, OPIUM, SALT, AND SALTED FISH.

No.	Names of Articles.	Per	Rate of duty.
			RS. A.
1	LIQUORS—		
	Ale, beer, and porter	Imperial gallon or six quart bottles.	0 1
	Cider and other fermented liquors		0 1
	Liqueurs		6 0
	Spirit intended to be used exclusively in arts or manufactures, or in chemistry, and which has been rendered effectually and permanently unfit for human consumption	.....	Five per cent. *ad valorem*.
	Spirit when used in drugs, medicines, or chemicals in a proportion of less than twenty per cent. of spirit of the strength of London proof.		
	Spirit when so used in a proportion of twenty per cent. and upwards.	Imperial gallon or six quart bottles of the strength of London proof.	6 0 and the duty to be increased or reduced in proportion as the strength of the spirit exceeds or is less than London proof.
	Spirit, perfumed, in wood or in bottles	Imperial gallon or six quart bottles.	6 0
	Spirit, other sorts	Imperial gallon or six quart bottles of the strength of London proof.	6 0 and the duty to be increased or reduced in proportion as the strength of the spirit exceeds or is less than London proof.
	Wines—		
	Champagne and all other sparkling wines not containing more than 45 per cent. of proof spirits	Imperial gallon or six quart bottles.	2 8
	Champagne and all other sparkling wines containing more than 45 per cent. of proof spirits.	"	6 0

No.	Names of Articles.	Per	Rate of duty.
1	LIQUORS—*cont.*		
	Wines—*cont.*		RS. A.
	All other sorts of wines not containing more than 45 per cent. of proof spirit.	Imperial gallon or six quart bottles.	1 0
	All other sorts of wines containing more than 45 per cent. of proof spirit.	„	6 0
2	OPIUM, not covered by a Government pass	Ser of 80 tolas	24 0
3	SALT, ...	Indian maund of 82⅔ lb avoirdupois weight.	The rate at which excise duty is for the time being leviable on salt manufactured in the place where the import takes place.
4	SALTED fish, wet (*ngapi*) or dry	„	Such rate or rates of duty not exceeding twelve annas, as the Governor-General in Council may, by notification in the *Gazette of India*, from time to time prescribed.

SCHEDULE IV.—(IMPORT TARIFF.)

GENERAL DUTIES.

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	Articles of Food and Drink.		RS. A.	
1	COFFEE	cwt.	65 0	Five per cent.
2	FRUITS AND VEGETABLES—			
	Almonds without shell	„	40 0	„
	„ in the shell	„	13 0	„
	Cashew or cajoo kernels	„	12 0	„
	Cocoanuts	thousand	40 0	„
	„ kernel (khopra)	cwt.	9 0	„
	Currants, European	„	35 0	„
	„ Persian	„	12 0	„
	Dates, dry, in bags	„	5 0	„
	„ wet „	„	4 0	„
	„ „ in pots and boxes	„	8 0	„
	Figs, European	„	42 0	„
	„ Persian, dried	„	6 8	„
	Garlic	„	5 0	„
	Pistachio nuts	„	25 0	„
	Prunes, Bussora (álu Bokhara)	„	10 0	„
	Raisins, black, Persian Gulf, Red Sea and Kishmish ...	„	12 0	„
	„ Munakka, Persian Gulf, and Red Sea	„	10 0	„
	„ Malaga and bloom	lb	0 10	„
	„ Other sorts	.....	*ad valorem*	„
	Walnuts	cwt.	6 0	„
	All other sorts, except fresh fruits and vegetables not separately enumerated, which are free.	.....	*ad valorem*	„
3	PROVISIONS, OILMAN'S STORES, AND GROCERIES—			
	Bacon in cans, jowls and cheeks	lb	0 12	„
	Beef and Pork	tierce of three cwt.	75 0	„
		barrel of two cwt.	50 0	„
	Biche de mer	cwt.	50 0	„
	Butter	lb	1 0	„
	Cheese	lb	0 12	„
	China preserves	box of six jars	8 0	„
	Fish-maws	cwt.	100 0	„
	Flour	barrel or sack of 200 lb	20 0	„
	Ghi	cwt.	40 0	„
	Groceries not otherwise described	.....	*ad valorem*	„
	Pork hams	lb	0 12	„
	Sago	cwt.	10 0	„
	Shark-fins	„	30 0	„
	Singally and Soaille	„	15 0	„
	Tapioca	„	12 0	„
	Vinegar, European, in wood	Imperial gallon	1 0	„
	„ Persian	„	1 0	„
	„ Country	„	0 6	„
	All other sorts of Provisions, Oilman's Stores, and Groceries.	.....	*ad valorem*	„

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	Articles of Food and Drink—cont.		RS. A.	
4	SPICES—			Five per cent.
	Aniseed, star	cwt.	25 0	„
	Betelnuts—Goa	„	14 0	„
	„ —in the husk	thousand	2 0	„
	„ —white, srivarddhan	cwt.	28 0	„
	„ —all other sorts	„	7 0	„
	Cardamoms, other than bastard	„	250 0	„
	Chillies, dry	„	9 0	„
	Cloves	„	20 0	„
	„ stems and heads	„	5 0	„
	„ in seeds, nariavang	„	8 0	„
	Ginger, dry	„	20 0	„
	Mace	lb	1 8	„
	Nutmegs	„	1 0	„
	„ in shell	„	0 10	„
	Pepper, black and long	cwt.	16 0	„
	„ white	„	35 0	„
	All other sorts of Spices	.....	*ad valorem*	„
5	SUGAR, China, candy	cwt.	20 0	„
	„ loaf	„	23 0	„
	„ soft	„	12 8	„
	„ all other sorts, including saccharine produce of all kinds and confectionery.	.....	*ad valorem*	„
6	TEA, black	lb	0 10	„
	„ green	„	1 4	„
	Chemicals, Drugs, Medicines and Narcotics, and Dyeing and Tanning materials.			
7	CHEMICAL PRODUCTS AND PREPARATIONS—			
	Acid, sulphuric	lb	0 2	„
	Alkali, country, (sajji-khár)	cwt.	2 0	„
	Alum	„	55 0	„
	Arsenic	„	35 0	„
	„ China mansil	„	16 0	„
	Bicarbonate of soda	„	7 0	„
	Copperas, green	„	3 0	„
	Explosives, namely, blasting gelatine, dynamite, roburite, tonite, and all other descriptions.	.....	*ad valorem*	„
	Sal ammoniac	cwt.	30 0	„
	Sulphur (brimstone), flour	„	5 8	„
	„ { „ } roll	„	5 0	„
	„ { „ } rough	„	4 0	„
	All other sorts of chemical products and preparations ...	.....	...	...
8	DRUGS, MEDICINES AND NARCOTICS—			Five per cent.
	Aloes, black	cwt.	14 0	„
	„ Socotra	„	25 0	„
	Aloe-wood	lb	3 0	„
	Asafœtida (hing)	cwt.	80 0	„
	„ coarse (hingrá)	„	18 0	„
	Atáry, Persian	lb	15 0	„
	Brimstone (amalsára)	„	45 0	„
	Camphor, mussamni (baras)	lb	100 0	„
	„ refined, cake	„	1 0	„
	„ crude, in powder	„	0 12	„
	Cassia lignea	cwt.	20 0	„
	China root (shobchini), rough	„	7 0	„
	„ „ scraped	„	16 0	„
	Galangal, China	„	8 0	„
	Pellitory (akkára)	„	20 0	„
	Sálap	„	100 0	„
	Senna leaves	„	4 8	„
	Storax, liquid (rose malloes)	„	46 0	„
	Tobacco, manufactured and unmanufactured	.....	*ad valorem*	„
	All other sorts of drugs, medicines and narcotics, except Quinine, which is free, and Opium (for which see Schedule III).	.....	...	...
9	DYEING AND TANNING MATERIALS—			
	Alizarine dyes, all colours	.....	*ad valorem*	„
	Aniline „	lb	1 8	„
	Cochineal	„	1 0	„
	Gallnuts, myrabolams	cwt.	4 8	„
	„ Persian	„	37 0	„
	Madder or manjit	„	12 0	„
	Orchilla weed	„	9 8	„
	Sappan wood and root	„	5 8	„
	All other sorts of dyeing and tanning materials ...	„	*ad valorem*	„

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	Metals and Manufactures of Metals.		RS. A.	
10	Agricultural implements, excluding machinery, which is free.	.....	*ad valorem*	Five per cent.
11	Hardware and cutlery, including ironmongery and plated-ware, but excluding machinery, and the component parts of machinery, which are free.	.....	,,	,,
12	METALS, unwrought and wrought, and articles made of metals—			
	Brass, heads, ghúngri, China	thousand	1 0	,,
	,, old	cwt.	27 0	,,
	,, sheets, rolls, very thin	,,	75 0	,,
	,, wire	lb	0 7	,,
	,, all other sorts	.....	*ad valorem*	,,
	Copper, Australian	cwt.	40 0	,,
	,, bolt	,,	43 0	,,
	,, brazier's and sheets	,,	43 0	,,
	,, China cash	,,	32 0	,,
	,, Japan	,,	38 0	,,
	,, nails and composition nails	,,	43 0	,,
	,, old	,,	38 0	,,
	,, pigs and slabs	,,	38 0	,,
	,, sheathing, plate, and raised bottoms	,,	45 0	,,
	,, tiles, ingots, cakes, and bricks	,,	39 0	,,
	,, China, white, copper-ware	lb	1 2	,,
	,, foil or dánkpana	hundred leaves	3 0	,,
	,, wire	lb	0 9	,,
	,, all other sorts, unmanufactured and manufactured.	.....	*ad valorem*	,,
	Gold leaf, European	hundred leaves.	3 0	,,
	,, ,, China and mock	.....	*ad valorem*	,,
	Iron, anchors and cables	.....	,,	,,
	,, angle and T	ton	110 0	,,
	,, beams, pillars, girders, bridge-work, and other descriptions of iron imported exclusively for building purposes.	.....	*ad valorem*	,,
	,, flat, square, and bolt, including Scotch ...	ton	90 0	,,
	,, galvanised, other than nails	cwt.	9 8	,,
	,, ,, sheets and ridging	,,	9 8	,,
	,, hoop, plate, and sheet, other than Swedish ...	ton	128 0	,,
	,, nails, nose, clasp, and flat-headed, rivets and washers.	cwt.	11 0	,,
	,, nails, other sorts, including galvanised ...	.....	*ad valorem*	,,
	,, nail-rod	ton.	100 0	,,
	,, old	cwt.	2 0	,,
	,, pig	ton	50 0	,,
	,, pipes and tubes	.....	*ad valorem*	,,
	,, rice bowls	set of ten	4 9	,,
	,, ,, ,, ,, ,, ,, ...	set of six	2 9	,,
	,, rod, round, other than Swedish, not exceeding half an inch in diameter.	ton	100 0	,,
	,, rod, round, othr than Swedish, exceeding half an inch in diameter.	,,	90 0	,,
	,, Swedish, flat, square, and bolt	,,	145 0	,,
	,, ,, nail rod	,,	170 0	,,
	,, ,, round rod, not exceeding half an inch in diameter.	,,	180 0	,,
	,, tinned plates	cwt.	10 0	,,
	,, all other sorts, including wire, but excluding railway materials, which are free.	.....	*ad valorem*	,,
	Lametta, double reels	score	4 8	,,
	,, single ,, ...	,,	2 4	,,
	Lead, ore, galena	cwt.	12 0	,,
	,, pig	,,	0 8	,,
	,, pipes	.....	*ad valorem*	,,
	,, sheets, other than sheets for tea chests, which are free.	cwt.	10 0	,,
	Oxidue and brass leaves, foreign, European	lb	1 2	,,
	,, ,, ,, China	,,	1 0	,,
	Patent or yellow metal, sheathing, sheets and bolts ...	cwt.	38 0	,,
	Patent or yellow metal, sheathing, sheets, and bolts, old.	,,	30 0	,,
	Quicksilver	lb	1 6	,,
	Shot, bird	cwt.	16 0	,,
	Silver bullion or coin, except current coin of the Government of India, which is free.	.....	*ad valorem*	,,
	Steel, blistered	cwt.	7 0	,,
	,, British and foreign, other than Swedish ...	.....	*ad valorem*	,,
	,, Cast	.....	,,	,,
	Steel, spring	cwt.	7 0	,,
	,, Swedish	,,	18 0	,,
	Steel, all other sorts, unmanufactured and manufactured, except railway materials, which are free.	.....	*ad valorem*	,,
	Tin, block	cwt.	70 0	,,
	,, foil, China	lb	0 12	,,
	,, other sorts	.....	*ad valorem*	,,

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	Metals and Manufactures of Metals—cont.			
12	METALS UNWROUGHT AND WROUGHT AND ARTICLES MADE OF METALS—*cont.*		RS. A.	Five
	Zinc or spelter, nails	cwt.	21 0	per cent.
	,, ,, plates and other shapes, soft	,,	16 0	,,
	,, ,, ,, hard	,,	13 0	,,
	,, ,, sheet or sheathing	,,	18 0	,,
	,, ,, all other sorts	.....	*ad valorem*	,,
	All other sorts of metals	.....	,,	,,
	Oils.			
13	OILS—			
	Cassia	lb	3 0	,,
	Cocoanut	cwt.	13 0	,,
	Grass	lb	1 12	,,
	Jinjili or til	cwt.	15 0	,,
	Linseed, European	Imperial gallon	1 12	,,
	Otto of sorts	ounce.	10 0	,,
	Petroleum, including also naphtha and the liquids commonly known by the names of rock-oil, Rangoon oil, Burma oil, kerosine, paraffin oil, mineral oil, petroline, gasoline, benzol, benzine, and any inflammable liquid which is made from petroleum, coal, schist, shale, peat, or any other bituminous substance, or from any products of petroleum.	Imperial gallon	.....	one-anna.
	,, which has its flashing point at or above two hundred degrees of Fahrenheit's thermometer and is proved to the satisfaction of the Customs Collector to be intended for use exclusively for the batching of jute or other fibre or for lubricating purposes.	,,	.....	half-anna.
	Sandalwood	lb	8 0	Five per cent.
	Turpentine	Imperial gallon	1 14	,,
	Whale (except spermaceti) and fish	cwt.	15 0	,,
	Wood	.....	25 0	,,
	All other sorts of oil	.....	*ad valorem*	,,
	Other Articles, unmanufactured and manufactured.			
14	APPAREL, including haberdashery and millinery and military and other uniforms and accoutrements, but excluding boots and shoes (for which see No. 39) and uniforms and accoutrements imported by a public servant for his personal use, which are free.	.....	*ad valorem*	,,
15	BRUSHES, all sorts	.....	,,	,,
16	BUILDING AND ENGINEERING MATERIALS, namely asphalt, cement of all kinds, earthenware piping, and other kinds.	.....	,,	,,
17	CABINET-WARE AND FURNITURE	.....	,,	,,
18	CANDLES, paraffin	lb	0 5	,,
	,, spermaceti	,,	0 6	,,
	,, wax	,,	1 0	,,
	,, all other sorts, including composition	,,	0 5	,,
19	CANES, RATTANS, ARTICLES MADE OF CANE OR RATTAN, AND BASKET WORK—			
	Canes, Malacca	dozen	1 0	,,
	Rattans	cwt.	7 0	,,
	All other sorts except common bamboos, which are free.	.....	*ad valorem*	,,
20	CARRIAGES and component parts thereof, except railway carriages and trucks, which are free.	.....	,,	,,
21	CHINESE AND JAPANESE-WARE, including lacquered-ware, but excluding earthenware, china, and porcelain (for which see No. 27).	.....	,,	,,
22	CLOCKS, WATCHES, and other time-keepers	.....	,,	,,
23	COIR AND ARTICLES MADE OF COIR, EXCEPT CABLES AND ROPE (for which see No. 25)—			
	Yarn of all kinds	cwt.	9 0	,,
	All other sorts	.....	*ad valorem*	,,
24	CORAL, real	.....	,,	,,

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	Other Articles, unmanufactured and manufactured—cont.		RS. A.	
25	CORDAGE AND ROPE made of any vegetable fibre—			Five per cent.
	Coir, cables, tarred	cwt.	10 0	,,
	,, rope	,,	10 0	,,
	Cordage, hemp, European	,,	25 0	,,
	,, ,, Manila	,,	80 0	,,
	Twine, sail, European	lb	0 8	,,
	All other sorts of cordage and rope	.....	*ad valorem*	,,
26	CORK and articles made of cork—			
	Bottle corks	gross	1 0	,,
	Vial corks	,,	0 4	,,
	All other sorts	.....	*ad valorem*	,,
27	EARTHENWARE (except Earthenware piping, for which see No. 16), China, China clay, and porcelain.	.....	,,	,,
28	FEATHERS	.....	,,	,,
29	FIREWORKS, China	box of 133⅓	35 0	,,
	,, all other sorts	.....	*ad valorem*	,,
30	FLAX and articles made of Flax—			
	Canvas, sail, European, not exceeding 40 yards	bolt	22 0	,,
	Piece-goods	.....	*ad valorem*	,,
	All other sorts, including linen-thread	.....	,,	,,
31	GLASS, glassware, beads, false pearls, and false corals—			
	Bangles, glass, China, gilt	hundred pairs	15 0	,,
	,, ,, ,, not gilt	,,	3 0	,,
	Beads, China	cwt.	36 0	,,
	Coral, false	.....	*ad valorem*	,,
	Glass, China, all colours	133⅓ lb	32 0	,,
	,, Crown, coloured	100 superficial feet	14 0	,,
	,, ,, of sizes	,,	6 8	,,
	Pearls, false, Bajria	lákh	3 0	,,
	,, ,, Boria	thousand	1 0	,,
	,, ,, Jauria	lákh	5 0	,,
	,, ,, Lohkh	thousand	0 12	,,
	,, ,, Nathia	,,	0 3	,,
	,, ,, Tachia	,,	1 0	,,
	,, ,, Wattanah	lákh	10 0	,,
	All other sorts of beads, false pearls, glass and glassware.	.....	*ad valorem*	,,
32	GUMS, GUM-RESINS, and articles made of gum or gum-resin—			
	Copal	cwt.	56 0	,,
	Cutch and gambier	,,	17 0	,,
	Gum Ammoniac	,,	14 0	,,
	,, Arabic	,,	18 0	,,
	,, Bdellium (common gum)	,,	10 0	,,
	,, Benjamin	,,	40 0	,,
	,, Bysabol (coarse Myrrh)	,,	14 0	,,
	,, Olibanum or frankincense	,,	12 0	,,
	,, Persian (false)	,,	10 0	,,
	,, Kino	,,	10 0	,,
	Myrrh	,,	40 0	,,
	Rosin	,,	4 4	,,
	All other sorts of gums, gum-resins, and articles made of gum or gum-resin.	.....	*ad valorem*	,,
33	HEMP and articles made of hemp—			
	Piece-goods and all other sorts (except rope, for which see No. 25).	.....	,,	,,
34	HIDES AND SKINS (except raw or salted hides and skins, which are free)—			
	Hides, buffalo	each	32 0	,,
	,, buffalo	score	80 0	,,
	,, cow	,,	60 0	,,
	Skins, all kinds	,,	*ad valorem*	,,
35	INSTRUMENTS AND APPARATUS—			
	Musical, Drawing, Measuring, Optical, Photographic (including materials for photography), Surveying, and Surgical (including surgical appliances).	.....	*ad valorem*	,,
36	IVORY AND IVORY-WARE—			
	Unmanufactured—			
	Elephants' grinders	cwt.	125 0	,,
	Elephants' tusks (other than hollows, centres, and points) each exceeding 20 lb in weight, and hollows, centres, and points each weighing 10 lb and over.	,,	800 0	,,

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	Other Articles, unmanufactured and manufactured—cont.			
	IVORY AND IVORY-WARE—*cont.*			
	Unmanufactured—*cont.*		RS. A.	
	Elephants' tusks (other than hollows, centres, and points) not less than 10 lb and not exceeding 20 lb each, and hollows, centres and points each weighing less than 10 lb.	cwt.	680 0	Five per cent.
	Elephants' tusks each less than 10 lb (other than hollows, centres and points.	,,	525 0	,,
	Sea-cow or moye teeth, each not less than 4 lb	,,	175 0	,,
	Sea-cow or moye teeth, each not less than 3 lb and under 4 lb.	,,	170 0	,,
	Sea-cow or moye teeth, each less than 3 lb.	,,	130 0	,,
	Articles made of ivory	,,	*ad valorem.*	,,
37	JEWELLERY, including plate—			
	Silverware, plain } other than European.	tola	1 0	,,
	,, embossed or chased } other than European.	,,	1 4	,,
	All other sorts, except precious stones and pearls, unset, which are free.	.....	*ad valorem.*	,,
38	JUTE, articles made from, except gunny bags, which are free.	.....	,,	,,
39	LEATHER and articles made of Leather, including Boots and Shoes, Harness and Saddlery, but excluding Belting for driving Machinery, which is free.	.....	,,	,,
40	MARINE AND NAVAL STORES, not otherwise described	.....	,,	,,
41	MATCHES, Lucifer, and all other sorts	.....	,,	,,
42	MATS—			
	Floor-matting, China and Singapore, of all sorts	hundred	75 0	,,
	All other sorts, except coir-matting (for which see No. 23).	.....	*ad valorem*	,,
43	OIL AND FLOOR-CLOTH	.....	,,	,,
44	PAINTS, COLOURS, PAINTERS' MATERIALS, and Compositions for application to leather and metals—			
	Ochre, other than European, all colours	cwt.	1 8	,,
	Paints of sorts	,,	9 0	,,
	,, Composition	,,	56 0	,,
	,, Patent driers	,,	10 0	,,
	Prussian blue, China	lb.	0 10	,,
	,, ,, European	,,	1 0	,,
	Red lead	cwt.	12 0	,,
	Turpentine	Imperial gallon	1 14	,,
	Verdigris	cwt.	70 0	,,
	Vermilion, Canton	box of 90 bundles	94 0	,,
	White lead	cwt.	14 0	,,
	All other sorts	.....	*ad valorem*	,,
45	PAPER: Wall paper	.....	,,	,,
46	PERFUMERY—			
	Rose-flowers, dried	cwt.	12 0	,,
	Rose-water	Imperial gallon	1 14	,,
	All other sorts, except perfumed spirit (for which see schedule III).	.....	*ad valorem*	,,
47	PIECE-GOODS not otherwise described, except cotton piece-goods, which are free.	.....	,,	,,
48	PIPES and other implements used in the consumption of tobacco.	.....	,,	,,
49	PITCH, TAR, AND DAMMER—			
	Bitumen	.....	,,	,,
	Dammer	cwt.	6 0	,,
	Pitch, American and European	,,	6 0	,,
	,, Coal	,,	2 8	,,
	Tar, American and European	,,	6 0	,,
	,, Coal	,,	2 8	,,
	,, Mineral	.....	*ad valorem*	,,
50	SEEDS—			
	Castor	cwt.	4 8	
	Cummin	,,	17 0	,,
	,, black	,,	6 0	,,
	Linseed	,,	5 8	,,
	Methi	,,	4 0	,,
	Mustard, rape, or sarson	,,	5 0	,,

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	Other Articles, unmanufactured and manufactured—cont.			
	SEEDS—*cont.*		RS. A.	
	Poppy	cwt.	6 0	Five per cent.
	Quince, bihidána	,,	40 0	,,
	Soziré	,,	22 0	,,
	Til or jinjili	,,	7 8	,,
	All other sorts	.....	*ad valorem*	,,
51	SHELLS AND COWRIES—			
	Chanks—large shells, for cameos	hundred	6 8	,,
	,, white, live	,,	7 0	,,
	,, ,, dead	,,	4 0	,,
	Cowras	,,	0 8	,,
	Cowries, bazar, common	cwt.	3 0	,,
	,, Maldive	,,	7 8	,,
	,, Nakhla	,,	65 0	,,
	,, Sankhla	,,	60 0	,,
	,, yellow, superior quality	,,	2 8	,,
	Mother-of-pearl, nacre	,,	30 0	,,
	Tortoise-shell	,,	7 0	,,
	,, nakh	,,	1 0	,,
	All other sorts	,,	*ad valorem*	,,
52	SILK, AND ARTICLES MADE OF SILK—			
	Floss	lb.	9 0	,,
	Piece-goods	,,	*ad valorem*	,,
	Raw silk			
	Chaháram, Cochin-China, and yellow Shanghai	,,	5 4	,,
	Mathow	,,	3 4	,,
	Other kinds of China	,,	7 0	,,
	Waste and Kachra	,,	1 2	,,
	Panjam	,,	2 0	,,
	Persian	,,	4 4	,,
	Siam	,,	2 0	,,
	Produced from the tasar or other wild worm	,,	2 8	,,
	Sewing thread, China	,,	9 0	,,
	All other sorts		*ad valorem*	,,
53	SOAP		,,	,,
54	STATIONERY		,,	,,
55	STONE AND MARBLE		,,	,,
56	TALLOW AND GREASE	cwt.	25 0	,,
57	TOILET REQUISITES not otherwise described		*ad valorem*	,,
58	TOYS and requisites for all games		,,	,,
59	UMBRELLAS, COTTON, under 20 inches	each	0 10	,,
	,, ,, 20 inches and upwards	,,	1 0	,,
	,, ,, oiled, other than European	,,	0 9	,,
	,, ,, all other sorts, including paper kettisals	.....	*ad valorem*	,,
60	WAX	cwt.	32 0	,,
61	WOOD AND TIMBER		*ad valorem*	,,
62	WOOLLEN GOODS— Braid, Hosiery, Piece-goods, All other sorts	.....	,,	,,

SCHEDULE V.—(EXPORT TARIFF.)

Name of Article.	Rate of duty.
RICE, WHETHER HUSKED OR UNHUSKED, INCLUDING RICE-FLOUR.	Three annas per Indian maund of 82⅔ lb. avoirdupois weight.

STATEMENT OF OBJECTS AND REASONS.

The embarrassed condition of the finances, and the certainty that the accounts of the present year and the estimates of the year 1894-95 show a heavy deficit, have placed the Government under the necessity of reducing expenditure so far as reduction is possible and of raising a larger revenue to meet the cost of administration.

It has accordingly been decided to increase the revenue by the imposition of indirect taxation in the form of import duties, and the present Bill practically reimposes the Tariff Schedule of 1875, with some exceptions, of which the most important is the omission of duties on Cotton Yarn and Goods.

The 28th February 1894. J. WESTLAND.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

The following Report of the Select Committee on the Bill to amend the Indian Stamp Act, 1879, with respect to Policies of Sea-insurance and Sale-certificates was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 1st March 1894 :—

"We, the undersigned, Members of the Select Committee to which the Bill to amend the Indian Stamp Act, 1879, with respect to Policies of Sea-insurance and Sale-certificates 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 Agent, Governor-General in Baluchistan, No. 6098, dated 9th November 1893 [Paper No. 1].
From Chief Commissioner, Coorg, No. 2003-167-93, dated 7th December 1893 [Paper No. 2].
From Chief Commissioner, Ajmere-Merwara, No. 193 C., dated 19th December 1893 [Paper No. 3].
From Chief Commissioner, Assam, No. 177 L. L.-9156 J., dated 22nd December 1893 [Paper No. 4].
From Chief Commissioner, Burma, No. 692-2 S.-32, dated 28th December 1893 [Paper No. 5].
From Resident, Hyderabad, No. 1, dated 3rd January 1894 [Paper No. 6].
From Registrar, High Court, Calcutta, No. 64, dated 8th January 1894 [Paper No. 7].
From Government, Bombay, No. 344, dated 13th January 1894, and enclosures [Papers No. 8].
From Government, Punjab, No. 93, dated 17th January 1894, and enclosures [Papers No. 9].
From Chief Commissioner, Central Provinces, No. 440, dated 20th January 1894 [Paper No. 10].
From Government, Madras, No. 62, Judicial, dated 13th January 1894, and enclosures [Papers No. 11].
From Government, Bengal, No. 553 S. R., dated 24th January 1894, and enclosures [Papers No. 12].
From Secretary to Government, North-Western Provinces and Oudh, No. 91, dated 14th February 1894, and enclosure [Papers No. 13].

2. We consider that there should be a definition of "policy of sea-insurance" as in section 92 of the Stamp Act, 1891 (54 and 55 Vict., c. 39), and that the substance of the notifications of the Department of Finance and Commerce, Nos. 1044 and 513, dated respectively the 5th March 1886 and 1st February 1887, regarding re-insurances in the case of fire as well as sea-insurances, should be incorporated in the Bill.

3. We have varied the Bill accordingly.

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

In English.

Gazette.	Date.
Gazette of India	21st October 1893.
Fort St. George Gazette	7th November 1893.
Bombay Government Gazette	26th October 1893.
Calcutta Gazette	1st November 1893.
North-Western Provinces and Oudh Government Gazette	28th October 1893.
Punjab Government Gazette	26th October 1893.
Central Provinces Gazette	28th October 1893.
Burma Gazette	11th November 1893.
Assam Gazette	11th November 1893.
Coorg District Gazette	1st December 1893.
Sindh Official Gazette	20th November 1893.

In the Vernaculars.

Province.	Language.	Date.
Madras	Tamil	28th November 1893.
	Telugu	28th November 1893.
	Hindustani	28th November 1893.
	Kanarese	28th November 1893.
	Malayalam	5th December 1893.
Bombay	Marathi	21st December 1893.
	Gujarathi	21st December 1893.
	Kanarese	28th December 1893.
Bengal	Bengali	21st November 1893.
	Uriya	30th November 1893.
	Hindi	5th December 1893.
Burma	Burmese	18th November 1893.
Assam	Bengali	2nd December 1893.
Sindh	Sindhi	30th November 1893.

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

J. WESTLAND.
ALEX. EDW. MILLER.
RASHBEHARY GHOSE.
C. C. STEVENS.
P. PLAYFAIR.

The 28th February 1894.

No. II.

A Bill to amend the Indian Stamp Act, 1879, with respect to Policies of Sea and Fire Insurance and Sale-Certificates.

I of 1879.

WHEREAS it is expedient to amend the Indian Stamp Act, 1879, with respect to policies of sea *and fire* insurance and sale-certificates; It is hereby enacted as follows:—

Policies of Sea and Fire Insurance.

I of 1879.

Addition to definition of "policy of insurance" in section 3, clause (15), respecting sea-insurance.

1. *To clause* (15) *of section* 3 *of the Indian Stamp Act*, 1879, *as amended by section* 1 *of Act I of* 1888, *the following shall be added, namely:*—

"It includes also a policy of sea-insurance, such a policy (*a*) *meaning any insurance made upon any ship or vessel, or upon the machinery, tackle or furniture of any ship or vessel, or upon any goods, merchandise or property of any description whatever on board of any ship or vessel, or upon the freight of, or any other interest which may be lawfully insured in or relating to, any ship or vessel, and* (*b*) *including any insurance of goods, merchandise or property for any transit which includes not only a sea risk, but also any other risk incidental to the transit insured from the commencement of the transit to the ultimate destination covered by the insurance:*

"and where any person, in consideration of any sum of money paid or to be paid for additional freight or otherwise, agrees to take upon himself any risk attending goods, merchandise or property of any description whatever while on board of any ship or vessel, or engages to indemnify the owner of any such goods, merchandise or property from any risk, loss or damage, such agreement or engagement shall be deemed to be a contract for sea-insurance."

Insertion of new section between sections 7 and 8, respecting sea-insurance.

2. Between section 7 and section 8 of the *said* Act, the following section shall be inserted, namely:—

Policies of sea-insurance.

"7A. (1) No contract for sea-insurance (other than such insurance as is referred to in section 55 of the Merchant Shipping Act Amendment Act, 1862) shall be valid unless the same is expressed in a policy of sea-insurance.

25 & 26 Vict., c. 63.

"(2) No policy of sea-insurance made for time shall be made for any time exceeding twelve months.

"(3) No policy of sea-insurance shall be valid unless it specifies the particular risk or adventure, or the time for which it is made, the names of the subscribers or underwriters, and the amount or amounts insured.

"(4) Where any sea-insurance is made for or upon a voyage and also for time, or to extend to or cover any time beyond thirty days after the ship shall have arrived at her destination and been there moored at anchor, the policy shall be charged with duty as a policy for or upon a voyage, and also with duty as a policy for time."

Amendment of Schedule I, respecting sea-insurance.

3. For division (*a*) of article 49 of Schedule I of the said Act, as amended by *section* 2 *of* Act I of 1888, relating to sea-insurance, the following shall be substituted, namely:—

Description of Instrument.		Proper Stamp-duty.
		Rs. A. P.
49. POLICY OF INSURANCE.	(*a*) In the case of sea-insurance—	
	(1) for or upon any voyage—	
	(i) where the premium or consideration does not exceed the rate of two annas or one-eighth per centum of the amount insured by the policy	0 1 0
	(ii) in any other case, in respect of every full sum of one thousand rupees and also any fractional part of one thousand rupees insured by the policy	0 2 0
	(2) for time—	
	(iii) in respect of every full sum of one thousand rupees and also any fractional part of one thousand rupees insured by the policy—	
	where the insurance shall be made for any time not exceeding six months	0 3 0
	where the insurance shall be made for any time exceeding six months and not exceeding twelve months.	0 6 0

Amendment of, and addition to, article 49, Schedule I, respecting sea and fire re-insurances.

4. (1) *In division* (*c*) *of article* 49 *of Schedule I of the said Act, as amended by section* 2 *of Act I of* 1888, *the following shall be added after the words "In the case of any other insurance," namely, except such a re-assurance as is described in division* (*d*) *of this article—".*

(2) *After division* (*c*) *of article* 49 *of Schedule I of the said Act, amended as aforesaid, the following division shall be added, namely:—*

Description of Instrument.		Proper Stamp-duty.
		Rs. a. p.
49. POLICY OF INSURANCE—*concld.*	(*d*) *In the case of a re-insurance, by an Insurance Company which has granted a policy of sea-insurance or a policy of insurance against loss by fire, with another Company by way of indemnity or guarantee against the payment on the original insurance of a certain part of the sum insured thereby.*	1 0 0

Sale-Certificates.

Inapplicability of section 24 to sale-certificates.

5. Section 24 of the said Act shall be held not to apply and never to have applied to any such certificate of sale as is mentioned in article 16 of Schedule I of that Act:

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

Amendment of Schedule I respecting sale-certificates.

6. In the third column of Schedule I of the said Act, after the words "the purchase-money" against article 16, the word "only" shall be added.

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

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

The following Report of the Select Committee on the Bill to amend the Prisoners Act, 1871, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 1st March 1894 :—

We, the undersigned, Members of the Select Committee, to which the Bill to amend the Prisoners Act, 1871, 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 Agent to Governor-General in Baluchistan, No. 6298, dated 17th November 1893, [Paper No. 1].
From High Court, Calcutta, No. 61, dated 8th January 1894 [Paper No. 2].
From Chief Commissioner, Burma, No. 715-L.—17, dated 20th December 1893, and enclosures [Papers No. 3].
From Chief Commissioner, Assam, No. $\frac{189\text{-L. L.}}{47}$ J., dated 4th January 1894 [Paper No. 4].
From Government, Bombay, No. 89, dated 8th January 1894, and enclosures [Papers No. 5].
From Government, Bengal, No. 170 P., dated 13th January 1894 [Paper No. 6].
From Chief Commissioner, Central Provinces, No. 234, dated 11th January 1894 [Paper No. 7].
From Resident, Hyderabad, No. 15, dated 11th January 1894 [Paper No. 8].
From Chief Commissioner, Coorg, No. 25-186—93, dated 9th January 1894 [Paper No. 9].
From Government, Madras, No. 35, dated 10th January 1894, and enclosures [Papers No. 10].
From Chief Commissioner, Ajmere-Merwara, No. 370 C., dated 5th February 1894 [Paper No. 11].
From Government, North-Western Provinces and Oudh, No. 349, dated 7th February 1894, and enclosures [Papers No. 12].
From Government, Punjab, No. 74, dated 5th February 1894, and enclosures [Papers No. 13].

2. *Section 3 of Bill as revised.*—We have proposed to provide in section 14 of the Act for such a Court as the Madras City Civil Court established under Act VII of 1892.

3. *Sections 4 and 5 of Bill as revised.*—For the words "in alliance with", where they occur in the proposed addition to section 16 and in section 19 of the Act, we have, after consultation with the Foreign Department of the Government of India, substituted the words "under the suzerainty of". Some of the petty Feudatory States in Orissa, the Central Provinces and elsewhere, to which the sections will apply, have such limited authority that it will be more convenient to refer to them in the language used in clause (5) of section 18, 52 and 53 Vict., c. 63, and the corresponding clause of section 9, 53 Vict., c. 4.

4. *Sections 6 and 7 of Bill as revised.*—We have substituted new sections for sections 30 and 32 of the Act, with the object of making those sections apply as well to prisoners sentenced to transportation as to prisoners sentenced to imprisonment.

5. It has been suggested to us that the Prisoners Act, as it may be amended by this Bill, might be amalgamated with the Prisons Bill which is now under consideration. But we prefer to adhere to the arrangement come to nearly a quarter of a century ago, under which the internal management and economy of prisons were left to be regulated by Prisons Acts, and the rest of the law regarding prisoners by the Prisoners Act (Proceedings of Legislative Council, 1870, pages 404 and 418). This arrangement is well known, and no good reason has been urged for departing from it.

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

In English.

Gazette.	Date.
Gazette of India	21st October 1893.
Fort St. George Gazette	7th November 1893.
Bombay Government Gazette	26th October 1893.
Calcutta Gazette	1st November 1893.
North-Western Provinces and Oudh Government Gazette	28th October 1893.
Punjab Government Gazette	26th October 1893.
Central Provinces Gazette	28th October 1893.
Burma Gazette	11th November 1893.
Assam Gazette	11th November 1893.
Coorg District Gazette	1st December 1893.
Sindh Official Gazette	30th November 1893.

In the Vernaculars.

Province.	Language.	Date.
Bombay	Marathi	4th January 1894.
	Gujarathi	4th January 1894.
	Kanarese	4th January 1894.

Province.	Language.	Date.
Bengal	Bengali	1st November 1893.
	Uriya	23rd November 1893.
	Hindi	28th November 1893.
Burma	Burmese	25th November 1893.
Assam	Bengali	2nd December 1893.
Sindh	Sindhi	30th November 1893.

7. We do not think that the measure has been so altered as to require republication, and we recommend that it be passed as now amended:

ALEX. EDW. MILLER.
A. P. MACDONNELL.
RASHBEHARY GHOSE.
A. S. LETHBRIDGE.

The 28th February 1894.

No. II.

A Bill to amend the Prisoners Act, 1871.

WHEREAS it is expedient to amend the Prisoners Act, 1871; It is hereby enacted as follows:— V of 1871.

Addition to section 1, Act V, 1871.

1. To section 1 of the said Act the following shall be added, namely:—

"Any reference in Part III or Part V of this Act to a prison or jail, or to imprisonment or confinement, may be read as referring to a reformatory or reformatory school *or to confinement therein.*"

Repeal of section 9, Act V, 1871.

2. Section 9 of the said Act is hereby repealed.

Amendment of section 14, Act V, 1871.

3. *In section* 14 *of the said Act, for the words "or in pursuance of a warrant of any Court established in Calcutta, Madras or Bombay under the Presidency Small Cause Courts Act*, 1882," *the following shall be substituted, namely:—*

"or in pursuance of a warrant of any Civil Court established in Calcutta, Madras or Bombay under any law for the time being in force."

Amendment of, and addition to, section 16, Act V, 1871.

4. (1) In section 16 of the said Act, for the words "acting under the authority" the words "acting, whether within or without British India, under the general or special authority" shall be substituted.

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

"or, with the previous sanction of the Governor-General in Council in each case, to any sentence or order or warrant for the detention of any person passed or issued by any court or tribunal of any Native Prince or State *under the suzerainty of* Her Majesty:

"Where a Court or tribunal of such a Native Prince or State has passed a sentence which cannot be executed without the concurrence of an officer of the British Government, and such sentence has been judicially considered on the merits and confirmed by any such officer specially authorised by name or by office in that behalf, such sentence, and any order or warrant issued in pursuance thereof, shall be deemed to be the sentence, order or warrant of a Court or tribunal acting under the authority of the Governor-General in Council."

Amendment of, and addition, to section 19, Act V, 1871.

5. (1) For the first *fifty-one* words of section 19 of the said Act the following shall be substituted, namely:—

"The Governor-General in Council or the Local Government may authorise the reception, detention or imprisonment in any place in British India, or in any place under such Government, as the case may be, *for the period specified in their respective sentences, of persons sentenced within the territories of any Native Prince or State under the suzerainty of Her Majesty to imprisonment or transportation for any of the following offences:*"

(2) In the same section, after the words "theft of cattle" the following shall be inserted, namely:—

"or for any other act (referred to in this section as an offence) which would, if done in British India, have constituted an offence against any of the sections of the Indian Penal Code mentioned in the schedule to the Foreign Jurisdiction and Extradition Act, 1879." XLV of 1860 XI of 1879

(3) For the proviso to the same section the following shall be substituted, namely:—

"Provided that such sentences have been pronounced after trial before a tribunal of which the presiding Judge, or, if the Court consisted of more than one Judge, at least one of such Judges, was an officer of the British Government authorised to act as such Judge by the Native Prince or State or by the Governor-General in Council."

Substitution of new section for section 30, Act V, 1871.

6. *For section* 30 *of the said Act the following shall be substituted, namely:—*

"30. When any person is, or has been, sentenced to imprisonment or transportation by any Court, or, in default of giving security for keeping the peace or maintaining good behaviour, has been committed to, or is detained in, prison under section 123 *of the Code of Criminal Procedure*, 1882, *the Local Government, or (subject to its orders and under its control) the Inspector-General of Prisons, may order his removal during the period for which he has been sentenced to imprisonment or transportation or the security has been ordered to be given, as the case may be, from the jail or place in which he is confined to any other jail or place of confinement within the territories subject to the same Local Government."*

Removal from one jail to another in territories under same Local Government.

Substitution of new section for section 32, Act V, 1871.

7. *For section* 32 *of the said Act the following shall be substituted, namely:—*

"32. When any person is or has been, sentenced to imprisonment or transportation by any Court, or, in default of giving security for maintaining good behaviour, has been committed to, or is detained in, prison under section 123 *of the Code of Criminal Procedure*, 1882, *the Governor-General in Council may order his removal during the period for which he has been sentenced to imprisonment or transportation or the security has been ordered to be given, as the case may be, from the jail or place in which he is confined to any other jail or place of confinement in British India."* X of 1882

Removal of prisoners from territories under one Local Government to territories under another.

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

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

MADRAS RECORD OFFICE

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

The following Report of the Select Committee on the Bill to amend the Code of Civil Procedure and the Indian Limitation Act, 1877, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 22nd February 1894 :—

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

From Mr. Ganesh Krishna Deshmukh, High Court Pleader, Bombay, No. 1040, dated 16th March 1893 [Paper No. 1].
From Chief Commissioner, Coorg, No. 457-44-93, dated 4th April 1893 [Paper No. 2].
From Mr. P. R. Desai, Pleader, District Court, Ratnagiri, dated 2nd April 1893 [Paper No. 3].
From Agent to Governor-General in Baluchistan, No. 2060, dated 20th April 1893 [Paper No. 4].
From Resident, Hyderabad, No. 125, dated 25th April 1893 [Paper No. 5].
From Government, Madras, No. 804, Judicial, dated 20th April 1893, and enclosure [Papers No. 6].
From Chief Commissioner, Assam, No. 61 L.& L.-3892 J., dated 22nd April 1893, and enclosure [Papers No. 7].
From Chief Commissioner, Ajmere-Merwara, No. 487, dated 5th May 1893, and enclosures [Papers No. 8].
Opinion by the Honorable W. H. Rattigan, dated 5th May 1893 [Paper No. 9].
From Chief Commissioner, Burma, No. 207-L.-9, dated 9th May 1893, and enclosures [Papers No. 10].
From Government, Madras, No. 953, Judicial, dated 9th May 1893, and enclosures [Papers No. 11].
From Government, Punjab, No. 590, dated 13th May 1893, and enclosures [Papers No. 12].
From High Court, Calcutta, No. 1244, dated 31st May 1893 [Paper No. 13].
From Chief Commissioner, Central Provinces, No. 4780, dated 27th June 1893, and enclosures [Papers No. 14].
From Government, Bengal, No. 3804 J., dated 10th August 1893, and enclosures [Papers No. 15].
From Government, North-Western Provinces and Oudh, No. 676, dated 23rd August 1893, and enclosures [Papers No. 16].
From Government, Bombay, No 5476, dated 30th August 1893, and enclosures [Papers No. 17].
From Government, Bengal, No. 659 J.D., dated 17th October 1893, and enclosures [Papers No. 18].

2. The Bill has been received with much favour, and we have suggested little alteration beyond making it as clear as possible what the amount of the deposit by the judgment-debtor must be to enable him to save his property, and that, on the deposit being duly made, the sale must be set aside. We have also abandoned the proposed amendment of the Limitation Act, having inserted, in the section as amended, the period within which applications must be made.

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

In English.

Gazette.	Date.
Gazette of India	11th March 1893.
Fort St. George Gazette	21st March 1893.
Bombay Government Gazette	16th March 1893.
Calcutta Gazette	15th March 1893.
North-Western Provinces and Oudh Government Gazette ..	18th March 1893.
Punjab Government Gazette	23rd March 1893.
Central Provinces Gazette	18th March 1893.
Burma Gazette	25th March 1893.
Assam Gazette	25th March 1893.
Coorg District Gazette	1st April 1893.
Sindh Official Gazette	20th April 1893.

In the Vernaculars.

Province.	Language.	Date.
Madras	Tamil	11th April 1893.
	Telugu	11th April 1893.
	Hindustani	11th April 1893.
	Kanarese	11th April 1893.
	Malayalam	11th April 1893.

In the Vernaculars—cont.

Province.	Language.	Date.
Bombay	Marathi	27th April 1893.
	Gujarathi	27th April 1893.
	Kanarese	27th April 1893.
Bengal	Uriya	20th April 1893.
	Bengali	25th April 1893.
	Hindi	2nd May 1893.
North-Western Provinces and Oudh.	Urdu	8th April 1893.
Punjab	Urdu	27th April 1893.
Central Provinces ..	Hindi	10th May 1893.
Burma	Burmese	8th April 1893.
Sindh	Sindhi	20th April 1893.

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

RASHBEHARY GHOSE.
ALEX. EDW. MILLER.
A. P. MACDONNELL.
W. LEE-WARNER.

The 21st February 1894.

I assent to this Report without prejudice to my opinion that the Bill does not provide an adequate remedy for the evil which it was devised to cure.

W. LEE-WARNER.

The 21st February 1894.

No. II.

A Bill to amend the Code of Civil Procedure.

XIV of 1882. WHEREAS it is expedient to amend the Code of Civil Procedure; It is hereby enacted as follows:—

Title and commencement.

1. (1) This Act may be called the Civil Procedure Code Amendment Act, 1894; and

(2) It shall come into force at once.

Addition of new section after section 310 of Code.

2. After section 310 of the Code of Civil Procedure the following shall be inserted, namely:—

Application by judgment-debtor to set aside sale on deposit of debt.

"310A. Any person whose immoveable property has been sold under this Chapter may at any time within thirty days from the date of sale apply to have the sale set aside on his depositing in Court—

(*a*) for payment to the purchaser, a sum equal to five per centum of the purchase-money, and

(*b*) for payment to the decree-holder, the amount set forth in the warrant of sale as that (including costs) for the recovery of which the sale was ordered.

"If such deposit is made within the thirty days, the Court shall pass an order setting aside the sale:

"Provided that, if a person applies under the next following section to set aside the sale of his immoveable property, he shall not be entitled to make an application under this section.

"Nothing in this section shall be construed to relieve the judgment-debtor from any liability he may be under in respect of costs not covered by the warrant of sale."

Amendment of section 315 of Code.

3. In section 315 of the Code of Civil Procedure the figures and letter "310A" shall be inserted after the word "section", and before the figures "312".

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

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

FORT ST. GEORGE GAZETTE SUPPLEMENT.

TUESDAY EVENING, APRIL 3, 1894

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

The following Report of the Select Committee on the Bill to amend the law relating to Prisons was presented to the Council of the Governor-General of India for the purchase of making Laws and Regulations on the 15th March 1894:—

We, the undersigned, Members of the Select Committee to which the Bill to amend the law relating to Prisons 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 Chief Commissioner, Central Provinces, No. 671, dated 30th January 1894 [Paper No. 1].
From Chief Commissioner, Coorg, No. 238—186-93, dated 30th January 1894 [Paper No. 2].
From Mr. P. R. Desai, Pleader, District Court, Ratnagiri, dated 31st January 1894 [Paper No. 3].
From Chief Commissioner, Assam, No. 14 L.L.–791 J., dated 8th February 1894 [Paper No. 4].
From Resident, Hyderabad, No. 47, dated 10th February 1894, and enclosures [Papers No. 5].
From Chief Commissioner, Burma, No. 238-L.–4, dated 10th February 1894, and enclosures [Papers No. 6].
From Agent to Governor-General in Baluchistan, No. 877, dated 10th February 1894 [Paper No. 7].
From High Court, Calcutta, No. 514, dated 15th February 1894 [Paper No. 8].
From Government, Bombay, No. 1091, dated 15th February 1894, and enclosure [Papers No. 9].
Endorsement by Officiating Deputy Secretary to Government of India, Home Department, No. 125, dated 21st February 1894, and enclosures (letter from Government of Madras, No. 346, dated 14th February 1894) [Papers No. 10].
From Government, Punjab, No. 241, dated February 1894, and enclosures [Papers No. 11].
Endorsement by Officiating Deputy Secretary to Government of India, Home Department, No. 126, dated 21st February 1894, and enclosure (letter from Indian Relief Society, dated 16th February 1894 [Papers No. 12].
From High Court, Calcutta, No. 410, dated 26th February 1894, and enclosures [Papers No. 13].
From Government, Bengal, No. 781 P., dated 26th February 1894, and enclosure [Papers No. 14].
From Government, North-Western Provinces and Oudh, No. 525, dated 23rd February 1894, and enclosures [Papers No. 15].
From Secretary, Kashi Sujan Samaj, Benares, No. 11 S.S., dated 5th March 1894 [Papers No. 16].

2. The amendments which we have made in the Bill, though numerous, do not in any material respect affect its scheme, but only give effect to the valuable suggestions on minor matters which have been received from Local Governments generally and from the Governments of Madras and Bombay particularly. These amendments are indicated in italics in the Bill annexed to this Report. We have also considered suggestions made by independent bodies interested in the Bill.

3. *Section 3.*—In several sections of the Bill we have found it desirable to assign certain functions to Medical Subordinates as well as to Medical Officers. We have therefore added a definition of "Medical Subordinate," whom we propose to describe as an Assistant Surgeon, Apothecary or qualified Hospital Assistant. Such Medical Subordinate need not be exclusively a prison-officer, but may be a qualified Assistant attached to a dispensary in or near the place where the prison is situated. We have made it clear that the Medical Officer is, even in respect of sanitary administration, to be subject to the control of the Superintendent.

4. *Section 15.*—We have required detailed particulars respecting deaths of prisoners to be recorded in a register by the Medical Officer.

5. *Section 23.*—In order to remove a difficulty which has arisen in the construction of existing law, we have expressly provided that prisoners who have been appointed as officers of prisons shall be deemed to be public servants within the meaning of the Indian Penal Code.

6. *Section 28.*—We have made provision for the confinement of prisoners in cells as an ordinary mode of detention in prison. The circumstances of Indian jails may not, at the present time, allow of this being done, but we have thought it right to recognize separation of prisoners, especially at night time, as a desirable object to be worked up to.

7. *Section 40.*—We have added to this section a provision suggested by No. 54 of the Regulations for Government of Prisons in Schedule I to the Prison Act, 1865 (28 and 29 Vict., c. 126), with respect to interviews between prisoners and their legal advisers.

8. *Section 42.*—We have now provided for the punishment of persons improperly removing prohibited articles (such as unauthorised letters) from a prison as well as of persons improperly introducing such articles into a prison.

9. *Section 50.*—We have provided that change of labour as a punishment shall not be enforced without medical advice.

10. *Section 55.*—We have introduced this section to cover the case of prisoners who are being transferred from one prison to another or are engaged on extramural duty. Such prisoners are to be

deemed to be in prison and are to be subject to all the same incidents as if they were actually in prison. This provision follows the law as already expressed in Bombay and other enactments, and is obviously necessary.

11. *Section 57, sub-section (1).*—We have not preserved in the Bill the obligation imposed by the present law to keep in fetters for the first three months prisoners sentenced to transportation, but have left to be determined by rules the circumstances in which such prisoners may be confined in fetters.

12. *Section 59.*—We have added to section 59 a clause enabling the Governor-General in Council to define the circumstances, and regulate the conditions, under which prisoners in danger of death may be released.

13. *Sections 59 and 60.*—We have provided in these sections for the recognition of the practice which now obtains of making rules for the transfer of prisoners whose terms of sentence are about to expire, from distant prisons in which they are confined to prisons near to their homes, so that their release, when their terms expire, may be made from the latter prisons.

We have also, following English law in this respect, made provision for rules being made for regulating periods of rest from labour.

14. The other alterations in the Bill appear to require no notice. Such as they are they will be found in italics in the revised Bill annexed to this Report.

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

In English.

Gazette.	Date.
Gazette of India	13th January 1894.
Fort St. George Gazette	23rd January 1894.
Bombay Government Gazette	18th January 1894.
Calcutta Gazette	17th January 1894.
North-Western Provinces and Oudh Government Gazette	20th January 1894.
Punjab Government Gazette	25th January 1894.
Central Provinces Gazette	27th January 1894.
Burma Gazette	27th January 1894.
Assam Gazette	27th January 1894.
Coorg District Gazette	1st February 1894.

In the Vernaculars.

Province.	Language.	Date.
Bombay	Marathi	1st March 1894.
	Gujarathi	1st March 1894.
	Kanarese	1st March 1894.
Bengal	Bengali	30th January 1894.
	Hindi	6th February 1894.
	Uriya	8th February 1894.
North-Western Provinces and Oudh.	Urdu	3rd February 1894.
Burma	Burmese	17th February 1894.
Sindh	Sindhi	8th February 1894.

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

A. P. MACDONNELL.
ALEX. EDW. MILLER.
RASHBEHARY GHOSE.
FAZULBHOY VISRAM.
A. S. LETHBRIDGE.
G. M. CHITNAVIS.
H. F. CLOGSTOUN.
W. LEE-WARNER.

The 9th March 1894.

No. II.

THE PRISONS BILL.

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THE SCHEDULE.

ENACTMENTS REPEALED.

A Bill to amend the law relating to Prisons.

WHEREAS it is expedient to amend the law relating to prisons in British India, and to provide rules for the regulation of such prisons; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (*1*) This Act may be called the Prisons Act, 1894.

(*2*) It extends to the whole of British India, inclusive of Upper Burma, British Baluchistan, the Santal Parganas, *and* the Pargana of Spiti; *and*

(*3*) It shall come into force on the *first* day of *July 1894.*

(*4*) *Nothing in this Act shall apply to civil jails in the Presidency of Bombay outside the city of Bombay, and those jails shall continue to be administered under the provisions of sections 9 to 16 (both inclusive) of Bombay Act II of 1874, as those sections heretofore have been, or hereafter may be, amended by any Act passed, and for the time being in force, under the Indian Councils Acts, 1861 and 1892.*

24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14.

Repeal.

2. (*1*) On and after that day the enactments mentioned in the schedule shall be repealed to the extent specified in the *fourth* column thereof.

(2) But all rules and appointments made, directions given and orders issued under any of *those* enactments shall, so far as they are consistent with this Act, be deemed to have been respectively made, given and issued under this Act.

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

Definitions.

3. In this Act—

(1) "prison" means any *jail or place used permanently or temporarily under the general or special orders of a Local Government for the detention of prisoners, and includes all lands and buildings appurtenant thereto, but does not include—*

(a) *any place for the confinement of prisoners who are exclusively in the custody of the police;*

X of 1882. (b) *any place specially appointed by the Local Government under section 541 of the Code of Criminal Procedure, 1882; or*

(c) *any place which has been declared by the Local Government, by general or special order, to be a subsidiary jail:*

(2) "criminal prisoner" means any prisoner *duly committed to custody under the writ, warrant or order of any Court or authority exercising criminal jurisdiction*, or by order of a Court-martial:

(3) "convicted criminal prisoner" means any criminal prisoner under sentence of a Court or Court-martial, and includes a person detained in prison under the provisions of Chapter VIII of the

X of 1882. V of 1871. *Code of* Criminal Procedure, 1882, *or under the Prisoners Act, 1871:*

(4) "civil prisoner" means any prisoner who is not a criminal prisoner:

(5) "remission system" means the rules for the time being in force regulating the award of marks to, and the consequent shortening of sentences of, prisoners in *jails*:

(6) "history-ticket" means the *ticket exhibiting* such information as is required in respect of *each* prisoner by this Act or the rules *thereunder*:

(7) "*Inspector-General*" *means the Inspector-General of Prisons:*

(8) "*Medical Subordinate*" *means an Assistant Surgeon, Apothecary or qualified Hospital Assistant: and*

(9) "*Prohibited article*" *means an article the introduction or removal of which into or out of a prison is prohibited by any rule under this Act.*

CHAPTER II.

MAINTENANCE AND OFFICERS OF PRISONS.

Accommodation for prisoners.

4. The Local Government shall provide, for the prisoners in the territories under such Government, accommodation in prisons constructed and regulated in such manner as to comply with the requisitions of this Act in respect of the separation of prisoners.

Inspector-General.

5. An Inspector-General shall be appointed for the territories subject to each Local Government, and shall exercise, subject to the orders of the Local Government, the general control and superintendence of all prisons situated in the territories under such Government.

Officers of prisons.

6. For every prison there shall be a Superintendent, a Medical Officer (who may also be the Superintendent), *a Medical Subordinate, a Jailer* and such other officers as the Local Government thinks necessary:

Provided that *the Governor of Bombay in Council may, with the previous sanction of the Governor-General in Council, declare by order in writing that in any prison specified in the order* the office of *Jailer* shall be held by the person appointed *to be* Superintendent.

Temporary accommodation for prisoners.

7. Whenever it appears to the Inspector-General that the number of prisoners in any prison is greater than can conveniently or safely be kept therein, and it is not convenient to transfer the excess number to some other prison,

or whenever from the outbreak of epidemic disease within any prison, or for any other reason, it is desirable to provide for the temporary shelter and safe custody of any prisoners,

provision shall be made, by such officer and in such manner as the Local Government may direct, for the shelter and safe custody *in temporary prisons* of so many of the prisoners as cannot be conveniently or safely kept in the prison.

CHAPTER III.

DUTIES OF OFFICERS.

Generally.

Control, and duties of officers of prisons.

8. All officers of a prison shall obey the directions of the Superintendent; all officers *subordinate to the Jailer* shall perform such duties as may be *imposed on them* by the *Jailer* with the sanction of the Superintendent *or be prescribed by rules under section 60.*

Officers not to *have business dealings with* prisoners.

9. No officer of a prison shall sell or let, nor shall any person in trust for or employed by him sell or let, or derive any benefit from selling or letting, any article to any prisoner *or have any money or other business dealings directly or indirectly with any prisoner.*

Officers not to *be interested in* prison-contracts.

10. No officer of a prison shall, nor shall any person in trust for or employed by him, have any interest, direct or indirect, in any contract for the supply of the prison; nor shall he derive any benefit, directly or indirectly, from the sale or purchase of any article on behalf of the prison or belonging to a prisoner.

Superintendent.

Superintendent.

11. (1) Subject to the orders of the Inspector-General, the Superintendent shall manage the prison in all matters relating to discipline, labour, expenditure, punishment and control.

(2) Subject to such *general or special* directions as may be given by the Local Government, the Superintendent of a prison other than a central *prison* or a prison situated in a Presidency-town shall obey all orders *not inconsistent with this Act or any rule thereunder which may be given respecting* the prison by the District Magistrate, and shall report to the Inspector-General all such orders and the action taken thereon.

Records to be kept by Superintendent.

12. The *Superintendent* shall keep, or cause to be kept, the following records:—

(1) a register of prisoners admitted;

(2) a book showing when each prisoner is to be released;

(3) a punishment-book for the entry of the punishments inflicted on prisoners for prison-offences;

(4) a visitors' book for the entry of any observations made by *the* visitors *touching any matters connected with the administration of the prison;*

(5) a record of the money and other articles taken from prisoners;

and all such other records as may be prescribed by rules under section *59* or section *60.*

Medical Officer.

Duties of Medical Officer.

13. *Subject to the control of the Superintendent, the* Medical Officer shall have charge of the sanitary administration of the prison, and shall perform such duties as may be prescribed by rules made by the Local Government under section *60.*

Medical Officer to report in certain cases.

14. Whenever the Medical Officer has reason to believe that the mind of a prisoner is, or is likely to be, injuriously affected by the discipline or treatment to which he is subjected, the Medical Officer shall report the case in writing to the Superintendent, together with such observations as *he may* think proper.

This report, with the orders of the Superintendent thereon, shall forthwith be sent to the Inspector-General for information.

Report on death of prisoner.

15. On the death of any prisoner, the Medical Officer shall forthwith record in *a register* the following particulars, *so far as they can be ascertained*, namely:—

(1) *the day on which* the deceased *first complained of illness or was observed to be ill,*

(2) *the labour, if any, on which he was engaged on that day,*

(3) *the scale of his diet on that day,*

(4) *the day on which he was admitted to hospital,*

(5) *the day on which* the Medical Officer *was* first informed of the illness,

(6) the nature of the disease,

(7) *when the deceased was last seen before his death by the Medical Officer or Medical Subordinate,*

(8) when the prisoner died, and

(9) (in cases where a *post-mortem* examination is made) an account of the appearances after death,

together with any special remarks that appear to the Medical Officer to be required.

Jailer.

Jailer.

16. (1) The *Jailer* shall reside in the prison, unless the Superintendent permits him in writing to reside elsewhere.

(2) The *Jailer* shall not, without the Inspector-General's sanction *in writing*, be concerned in any other employment.

Jailer to give notice of death of prisoner.

17. Upon the death of a prisoner, the *Jailer* shall give immediate notice thereof to the Superintendent and the *Medical Subordinate.*

Responsibility of Jailer.

18. The *Jailer* shall be responsible for the safe custody of the records to be kept under section *12*, for the commitment warrants and all other documents confided to his care, and for the money and other articles taken from prisoners.

Jailer to be present at night.

19. The *Jailer* shall not be absent from the prison for a night without permission in writing from the Superintendent; but, if absent without leave for a night from unavoidable necessity, he shall immediately report the fact and the cause of it to the Superintendent.

Powers of Deputy and Assistant Jailers.

20. Where a Deputy *Jailer or Assistant Jailer* is appointed to a prison, he shall, *subject to the orders of the Superintendent*, be competent to perform any *of the duties, and be subject to all the responsibilities, of a Jailer under this Act or any rule thereunder.*

Subordinate Officers.

Duties of gate-keeper.

21. The officer acting as gate-keeper, or any other officer of the prison, may examine anything carried in or out of the prison, and may stop and search *or cause to be searched* any person suspected of bringing *any* prohibited article into *or out of* the prison, or of carrying out any property belonging to the prison, and, if any such article or property be found, shall give immediate notice thereof to the *Jailer.*

Subordinate officers not to be absent without leave.

22. *Officers subordinate to the Jailer* shall not be absent from the prison without leave from the Superintendent or from the *Jailer.*

Convict officers.

23. *Prisoners who have been appointed as officers of prisons shall be deemed to be public servants within the meaning of the Indian Penal Code.*

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CHAPTER IV.

ADMISSION, REMOVAL AND DISCHARGE OF PRISONERS.

Prisoners to be examined on admission.

24. (1) Whenever a prisoner is admitted *into a* prison, he shall be searched, and all weapons and prohibited articles shall be taken from him.

(2) Every criminal prisoner shall also, as soon as possible after admission, be examined *under the general or special orders of* the Medical Officer, who shall enter *or cause to be entered* in a book, to be kept by the *Jailer*, a record of the state of the prisoner's health, and of any wounds or marks on his person, the class of labour he is fit for if sentenced to rigorous imprisonment, and any observations which the Medical Officer thinks fit to add.

(3) In the case of female prisoners the search and examination shall be carried out by the matron under the *general or special* orders of the Medical Officer.

Effects of prisoners.

25. All money or other articles in respect whereof no order of a competent Court has been made, and which may *with proper authority* be brought into the prison by any criminal prisoner or sent to the prison for his use, shall be placed in the custody of the *Jailer.*

Removal and discharge of prisoners.

26. (1) All prisoners, previously to being removed to any other prison, shall be examined by the Medical Officer.

(2) No prisoner shall be removed *from one prison to another* unless the Medical Officer certifies that the prisoner is free from any illness rendering him unfit for removal.

(3) No prisoner shall be discharged against his will from prison, if labouring under any acute or dangerous distemper, *nor until, in the opinion of the Medical Officer, such discharge is safe.*

CHAPTER V.

DISCIPLINE OF PRISONERS.

Separation of prisoners.

27. The requisitions of this Act with respect to the separation of prisoners are as follows:—

(1) in a prison containing female as well as male *prisoners* the females shall be

imprisoned in separate buildings, or separate parts of the same building, in such manner as to prevent their seeing, or conversing or holding any intercourse with, the male *prisoners*;

(3) in a prison where male prisoners under the age of eighteen are confined, means shall be provided for separating them altogether from the other prisoners and for separating those of them who have arrived at the age of puberty from those who have not;

(4) unconvicted criminal prisoners shall be kept apart from convicted criminal prisoners; and

(5) civil prisoners shall be kept apart from criminal prisoners.

Association and segregation of prisoners.

28. *Subject to the requirements of the last foregoing section, convicted criminal prisoners may be confined either in association or individually in cells or partly in one way and partly in the other.*

Solitary confinement.

29. No cell shall be used for solitary confinement unless it is furnished with the means of enabling the prisoner to communicate at any time with an officer of the prison, and every prisoner *so* confined in a cell for *more* than twenty-four hours, whether as a punishment or otherwise, shall be visited at least once a day by the Medical Officer *or Medical Subordinate*.

Prisoners under sentence of death.

30. (1) Every prisoner under sentence of death shall, immediately on his arrival in the prison after sentence, be searched by, or by order of, the *Jailer*, and all articles shall be taken from him which the *Jailer* deems it dangerous or inexpedient to leave in his possession.

(2) Every such prisoner shall be confined in a cell apart from all other prisoners, and shall be placed by day and by night under the charge of a guard.

CHAPTER VI.

FOOD, CLOTHING AND BEDDING OF CIVIL AND UNCONVICTED CRIMINAL PRISONERS.

Maintenance of certain prisoners from private sources.

31. A civil prisoner or an unconvicted criminal prisoner shall be permitted to maintain himself, and to purchase, or receive from private sources at proper hours, food, clothing, bedding or other necessaries, but subject to examination and to such rules as may be approved by the Inspector-General.

Restriction on transfer of food *and* clothing between certain prisoners.

32. No part of any food, clothing, bedding or other necessaries belonging to any civil or unconvicted criminal prisoner shall be given, *hired* or sold to any other prisoner; and any prisoner transgressing *the provisions of this section* shall lose the privilege of purchasing food or receiving it from private sources, for such time as the Superintendent thinks proper.

Supply of clothing and bedding to civil and unconvicted criminal prisoners.

33. (1) Every civil prisoner and unconvicted criminal prisoner unable to provide himself with sufficient clothing and bedding shall be supplied by the Superintendent with such clothing and bedding as may be necessary.

(2) When any civil prisoner has been committed to prison in execution of a decree in favour of a private person, such person, or his representative, *shall, within forty-eight hours after the receipt by him of a demand in writing*, pay to the Superintendent the cost of the clothing and bedding so supplied to the prisoner; and in default of such payment the prisoner *may* be released.

CHAPTER VII.

EMPLOYMENT OF PRISONERS.

Employments of civil prisoners.

34. (1) Civil prisoners may, with the Superintendent's permission, work and follow any trade or profession.

(2) Civil prisoners finding their own implements, and not maintained at the expense of the prison, shall be allowed to receive the whole of their earnings; but the earnings of such as are furnished with implements or are maintained at the expense of the prison shall be subject to a deduction, to be determined by the Superintendent, for the use of implements and the cost of maintenance.

Employment of criminal prisoners.

35. (1) No criminal prisoner sentenced to labour or employed on labour at his own desire shall, except on an emergency with the sanction in writing of the Superintendent, be *kept to labour* for more than nine hours in any one day.

(2) The Medical Officer shall from time to time examine the labouring prisoners while they are employed, and shall at least once in every fortnight *cause to be* recorded upon the history-ticket of each prisoner employed on labour the weight of such prisoner at the time.

(3) When the Medical Officer is of opinion that the health of any prisoner *suffers from employment on* any kind or class of labour, *such prisoner* shall not be employed on *that* labour but shall be placed on such other kind or class of labour as the Medical Officer may consider suited for him.

Employment of criminal prisoners sentenced to simple imprisonment.

36. Provision shall be made by the Superintendent for the employment (as long as they so desire) of all criminal prisoners sentenced to simple imprisonment; but no prisoner not sentenced to rigorous imprisonment shall be punished for neglect of work excepting by such alteration in the scale of diet as may be established by the rules of the prison in the case of neglect of work by such a prisoner.

CHAPTER VIII.

HEALTH OF PRISONERS.

Sick prisoners.

37. (1) The names of prisoners desiring to see the Medical *Subordinate* or appearing out of health in mind or body shall, *without delay*, be reported by the officer in immediate charge of *such prisoners to the Jailer*.

(2) The *Jailer* shall, without delay, call the attention of the Medical *Subordinate* to any prisoner desiring to see him, or who is ill, or whose state of mind or body appears to require attention, and shall carry into effect all *written* directions given by the Medical Officer *or Medical Subordinate* respecting alterations of the discipline or treatment of any such prisoner.

Record of directions of Medical Officers.

38. All directions given by the Medical Officer *or Medical Subordinate* in relation to any prisoner, with the exception of orders for the supply of medicines or directions relating to such matters as are carried into effect by the Medical Officer himself or under his superintendence, shall be entered day by day in the prisoner's history-ticket or in such other record as the Local Government may by rule direct, and the *Jailer* shall make an entry in its proper place stating in respect of each direction the fact of its having been or not having been complied with, accompanied by such observations, if any, as the *Jailer* thinks fit to make, and the date of the entry.

Hospital.

39. In every prison *a hospital* or proper place for the reception of sick prisoners shall be provided.

CHAPTER IX.

VISITS TO PRISONERS.

Visits to civil and unconvicted criminal prisoners.

40. Due provision shall be made for the admission, at proper times and under proper restrictions, into every prison of persons with whom civil or unconvicted criminal prisoners may desire to communicate, *care being taken that, so far as may be consistent with the interests of justice, prisoners under trial may see their duly qualified legal advisers without the presence of any other person.*

Search *of* visitors.

41. (1) The *Jailer* may demand the name and address of any visitor to a prisoner, and, when the *Jailer* has any ground for suspicion, may search any visitor, or cause him to be searched, but the search shall not be made in the presence of any prisoner or of another visitor.

(2) In case of any such visitor refusing to permit himself to be searched, the *Jailer* may deny him admission; and the grounds of such proceeding, with the particulars thereof, shall be entered in *such record as the Local Government may direct.*

CHAPTER X.

OFFENCES IN RELATION TO PRISONS.

Penalty for introduction *or removal* of prohibited articles into *or from* prison and communication with prisoners.

42. Whoever, contrary to *any rule* under section *60, introduces or removes*, or attempts by any means whatever to introduce *or remove, into or from* any prison, or *supplies* or attempts to *supply* to any prisoner outside the limits of a prison, any *prohibited* article,

and every officer of a prison who, contrary to *any* such rule, knowingly suffers any such article to be introduced into *or removed from* any prison, to be possessed by any prisoner, or to be *supplied* to any prisoner outside the limits of a prison,

and whoever, contrary to *any* such rule, communicates or attempts to communicate with any prisoner,

and whoever abets any offence made punishable by this section,

shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding six months, or to fine not exceeding two hundred rupees, or to both.

Power to arrest for offence under section *42.*

43. When any person, in the presence of any officer of a prison, commits any offence specified in the *last foregoing* section, and refuses on demand of such officer to state his name and residence, or gives a name or residence which such officer knows, or has reason to believe, to be false, such officer may arrest him, and shall without unnecessary delay make him over to a Police-officer, and thereupon such Police-officer shall proceed as if the offence had been committed in his presence.

Publication of penalties.

44. The Superintendent shall cause to be affixed, in a conspicuous place outside the prison, a notice in English and the Vernacular setting forth *the acts prohibited under section 42 and* the penalties incurred by *their commission.*

CHAPTER XI.

PRISON-OFFENCES.

Prison-offences.

45. The following acts are declared to be prison-offences when committed by a prisoner:—

(1) such wilful disobedience to *any* regulation of the prison *as* shall have been declared by rules made under section *59* to be a prison-offence;

(2) *any* assault or use of criminal force;

(3) the use of insulting or threatening language;

(4) immoral or indecent or disorderly behaviour;

(5) wilfully disabling himself from labour;

(6) contumaciously refusing to work;

(7) filing, cutting, altering or removing handcuffs, fetters or bars *without due authority;*

(8) wilful idleness or negligence at work by any prisoner sentenced to rigorous imprisonment;

(9) wilful mismanagement of work by any prisoner sentenced to rigorous imprisonment;

(10) wilful damage to prison-property;

(11) tampering with or defacing history-tickets, records or documents;

(12) receiving, possessing or transferring any *prohibited article;*

(13) feigning illness;

(14) wilfully bringing *a* false accusation against any officer or prisoner;

(15) omitting or refusing to report, as soon as it comes to his knowledge, the occurrence of any fire, any plot or conspiracy, any escape, attempt or preparation to escape, and any attack or preparation for attack upon any prisoner or *prison-official*; and

(16) conspiring to escape, or to assist in escaping, or to commit any other of the offences aforesaid.

Punishment of such offences.

46. The Superintendent may examine any person touching any such offence, and determine thereupon, and punish such offence by—

(1) a formal warning:

EXPLANATION.—A formal warning shall mean a warning personally addressed to a prisoner by the Superintendent and recorded in the punishment-book and on the prisoner's history-ticket;

(2) change of labour to some more irksome or severe form;

(3) hard labour for a period not exceeding seven days in the case of *convicted criminal* prisoners not sentenced to rigorous imprisonment;

(4) such loss of privileges admissible under the remission system for the time being in force as may be prescribed by rules made by the Governor-General in Council;

(5) the substitution of gunny *or other coarse fabric* for clothing of other material, *not being woollen*, for a period which shall not exceed three months;

(6) imposition of handcuffs of such pattern *and weight, in such manner and for such period*, as may be prescribed by rules made by the Governor-General in Council;

(7) imposition of fetters of such pattern and weight, in such manner and for such period, as may be prescribed by rules

made by the Governor-General in Council;

(8) *separate* confinement for any period not exceeding six months:

EXPLANATION.—*Separate* confinement means such confinement with or without labour as secludes a prisoner from communication with, but not from sight of, other prisoners, and allows him not less than one hour's exercise per diem *and to have his meals in association with one or more other prisoners;*

(9) penal diet, that is, restriction of diet in such manner and subject to such conditions regarding labour as may be prescribed by the Local Government:

Provided that such restriction of diet shall in no case be applied to a prisoner for more than ninety-six consecutive hours, and shall not be repeated except for a fresh offence nor until after an interval of one week;

(10) *cellular* confinement for any period not exceeding fourteen days:

Provided that after each period of *cellular* confinement an interval of not less duration than such period must elapse before the prisoner is again sentenced to *cellular* or solitary confinement:

EXPLANATION.—*Cellular* confinement means such confinement with or without labour as entirely secludes a prisoner from communication with, but not from sight of, other prisoners:

(11) solitary confinement for any period not exceeding seven days:

Provided that after each period of solitary confinement an interval of not less duration than such period must elapse before the prisoner is again sentenced to solitary or *cellular* confinement:

EXPLANATION.—Solitary confinement means such confinement with or without labour as entirely secludes the prisoner both from sight of, and communication with, other prisoners;

(12) penal diet as defined in clause (9) combined with solitary confinement as defined in clause (11);

(13) whipping, provided that the number of stripes shall not exceed thirty:

Provided that nothing in this section shall render any female or civil prisoner liable to the imposition of any form of handcuffs or fetters, or to whipping.

Plurality of punishments under section 46.

47. Any two of the punishments enumerated in *the last foregoing* section may be awarded for any such offence in combination, subject to the following exceptions, namely:—

(1) formal warning shall not be combined with any other punishment *except loss of privileges under clause (4) of that section.*

(2) penal diet shall not be combined with change of labour, *under clause (2) of that section* nor shall any additional period of penal diet awarded singly be combined with any period of penal diet awarded in combination with solitary confinement;

(3) solitary confinement shall not be combined with *cellular* confinement or with *separate* confinement, *nor cellular* confinement with *separate* confinement, so as to prolong the total period of seclusion to which the prisoner shall be liable;

(4) whipping shall not be combined with any other form of punishment except *cellular* or separate confinement and loss of privileges admissible under the remission system.

Award of punishments under sections 46 and 47.

48. (1) The Superintendent shall have power to award any of the punishments enumerated in *the two last foregoing sections*, subject, in the case of *separate* confinement *for* a period exceeding one month, to the previous confirmation of the Inspector-General.

(2) No officer subordinate to the Superintendent shall have power to award any punishment whatever.

Punishments to be in accordance with foregoing sections.

49. *Except by order of a Court of Justice*, no punishment other than *the punishments* specified in the foregoing sections shall be inflicted on any prisoner, and no punishment shall be inflicted on any prisoner otherwise than in accordance with the provisions of *those* sections.

Medical Officer to certify to fitness of prisoner for punishment.

50. (1) No punishment of penal diet, either singly or in combination, or of whipping, *or of change of labour under section 46, clause (2)*, shall be executed until the prisoner *to whom* such punishment has been *awarded has been* examined by the Medical Officer, who, if he considers the prisoner fit to undergo the punishment, shall certify accordingly in the appropriate column of the punishment-book prescribed in section *12*.

(2) If he considers the prisoner unfit to undergo the punishment, he shall in like manner record his opinion in writing and shall state whether the prisoner is absolutely unfit for punishment of the kind awarded, or whether he considers any modification necessary.

(3) In the latter case he shall state what extent of punishment he thinks the prisoner can undergo without injury to his health.

Entries in punishment-book.

51. (1) In the punishment-book prescribed in section *12* there shall be recorded, in respect of every punishment inflicted, the prisoner's name, register number and the class (whether habitual or not) to which he belongs, the *prison*-offence of which he was guilty, the date on which such *prison*-offence was committed, the number of previous *prison*-offences recorded against the prisoner, and the date of his last *prison*-offence, the punishment awarded, and the date of infliction.

(2) In the case of every serious *prison*-offence, the names of the witnesses proving the offence shall be recorded, and, in the case of offences for which whipping is awarded, the Superintendent shall record the substance of the evidence of the witnesses, the defence of the prisoner, and the finding with the reasons therefor.

(3) Against the entries relating to each punishment the *Jailer* and Superintendent shall affix their initials as evidence of the correctness of the entries.

Procedure on committal of heinous offence.

52. If any prisoner is guilty of any offence against *prison*-discipline which, by reason of his having frequently committed such offences or otherwise, in the opinion of the Superintendent, is not adequately punishable by the infliction of any punishment *which he has power under this Act to award*, the Superintendent may forward such prisoner to the Court of the District Magistrate or of any Magistrate of the first class having jurisdiction, together with a statement of the circumstances, and such Magistrate shall thereupon inquire into and try the charge so brought against the prisoner, and, upon conviction, may sentence him to imprisonment which may extend to one year, such term

to be in addition to any term for which such prisoner was undergoing imprisonment when he committed such offence, or may sentence him to any of the punishments *enumerated* in section 46:

Provided that the District Magistrate may transfer the case for inquiry and trial to any Magistrate of the first class; and

Provided *also* that no person shall be punished twice for the same offence.

Whipping.

53. (1) No punishment of whipping shall be inflicted in instalments, or except in the presence of the Superintendent and Medical Officer *or Medical Subordinate.*

(2) Whipping shall be inflicted with a light ratan not less than half an inch in diameter on the buttocks, and in case of prisoners under the age of sixteen it shall be inflicted, *in the way of school discipline*, with a lighter ratan.

Offences by *prison*-subordinates.

54. (1) Every *jailer* or officer of a prison *subordinate to him* who shall be guilty of any violation of duty or wilful breach or neglect of any rule or regulation or lawful order made by competent authority, or who shall withdraw from the duties of his office without permission, or without having given previous notice in writing of his intention for the period of two months, *or who shall wilfully overstay any leave granted to him*, or who shall engage without authority in any employment other than his *prison* duty, or who shall be guilty of cowardice, shall be liable, on conviction before a Magistrate, to *fine* not exceeding two hundred rupees, or to imprisonment for a period not exceeding three months, or to both.

(2) No person shall under this section be punished twice for the same offence.

CHAPTER XII.

MISCELLANEOUS.

Extramural custody, control and employment of prisoners.

55. *A prisoner, when being taken to or from any prison in which he may be lawfully confined, or whenever he is working outside or is otherwise beyond the limits of any such prison in or under the lawful custody or control of a prison officer belonging to such prison, shall be deemed to be in prison and shall be subject to all the same incidents as if he were actually in prison.*

Confinement in irons.

56. Whenever the Superintendent considers it necessary (with reference either to the state of the prison or the character of the prisoners) for the safe custody of any prisoners that they should be confined in irons, he may, subject to such rules and instructions as may be laid down by the Inspector-General with the sanction of the Local Government, so confine them.

Confinement of prisoners under sentence of transportation in irons.

57. (1) Prisoners under sentence of transportation *may*, subject to any rules made under section *60*, be confined in fetters for the first three months after admission to prison.

(2) Should the Superintendent consider it necessary, either for the safe custody of the prisoner himself or for any other reason, that fetters should be retained on any such prisoner for more than three months, he shall apply to the Inspector-General for sanction to their retention for the period for which he considers their retention necessary, and the Inspector-General may sanction such retention accordingly.

Prisoners not to be ironed by *Jailer* except under necessity.

58. No prisoner shall be put in irons or under mechanical restraint by the *Jailer* of his own authority, except in case of urgent necessity, in which case notice thereof shall be forthwith given to the Superintendent.

Power to make rules.

59. The Governor-General in Council may for any part of British India, and each Local Government with the previous sanction of the Governor-General in Council may for the territories under its administration, make rules consistent with this Act—

(1) defining the acts which shall constitute prison offences;

(2) determining the classification of *prison*-offences into serious and minor offences;

(3) fixing the punishments admissible under this Act which shall be awardable for commission of *prison*-offences or classes *thereof;*

(4) declaring the circumstances in which acts constituting both a prison-offence and an offence under the Indian Penal Code may or may not be dealt with as a prison-offence; XLV of 1860.

(5) for the award of marks and the shortening of sentences;

(6) *regulating* the use of arms against any prisoner or body of prisoners in the case of an outbreak or attempt to escape;

(7) *defining the circumstances, and regulating the conditions, under which prisoners in danger of death may be released;*

(8) *regulating the transfer from one part of British India to another of prisoners whose term of transportation or imprisonment is about to expire; and,*

(9) *generally, for carrying into effect the purposes of this Act.*

Power of Local Government to make rules.

60. The Local Government may, subject to the control of the Governor-General in Council, make rules consistent with this Act—

(a) *for the classification of prisons, and description and construction of wards, cells and other places of detention;*

(b) *for the regulation by numbers, length or character of sentences, or otherwise, of the prisoners to be confined in each class of prisons;*

(c) for the government of prisons and for the *appointment, guidance, control, punishment and dismissal* of all officers appointed under this Act;

(d) as to the food, bedding and clothing of criminal prisoners, and of civil prisoners maintained otherwise than at their own cost;

(e) for the employment, *instruction* and control of convicts within or without prisons;

(f) for defining articles the introduction *or removal* of which into *or out of* prisons without due authority is prohibited;

(g) for *classifying and prescribing the forms of labour and regulating the periods of rest from labour;*

(h) for regulating the *disposal of* the proceeds of the employment of prisoners;

(i) for regulating the confinement in fetters of prisoners sentenced to transportation;

(j) for the classification and the separation of prisoners;

(k) *for regulating the confinement of convicted criminal prisoners under section 28;*

(l) for the preparation and maintenance of history-tickets;

(m) for the selection and appointment of prisoners as officers of prisons;

(*n*) for rewards for good conduct;

(*o*) for regulating the transfer of prisoners *whose term of transportation or imprisonment is about to expire*;

(*p*) for the treatment, transfer and disposal of criminal lunatics or recovered criminal lunatics confined in prisons;

(*q*) for regulating the transmission of appeals and petitions from prisoners *and their communications with their friends*;

(*r*) for the appointment and guidance of visitors of prisons;

(*s*) *for extending any or all of the provisions of this Act and of the rules thereunder to subsidiary jails or special places of confinement appointed under section 541 of the Code of Criminal Procedure, 1882, and to the officers employed, and the prisoners confined, therein; and*

X of 1882.

(*t*) generally, in regard to the admission, custody, employment, dieting, treatment and release of prisoners, and for other purposes consistent with this Act.

Exhibition of copies of rules.

61. Copies of rules, *under sections 59 and 60*, so far as they affect the government of prisons, shall be exhibited, *both in English and in the Vernacular*, in some place to which all persons employed within a prison have access.

Exercise of powers of Superintendent *and Medical Officer.*

62. All or any of the powers and duties conferred and imposed by this Act on a Superintendent *or Medical Officer* may *in his absence* be exercised and performed by such other officer as the Local Government may appoint in this behalf *either* by name or by his official designation.

THE SCHEDULE.

ENACTMENTS REPEALED.

(*See section 2.*)

Year.	No.	Title or short title.	Extent of repeal.
1	2	3	4
Acts of the Governor-General in Council.			
1856..	VIII..	An Act for the better control of the jails within the Presidency of Bombay.	So much as has not been repealed.
1870..	XXVI.	Prisons Act, 1870 ..	So much as has not been repealed.
1874..	XV ..	Laws Local Extent Act, 1874.	So much of Part (*b*) of the third schedule as relates to Act VIII of 1856.
1878..	XIV ..	An Act to assimilate certain powers of the Local Governments of the North-Western Provinces and Oudh.	Section 2.
1886..	XX ..	Upper Burma Laws Act, 1886.	So much as relates to Act XXVI of 1870.
1891..	XII ..	Repealing and Amending Act, 1891	So much of the second schedule as relates to Acts VIII of 1856 and XXVI of 1870.

THE SCHEDULE—*cont.*

Year.	No.	Title or short title.	Extent of repeal.
1	2	3	4
Acts of the Governor of Fort St. George in Council.			
1869..	V ..	Madras Jails Act, 1869.	So much as has not been repealed.
1882..	VII ..	Madras Jails Act Amendment Act, 1882.	The whole.
1889..	II ..	An Act to amend the Madras Jails Act, 1869.	The whole.
Acts of the Governor of Bombay in Council.			
1874..	II ..	An Act for the regulation of Jails in the City and Presidency of Bombay, and the enforcement of discipline therein.	So much as has not been repealed, *except sections 9 to 16 (both inclusive) as amended by Bombay Act II of 1882.*
1882..	II ..	An Act to amend Bombay Act II of 1874.	*Section 3.*
1883..	IV ..	An Act to amend the Law concerning the confinement of civil prisoners liable to imprisonment under the Criminal Procedure Code.	The whole.
1887..	I ..	An Act to further amend Bombay Act II of 1874.	The whole.
Acts of the Lieutenant-Governor of Bengal in Council.			
1864..	II ..	An Act for the regulation of Jails and the enforcement of discipline therein.	So much as has not been repealed.
1865..	V ..	An Act to amend Act II of 1864, passed by the Lieutenant-Governor of Bengal in Council, and to extend the provisions thereof to the Presidency Jail.	So much as has not been repealed.
Regulations made under the Statute 33 Victoria, Chapter 3.			
1872..	III ..	Santhal Parganas Settlement Regulation.	So much of the schedule (as amended by Regulation III of 1886), as relates to Bengal Acts II of 1864 and V of 1865.
1874..	IX ..	Arakan Hill District Laws Regulation, 1874.	So much as relates to Act XXVI of 1870.
1875..	II ..	Assam Prisons Regulation, 1875.	The whole.
1890..	I ..	British Baluchistan Laws Regulation, 1890.	So much as relates to Act XXVI of 1870.

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

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

The following Report of the Select Committee on the Bill to amend the law relating to Customs-duties, and for other purposes, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 10th March 1894:—

We, the undersigned, Members of the Select Committee to which the Bill to amend the law relating to Customs-duties, and for other purposes, 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 Honorary Secretaries, Bombay Presidency Association, dated 3rd March 1894, and enclosure [Papers No. 1].
From Messrs. Birkmyre Brothers, dated 6th March 1894 [Paper No. 2].
Telegrams from Chamber of Commerce, Madras, dated 6th March 1894; from Bombay Trades' Association, dated 6th March 1894; from Millowners' Association, Bombay, dated 6th March 1894; from Madras Trades' Association, dated 6th March 1894; from Chamber of Commerce, Bombay, dated 6th March 1894; from Chamber of Commerce, Karachi, dated 6th March 1894; from Chamber of Commerce, Rangoon, dated 6th March 1894; from Poona Sarvajanik Sabha, dated 7th March 1894 [Papers No. 3].
From Messrs. W. H. Harton and Co., dated 7th March 1894 [Paper No. 4].
From Secretary, Calcutta Trades' Association, dated 7th March 1894, and enclosure [Papers No. 5].
From the Manager, New Egerton Woollen Mills Company (Limited), dated 6th March 1894 [Paper No. 6].
Telegram from Messrs. Best and Co., Madras, dated 7th March 1894 [Paper No. 7].

2. In the eleven sections of the Bill we have proposed no substantive alteration except in section 5, sub-section (*1*), clause (*a*), which we have made applicable to Foreign European Settlements in India generally.

3. *Schedules.*—We have proposed several alterations in the schedules. Those in Schedule I call for no remark.

4. *Schedule II—Arms, Ammunition and Military Stores.*—We have varied Exception II with reference to exemptions now in force in pursuance of remissive orders of the Governor-General in Council.

5. *Schedule III, Article 1, Wine.*—Following English laws, we have reduced from forty-five to forty-two per cent. the percentage of proof spirit in wines which is to regulate the rate of duty to be levied on them.

6. *Schedule III, Article 4, Salted Fish.*—We have removed the word "ngapi" as superfluous.

7. *Schedule IV, Article 5, Sugar.*—We have re-classified "sugar," leaving duty to be levied *ad valorem* on all kinds which are not China candy, loaf or crystallised beet. We have added crystallised beet with a tariff valuation of Rs. 14 per cwt.

8. *Schedule IV, Article 10, Agricultural Implements.*—We have removed this article from separate enumeration in the schedule.

9. *Schedule IV, Article 12 (now 11), Metals.*—We have proposed to reduce from five to one per cent. the duty on iron and steel of all kinds.

We have also proposed to make the duty on "lametta, single reels," payable *ad valorem*: and have added words expressly excluding gold bullion and coin from the list of dutiable metals.

10. *Schedule IV, Article 13 (now 12), Oils.*—We have added benzoline to the articles enumerated in the definition of petroleum, and have proposed to make the duty on batching and lubricating petroleum five per cent. *ad valorem* instead of half an anna a gallon.

11. *Schedule IV, Articles 30 (now 29) and (new) 38, Flax and Lac.*—We have proposed that there shall be an uniform duty of five per cent. *ad valorem* on all flax and articles made of flax (including linen-thread). We have also separately enumerated lac of all sorts.

12. *Schedule IV, Article 38 (now 37), Jute.*—We have proposed to remove the exception in favour of gunny-bags.

13. *Schedule IV, Article 45, Paper.*—We propose that a duty of five per centum *ad valorem* be levied on paper of all kinds.

14. *Schedule IV, Article 61, Wood and Timber.*—We have proposed to except railway sleepers and firewood and leave them free.

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

In English.

Gazette.	Date.
Gazette of India	3rd March 1894.
Fort St. George Gazette	6th March 1894.
Bombay Government Gazette	6th March 1894.
Calcutta Gazette	7th March 1894.
Burma Gazette	8th March 1894.

Publication in the remaining local Gazettes has been ordered, but dates of publication have not yet been reported, and they will be later than the date of this Report.

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

J. WESTLAND.
ALEX. EDW. MILLER.
C. B. PRITCHARD.
H. F. CLOGSTOUN.
FAZULBHOY VISRAM.
P. PLAYFAIR.

The 9th March 1894.

We accept this Report as far as it goes, but we desire to dissent in so far as it does not include our recommendation for the imposition of customs-duties on cotton fabrics, yarns and thread.

FAZULBHOY VISRAM.
P. PLAYFAIR.

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

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

FORT ST. GEORGE GAZETTE SUPPLEMENT. TUESDAY EVENING, APRIL 10, 1894.

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

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 22nd March 1894:—

No. 6 OF 1894.

A Bill to amend sections 366 and 371 of the Code of Criminal Procedure, 1882.

WHEREAS it is expedient to amend sections 366 and 371 of the Code of Criminal Procedure, 1882; It is hereby enacted as follows:—

Substitution of new section for section 366, Act X, 1882.

1. For section 366 of the said Code the following shall be substituted, namely:—

Mode of delivering judgment.

"366. The judgment in every trial in any Criminal Court of original jurisdiction shall be pronounced, or the substance of such judgment shall be explained,—

(*a*) in open Court either immediately after the termination of the trial or at some subsequent time of which notice shall be given to the parties or their pleaders, and

(*b*) in the language of the Court, or in some other language which the accused or his pleader understands.

"The accused shall, if he is in custody and the judgment is not one of discharge or acquittal, be brought up, or may, if he is not in custody and the judgment is not one of discharge or acquittal, be required by the Court to attend, to hear the judgment delivered.

"For any cause which may appear to the Court to be sufficient and shall be recorded by it in writing, the Court may delegate its functions under this section with respect to the delivery of any judgment to any other Court within the limits of the jurisdiction of which the accused may be, and such other Court shall cause notice to be given to the parties or their pleaders of the day and place on and at which the judgment will be delivered as in this section authorised and required, and, when the judgment has been delivered, shall certify thereon the date and mode of delivery.

"No judgment delivered by any Criminal Court shall be deemed to be invalid by reason only of the absence of any party or his pleader on the day or from the place notified for the delivery thereof, or of any omission to serve, or defect in serving, on the parties or their pleaders, or any of them, the notice of such day and place.

"And nothing in this section shall be construed to limit in any way the extent of the provisions of section 537." [I.L.R. 21 Cal. 121.]

Amendment of section 371, Act X, 1882.

2. In section 371 of the said Code, for the words "The judgment shall be explained to the accused and on his application" the words "On the application of the accused shall be substituted.

STATEMENT OF OBJECTS AND REASONS.

This Bill is the outcome of a reference made to the Government of India from the North-Western Provinces in 1892, and circulated by that Government in the same year for the opinions of Local Governments, High Courts and other authorities, respecting certain difficulties which in practice arise in the application of some of the provisions of Chapter XXVI of the Code of Criminal Procedure, 1882.

In connection with the subject of the Bill the Government has recently had the opportunity of perusing the case published at I.L.R. 21 Cal. 121.

ALEX. EDW. MILLER.

The 17th March 1894.

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

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 22nd March 1894 :—

No. 5 OF 1894.

A Bill to amend the Indian Penal Code and Act VI of 1864.

XLV of 1860.

WHEREAS it is expedient to amend the Indian Penal Code and Act VI of 1864; It is hereby enacted as follows :—

Indian Penal Code.

I. L. R., 19 | 0 Bal., 380, and ases there ited.]

Substitution of new section for section 182, Act XLV, 1860.

1. For section 182 of the Indian Penal Code the following shall be substituted, namely :—

XLV of 1860.

False information, with intent to cause public servant to use his lawful power to the injury of another person.

"182. Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant—

(*a*) to do or omit anything which he ought not to do or omit if the true state of facts respecting which such information is given were known to him, or

(*b*) to use any lawful power or authority of such public servant for the benefit of such informant in a manner in which he would not have used it but for the receipt of such false information, or

(*c*) to use the lawful power of such public servant to the injury or annoyance of any person,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

"*Explanation.*—It shall not be necessary for the purpose of clause (*c*) to show an intention on the part of the informant to injure or annoy any particular person if a reasonable and natural consequence of the receipt of such information as aforesaid would be that the public servant would so act as to cause injury or annoyance to some person or persons.

"*Illustrations.*

"(*a*) *A* informs a Magistrate that *Z*, a police-officer subordinate to such Magistrate, has been guilty of neglect of duty or misconduct, knowing such information to be false, and knowing it to be likely that the information will cause the Magistrate to dismiss *Z*. *A* has committed the offence defined in this section.

"(*b*) *A* falsely informs a public servant that *Z* has contraband salt in a secret place knowing such information to be false, and knowing that it is likely that the consequence of the information will be a search of *Z*'s premises, attended with annoyance to *Z*. *A* has committed the offence defined in this section.

"(*c*) *A* falsely informs a policeman that he has been assaulted and robbed in the neighbourhood of a particular village, but does not mention the name of any person as one of his assailants. As a natural consequence of this information, the Police make enquiries and institute searches in the village to the annoyance of the villagers or some of them. *A* has committed an offence under this section.

"(*d*) *A* applies to be admitted as a pleader in a Court, and in support of his application falsely alleges in writing or otherwise that he has been admitted as an advocate in some other Court, his intention being thereby to obtain authority to practise the profession of a pleader for gain or reward. *A* has committed an offence under this section."

Addition of section to Chapter XII, Act XLV, 1860.

2. To Chapter XII of the said Code the following shall be added, namely :—

Prohibition of fictitious stamps.

"263A. (1) Whoever— [47 & 48 Vict., c. 76, s. 7.]

(*a*) makes, knowingly utters, deals in or sells any fictitious stamp, or knowingly uses for any postal purpose any fictitious stamp, or

(*b*) has in his possession, without lawful excuse, any fictitious stamp, or

(*c*) makes or, without lawful excuse, has in his possession any die, plate, instrument or materials for making any fictitious stamp,

shall be punished with fine which may extend to two hundred rupees.

"(2) Any such stamp, die, plate, instrument or materials in the possession of any person for making any fictitious stamp may be seized and shall be forfeited.

"(3) In this section—

(*a*) 'fictitious stamp' means any stamp falsely purporting to be issued by Government for the purpose of denoting a rate of

postage, or any facsimile or imitation or representation, whether on paper or otherwise, of any stamp issued by Government for that purpose: and

(*b*) 'Government' shall, notwithstanding anything in section 17, be deemed to denote the person or persons authorised by law to administer executive government, not only in any part of British India, but also in any part of Her Majesty's dominions or in any foreign country."

[The amendment has reference to an unreported case which occurred in the Madras Presidency.]

Substitution of new section for section 294, Act XLV, 1860.

3. For section 294 of the said Code the following shall be substituted, namely:—

Obscene acts and songs.

"294. Whoever in or near any public place, to the annoyance of others, does any obscene act, or sings, recites or utters any obscene song, ballad or words, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both."

[38 & 39 Vict., c. 24.]

Addition of new section after section 477, Act XLV, 1860.

4. After section 477 of the said Code the following shall be added, namely:—

Falsification of accounts.

"477A. Whoever, being a clerk, officer or servant, or employed or acting in the capacity of a clerk, officer or servant, wilfully, and with intent to defraud, destroys, alters, mutilates or falsifies any book, paper, writing, valuable security or account which belongs to or is in the possession of his employer, or has been received by him for or on behalf of his employer, or wilfully, and with intent to defraud, makes or concurs in making any false entry in, or omits or alters or concurs in omitting or altering any material particular from or in, any such book, paper, writing, valuable security or account, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

"*Explanation.*—It shall be sufficient in any charge under this section to allege a general intent to defraud without naming any particular person intended to be defrauded or specifying any particular sum of money intended to be the subject of the fraud."

Act VI of 1864.

5. After section 6 of Act VI of 1864 (*an Act to authorise the punishment of whipping in certain cases*), the following shall be added, namely:—

Addition to Act VI, 1864.

"7. (1) In sections 3 and 4 of this Act the words 'same offence' include a minor offence made up of some or any of the particulars of which the offence for which the subsequent conviction is obtained consists

Definitions.

[Cf. Act X, 1882, s. 235.]

"(2) In section 5 of this Act, the expression 'juvenile offender' means an offender who in the opinion of the Court is under sixteen years of age, the opinion of the Court on such matter being final and conclusive."

[8 Bom. Cr. Ca., 9.]

STATEMENT OF OBJECTS AND REASONS.

The object of section 2 of this Bill is to give effect to the provisions of the Vienna Postal Convention which came into force on the 1st July 1892. The other sections of the Bill are explained by the marginal notes against them. Section 4 has been inserted on the recommendation of Local Governments and Chambers of Commerce, the existing law having been held to be defective.

ALEX. EDW. MILLER.

The 21st March 1894.

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

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

The following Report of the Select Committee on the Bill to amend the Code of Criminal Procedure, 1882, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 22nd March 1894:—

We, the undersigned, Members of the Select Committee to which the Bill to amend the Code of Criminal Procedure, 1882, 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, and with sections 44, 45 and 45 A of the Code as they will stand if our recommendations with respect to this Bill are accepted, annexed.

From Chief Commissioner, Coorg, No. 452—14-91, dated 3rd March 1894 [Paper No. 1].
Telegram from Agent to Governor-General in Baluchistan, No. 23, dated 9th March 1894 [Paper No. 2].
From Government, Punjab, No. 306, dated 7th March 1894 [Paper No. 3].
From Chief Commissioner, Burma, No. 145-L.—9, dated 6th March 1894 [Paper No. 4].
Telegram from Chief Commissioner, Ajmere-Merwara, No. 462-C., dated 12th March 1894 [Paper No. 5].
From Resident, Hyderabad, No. 77, dated 9th March 1894 [Paper No. 6].
From High Court, Calcutta, No. 771, dated 12th March 1894, and enclosures [Papers No. 7].
From Chief Commissioner, Assam, No. 23-L. L.—1549 J., dated 9th March 1894, and enclosures [Papers No. 8].
From Government, Bombay, No. 1817, dated 10th March 1894, and enclosures [Papers No. 9].
From Government, Madras, No. 595, dated 9th March 1894 [Paper No. 10].
From Chief Commissioner, Central Provinces, No. 1533, dated 10th March 1894 [Paper No. 11].
From Government, Bengal, No. 1572 J., dated 13th March 1894, and enclosures [Papers No. 12].
From Government, Bengal, No. 1620 J., dated 16th March 1894, and enclosure [Papers No. 13].
Telegram from Government, North-Western Provinces and Oudh, dated 13th March 1894 [Paper No. 14].

2. We have, with reference to certain remarks in letters from the Government of Bengal, provided in proposed section 45 A for rules being made by the Local Government for the guidance of District Magistrates in the appointment of village-headmen for the purposes of section 45 where such headmen are not appointed under any existing law.

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

In English.

Gazette.	Date.
Gazette of India	17th February 1894.
Fort St. George Gazette	6th March 1894.
Bombay Government Gazette	22nd February 1894.
Calcutta Gazette	21st February 1894.
North-Western Provinces and Oudh Government Gazette	24th February 1894.
Punjab Government Gazette	1st March 1894.
Central Provinces Gazette	24th February 1894.
Burma Gazette	3rd March 1894.
Assam Gazette	3rd March 1894.
Coorg District Gazette	1st March 1894.
Sindh Official Gazette	8th March 1894.

In the Vernaculars.

Province.	Language.	Date.
Madras	Tamil	6th March 1894.
	Telugu	6th March 1894.
Bombay	Marathi	8th March 1894
	Gujarathi	8th March 1894.
	Kanarese	8th March 1894.
Bengal	Bengali	27th March 1894.
	Uriya	1st March 1894.
	Hindi	6th March 1894.
Burma	Burmese	10th March 1894.
Assam	Bengali	10th March 1894.

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

A. P. MACDONNELL.
ALEX. EDW. MILLER.
RASHBEHARY GHOSE.
G. H. P. EVANS.
C. C. STEVENS.

The 19th March 1894.

No. II.

A Bill to amend the Code of Criminal Procedure, 1882.

X of 1882. WHEREAS it is expedient to amend the Code of Criminal Procedure, 1882; It is hereby enacted as follows:—

Amendment of section 44, Act X, 1882.

1. In section 44 of the said Code the figures "143, 144, 145, 147, 148," shall be inserted between the figures "130" and the figures "302."

Amendment of section 45, Act X, 1882, *and addition of a section thereafter.*

2. (*1*) For the part of section 45 of the said Code beginning with the words "Every village-headman" and ending with the words "under suspicious circumstances" the following shall be substituted, namely:—

Village-headmen, accountants, landholders and others bound to report certain matters.

"45. Every village-headman, village-accountant, village-watchman, village-police-officer, owner or occupier of land, and the agent of any such owner or occupier, and every officer employed in the collection of revenue or rent of land on the part of Government or the Court of Wards, shall forthwith communicate to the nearest Magistrate or to the officer in charge of the nearest police-station, whichever is the nearer, any information which he may obtain respecting—

(*a*) the permanent or temporary residence of any notorious receiver or vendor of stolen property in any village of which he is headman, accountant, watchman or police-officer, or in which the owns or occupies land, or is agent, or collects revenue or rent;

(*b*) the resort to any place within, or the passage through, such village, of any person whom he knows, or reasonably suspects, to be a thug, robber, escaped convict or proclaimed offender;

(*c*) the commission of, or intention to commit, in or near such village any non-bailable offence or any offence punishable under section 143, 144, 145, 147 or 148 of the Indian Penal Code; XLV of 1860.

(*d*) the occurrence in or near such village of any sudden or unnatural death or of any death under suspicious circumstances;"

(*2*) In the same section, after clause (*c*), added by section 2 of Act III of 1894, the following shall be inserted, namely:—

"(*f*) any matter likely to affect the maintenance of order or the prevention of crime or the safety of person or property respecting which the District Magistrate, by general or special order made with the previous sanction of the Local Government, has directed him to communicate information."

(*3*) *After* the same section the following *section* shall be added, namely:—

Appointment of village-headmen by District Magistrate in certain cases for purposes of section 45.

"45A. *Subject to rules in this behalf to be made by the Local Government, the* District Magistrate may *from time to time* appoint one or more *persons to be* village-headmen for the purposes of *the last foregoing* section in any village for which there is no such headmen appointed under any other law."

SECTIONS 44, 45 AND 45A OF THE CODE OF CRIMINAL PROCEDURE, 1882, AS AMENDED BY ACT III OF 1894 AND PROPOSED TO BE FURTHER AMENDED BY THIS BILL.

Public to give information of certain offences.

44. Every person, whether within or without the presidency-towns, aware of the commission of, or of the intention of any other person to commit, any offence punishable under the following sections of the Indian Penal Code (namely), 121, 121A, 122, 123, 124, 124A, 125, 126, 130, 143, 144, 145, 147, 148, 302, 303, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459 and 460, shall, in the absence of reasonable excuse, the burden of proving which shall lie upon the person so aware, forthwith give information to the nearest Magistrate or police-officer of such commission or intention. XLV of 1860.

Any act committed at any place out of British India, which, if committed in British India, would be punishable under any of the following sections of the Indian Penal Code, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460, shall be deemed to be an offence for the purposes of this section.

Village-headmen, accountants, landholders and others bound to report certain matters.

45. Every village-headman, village-accountant, village-watchman, village-police-officer, owner or occupier of land, and the agent of any such owner or occupier, and every officer employed in the collection of revenue or rent of land on the part of Government or the Court of Wards, shall forthwith communicate to the nearest Magistrate or to the officer in charge of the nearest police-station, whichever is the nearer, any information which he may obtain respecting—

(*a*) the permanent or temporary residence of any notorious receiver or vendor of stolen property in any village of which he is headman, accountant watchman or police-officer, or in which he owns or occupies land, or is agent, or collects revenue or rent;

(*b*) the resort to any place within, or the passage through, such village, of any person whom he knows, or reasonably suspects, to be a thug, robber, escaped convict or proclaimed offender;

(*c*) the commission of, or intention to commit, in or near such village any non-bailable offence or any offence punishable under section 143, 144, 145, 147 or 148 of the Indian Penal Code; XLV of 1860.

(*d*) the occurrence in or near such village of any sudden or unnatural death or of any death under suspicious circumstances;

(*e*) the commission of, or intention to commit, at any place out of British India near such village any act which, if committed in British India, would be an offence punishable under any of the following sections of the Indian Penal Code, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460; XLV of 1860.

(*f*) any matter likely to affect the maintenance of order or the prevention of crime or the safety of person or property respecting which the District Magistrate, by general or special order made with the previous sanction of the Local Government, has directed him to communicate information.

In this section—

(*i*) "village" includes village-lands; and

(*ii*) the expression "proclaimed offender" includes any person proclaimed as an offender by any Court or authority established or continued by the Governor-General in Council in any part of India in respect of any act which, if committed in British India, would be punishable under any of the following sections of the Indian Penal Code, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460.

Appointment of village-headmen by District Magistrate in certain cases for purposes of section 45.

45A. Subject to rules in this behalf to be made by the Local Government, the District Magistrate may from time to time appoint one or more persons to be village-headmen for the purposes of the last foregoing section in any village for which there is no such headman appointed under any other law.

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

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

The following Report of the Select Committee on the Bill to amend the Presidency Small Cause Courts Act, 1882, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 29th March 1894 :—

We, the undersigned, Members of the Select Committee to which the Bill to amend the Presidency Small Cause Courts Act, 1882, 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 High Court, Calcutta, No. 450, dated 22nd February 1893, and enclosures [Papers No. 1].
From Government, Bombay, No. 1478, dated 8th March 1893, and enclosures [Papers No. 2].
From N. N. Mitra, Esq., Barrister-at-Law, Calcutta, dated 21st March 1893 [Paper No. 3].
From Government, Madras, No. 534, dated 11th March 1893, and enclosures [Papers No. 4].
From High Court, Calcutta, No. 733, dated 29th March 1893, and enclosure [Papers No. 5].
From European and Anglo-Indian Defence Association, No. 383, dated 3rd March 1893, [Paper No. 6].
From Government, Bombay, No. 2484, dated 24th April 1893, and enclosure [Papers No. 7].
From Government, Bombay, No. 2660, dated 2nd May 1893, and enclosure [Papers No. 8].
From Government, Bengal, No. 52 J.—D., dated 6th September 1893, and enclosures [Papers No. 9].
From Government, Bengal, No. 265 J.—D., dated 26th September 1893, and enclosure [Papers No. 10].
Endorsement by Home Department, No. 32, dated 9th January 1894, and accompaniments [Papers No 11].
From Government, Bengal, No. 462 J., dated 24th January 1894, and enclosures [Papers No. 12].
From Pleaders' Association, Western India, Bombay, No. 1, dated 25th January 1894 [Paper No. 13].
From Mr. Rastamji Merwanji Patell, Second Judge, Court of Small Causes, Bombay, dated 17th March 1894 [Paper No. 14].
From Bar Library, Calcutta, dated 21st March 1894 [Paper No. 15].

2. *Section 2 of Bill as revised.*—We have proposed to subject legal practitioners in Presidency Small Cause Courts to the same disciplinary authority as practitioners in other subordinate Courts.

3. *Section 3 of Bill as revised.*—We have proposed to amend this section so as to dispense, in the case of advocates, vakils and attorneys of a Chartered High Court, with any specified period of standing at the bar as a qualification for appointment to Small Cause Court judgeships.

4. *Section 4 of Bill as revised.*—We have deemed it expedient to maintain this section in the form in which it was originally proposed, that is to say, to leave the procedure and practice of Presidency Small Cause Courts to be regulated by the High Court.

5. *Section 5 of Bill as revised.*—We have proposed to make it possible for Registrars to deal, under Chapter VII of the Act, with applications for the recovery of possession of immoveable property of small value.

6. *Section 7 of Bill as revised.*—We have so modified proposed section 19A as to bring it into closer accord with the actual practice of the Presidency Small Cause Courts.

7. *Sections 8, 9 and 11 of Bill as revised.*—These are the most important sections in the Bill. It is proposed by them to leave it to a plaintiff to institute a suit of value exceeding one thousand rupees in the Small Cause Court or in the High Court at his election, and to a defendant to move the High Court to bring such a suit on to its own file.

8. We have removed the last two sections of the Bill as it was last before the Council.

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

In English.

Gazette.	Date.
Gazette of India	14th January 1893.
Fort St. George Gazette	24th January 1893.
Bombay Government Gazette	26th January 1893.
Calcutta Gazette	25th January 1893.

In the Vernaculars.

Province.	Language	Date.
Madras	Tamil	14th February 1893.
	Telugu	14th February 1893.
Bombay	Marathi	2nd March 1893.
	Gujarathi	2nd March 1893.
Bengal	Bengali	28th February 1893.
	Uriya	2nd March 1893.
	Hindi	7th March 1893.

ALEX. EDW. MILLER.
A. P. MACDONNELL.
G. H. P. EVANS.
RASHBEHARY GHOUSE
P. PLAYFAIR.

The 28th March 1894.

No. II.

A Bill to amend the Presidency Small Cause Courts Act, 1882.

WHEREAS it is expedient to amend the Presidency XV of 1882. Small Cause Courts Act, 1882; It is hereby enacted as follows:—

Title and commencement.

1. (*1*) This Act may be called the Presidency Small Cause Courts Act, 1894; and

(*2*) It shall come into force on the first day of

Amendment of section 6, Act XV, 1882.

2. In section 6 of the Presidency Small Cause XV of 1882. Courts Act, 1882, hereinafter referred to as "the said Act," after the words "Code of Civil Procedure" the following shall be added, namely:—

"and to be a Court subordinate to the High XVIII of 1879. Court within the meaning of section 6 of the Legal Practitioners Act, 1879."

Amendment of section 7, Act XV, 1882.

3. (*1*) For the proviso to the first paragraph of section 7 of the said Act the following shall be substituted, namely:—

"Provided that no person shall be appointed to be a Judge of such Court, or be authorised to exercise the powers of a Judge of such Court, unless he is—

(*a*) an advocate of a High Court of Judicature established under the Indian High Courts Act, 1861, or 24 & 25 Vict., c. 104.

(*b*) a vakil or attorney of any such High Court, or

(*c*) a Judge of a Court of Civil Judicature of not less than five years' standing:

and that not less than one-third of the persons so appointed, including the Chief Judge, shall be advocates of one of the said High Courts."

(*2*) The last paragraph of section 7 of the said Act is hereby repealed.

Substitution of new section for section 9, Act XV, 1882, and temporary continuance of existing procedure and practice.

4. For section 9 of the said Act the following shall be substituted, namely:—

Procedure and practice of Small Cause Court.

"9. (*1*) The High Court may from time to time, by rules having the force of law,—

(*a*) prescribe the procedure to be followed and the practice to be observed by the Small Cause Court either in supersession of or in addition to any provisions which were prescribed with respect to the procedure or practice of the Small Cause Court on or before the thirty-first day of December, 1893, in or under the Presidency Small Cause XV of 1882. Courts Act, 1882, or any other enactment for the time being in force, and

(*b*) cancel or vary any such rule or rules.

"Rules made under this section may provide, among other matters, for the exercise by one or more of the Judges of the Small Cause Court of any powers conferred on the Small Cause Court by this Act or any other enactment for the time being in force.

"(*2*) The law, and any rules and declarations made, or purporting to be made, thereunder, with respect to procedure or practice, in force or treated as in force in the Small Cause Court on the thirty-first day of December, 1893, shall be in force, unless and until cancelled or varied by rules made by the High Court under this section."

Addition to section 14, Act XV, 1882.

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

"*Explanation.*—For the purposes of this section an application for possession under section 41 shall be deemed to be a suit."

Addition to section 18, Act XV, 1882.

6. After section 18 of the said Act the following shall be added, namely:—

Plaintiff may abandon suit against defendant resident out of jurisdiction.

"18A. The Small Cause Court may allow a plaintiff at or before the first hearing of a suit in which a joint and several liability is alleged on a cause of action arising either wholly or in part within the local limits of the jurisdiction of the Court to abandon the suit as against any defendant who does not reside or carry on business or personally work for gain within such local limits, and to sue for a decree against such defendants only as do so reside, carry on business or personally work for gain."

Addition to section 19, Act XV, 1882.

7. To section 19 of the said Act the following shall be added, namely:—

Return of plaint.

"19A. Whenever the Court finds that for want of jurisdiction it cannot finally determine the question at issue in the suit, it may at any stage of the proceedings return the plaint to be presented to a Court having jurisdiction to determine the question. When the Court so returns a plaint, it shall comply with the provisions of the second paragraph of section 57 of the Code of Civil Procedure XIV of 1882. and make such order with respect to costs as it may think just, and the Court shall, for the purposes of the Indian Limitation Act, 1877, be deemed XV of 1877. to have been unable to entertain the suit by reason of defect of jurisdiction. When a plaint so returned is afterwards presented to a High Court, credit

shall be given to the plaintiff for the amount of the court-fee paid in the Small Cause Court in respect of the plaint in the levy of any fees which according to the practice of the High Court are credited to the Government."

Amendment of section 21, Act XV, 1882.

8. In section 21 of the said Act, after the words "or value thereof" the words "and all suits whereof the amount or value of the subject-matter exceeds one thousand rupees" shall be inserted.

Amendment of section 22, Act XV, 1882.

9. In section 22 of the said Act, for the words "two thousand" the words "one thousand" shall be substituted.

Repeal of Act XV, 1882, section 23 and second schedule.

10. Section 23 of and the second schedule to the said Act are hereby repealed.

Substitution of new Chapter for Chapter VI, Act XV, 1882.

11. For Chapter VI of the said Act the following shall be substituted, namely:—

CHAPTER VI.

NEW TRIALS AND APPEALS.

General finality of decrees and orders of Small Cause Court.

"37. Save as otherwise provided by this Chapter or by any other enactment for the time being in force, every decree and order of the Small Cause Court in a suit shall be final and conclusive.

New trial of contested cases.

"38. Where a suit has been contested, the Small Cause Court may, on the application of either party, made within eight days from the date of the decree or order in the suit (not XV of 1882. being a decree passed under section 522 of the Code of Civil Procedure), order a new trial to be held, or alter, set aside or reverse the decree or order, upon such terms as it thinks reasonable, and may, in the meantime, stay the proceedings.

"*Explanation.*—Every suit shall be deemed to be contested in which the decree is made otherwise than by consent of or in default of appearance by the defendant.

Removal of certain causes into High Court.

"39. (*1*) In any suit instituted in a Small Cause Court in which the amount or value of the subject-matter exceeds the sum of one thousand rupees the defendant or any one of the defendants may, before the day fixed by the summons for the appearance of the defendant or within eight days after the service of the summons on him, whichever period shall last expire, apply *ex parte* on an affidavit setting forth the facts on which he relies for his defence to a Judge of the High Court for an order removing the cause into the High Court.

"(*2*) Unless the Judge is of opinion that the application has been made solely for the purpose of delay, the applicant shall be entitled to such order as of right, but it shall be lawful for the Judge, if he shall think fit, in and by such order to require the applicant to give security to a reasonable amount to be specified in the order for the payment of any costs which may become payable by him to the plaintiff in respect of the said suit, and such Judge may also, if he shall think fit, declare that the removal directed by such order shall be conditional upon the completion of such security within a reasonable time to be prescribed in the order.

"(*3*) If the applicant fail or neglect to complete the required security (if any) within the prescribed time (if any), the said order shall be discharged and the suit shall proceed in the Small Cause Court as if such order had never been made.

Rules with respect to suits removed under the last foregoing section.

"40. (*1*) When a suit has been removed into the High Court under the last foregoing section, it shall be heard and disposed of by such Court in the exercise of its original jurisdiction, and the said Court shall have all the same powers and jurisdiction in respect thereof as if it had been originally instituted in such Court.

"(*2*) In every suit so removed as aforesaid the affidavit filed under section 39, sub-section (*1*), shall be treated as a written statement of the defendant tendered under section 110 of the Code XIV of 1882. of Civil Procedure unless the Court shall otherwise order.

"(*3*) In every suit so removed as aforesaid credit shall be given to the plaintiff for the amount of the court-fee paid in the Small Cause Court in respect of the plaint in the levy of any fees which according to the practice of the High Court are payable to the Government."

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

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 12th July 1894:—

No. 9 OF 1894.

A Bill to amend the Cantonments Act, 1889.

WHEREAS it is expedient to amend the Cantonments Act, 1889 (XIII of 1889); It is hereby enacted as follows:

Title, extent and commencement.

1. (1) This Act may be called the Cantonments Act Amendment Act, 1894.

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

(3) It shall come into force at once.

Addition to section 26 of Act XIII of 1889.

2. To section 26 of the Cantonments Act, 1889 (XIII of 1889), the following shall be added, namely:

"Provided that no such rule shall contain any regulation enjoining or permitting any compulsory or periodical examination of any woman by medical officers or others for the purpose of ascertaining whether she is or is not suffering from any venereal disease, or is or is not fit for prostitution, or any regulation for the licensing or registration of prostitutes, or sanctioning the practice of prostitution, in any cantonment."

Insertion of new section after section 26 of Act XIII of 1889.

3. After the last-mentioned section the following section shall be inserted:

Penalty for subjecting a woman to compulsory examination.

"26A. Any public servant who shall subject any woman to compulsory examination for any of the purposes mentioned in the proviso to section 26 shall be liable, on conviction thereof in a summary way before the Cantonment Magistrate, to fine which may extend to one hundred rupees, or to such imprisonment in default of payment thereof as is provided by the Indian Penal Code, section 67." (XLV of 1860.)

STATEMENT OF OBJECTS AND REASONS.

On the 26th July 1888, the Government of India, in compliance with a despatch from the Secretary of State, dated the 14th June 1888, issued certain orders with a view of putting an end to the registration and compulsory examination of prostitutes in cantonments. It has been discovered that these orders have not in all cases proved effectual for the purpose, and the Secretary of State in Council has directed that the Bill to which this Statement is annexed should be introduced in the Legislative Council for the purpose of prohibiting under penalties such examination for the future. The Bill is submitted accordingly in compliance with the directions of Her Majesty's Government.

ALEX. EDW. MILLER.

The 10th July 1894.

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

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 12th July 1894 :—

No. 8 OF 1894.

A Bill to amend certain sections of the Code of Civil Procedure and to repeal certain sections of the Punjab Laws Act, 1872.

XIV of 1882. IV of 1872.

WHEREAS it is expedient to amend certain sections of the Code of Civil Procedure and to repeal certain sections of the Punjab Laws Act; It is hereby enacted as follows :

Amendment of section 39, Act XIV, 1882.

1. In the third paragraph of section 39 of the said Code, between the words "of any High Court established by Royal Charter" and the words "shall be required," the words "or of the Chief Court of the Punjab" shall be inserted.

Amendment of section 180, Act XIV, 1882.

2. For the first and second paragraphs of section 180 of the said Code the following shall be substituted, namely :

"The other party shall then state his case and produce his evidence (if any), and may then address the Court generally on the whole case.

"The party beginning may then reply generally on the whole case."

Addition to section 260, Act XIV, 1882.

3. After the first paragraph of section 260 of the said Code the following shall be added, namely :

"Provided that no decree for restitution of conjugal rights shall be enforced by imprisonment of the defendant, unless the Court shall, for sufficient reasons to be stated in writing on the face of the order, think fit so to direct."

Substitution of new section for section 548, Act XIV, 1882.

[See s. 58.]

Registry of memorandum of appeal.

4. For section 548 of the said Code the following shall be substituted, namely :

"548. When a memorandum of appeal is admitted, the appellant shall present as many copies thereof on plain paper as there are respondents.

"The chief ministerial or other proper officer of the Appellate Court shall sign such memorandum of appeal and copies, if on examination he finds them to be correct, and shall endorse thereon the date of presentation, and shall thereupon register the appeal in a book to be kept for the purpose.

"Such book shall be called the Register of Appeals."

Addition to section 558, Act X, 1882.

5. At the end of section 558 of the said Code the following shall be added, namely :

"Every notice under this section served on any respondent or his pleader shall be accompanied by one of the copies of the memorandum of appeal mentioned in section 548." [See s. 65.]

Repeal of sections 17 and 18 of Punjab Laws Act.

6. Sections 17 and 18 of the Punjab Laws Act, 1872, as amended by Act XII of 1878, are hereby repealed. IV of 1872.

STATEMENT OF OBJECTS AND REASONS.

This Bill is mainly designed to meet certain inconveniences which have been brought to the notice of the Government of India from time to time as arising in practice under certain sections of the Code of Civil Procedure.

2. The repeal of sections 17 and 18 of the Punjab Laws Act has been recommended by the Chief Court and the Lieutenant-Governor of the Punjab on the ground that the sections are no longer necessary in view of section 214 of the Code of Civil Procedure and on the further ground that hardship may in particular cases be caused by them.

ALEX. EDW. MILLER.

The 10th July 1894.

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

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS : PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

THE INDIAN ARTICLES OF WAR BILL.

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APPENDIX—FORM FOR RECORD OF PROCEEDINGS OF SUMMARY GENERAL COURT-MARTIAL.

A Bill to amend the Articles of War for the government of Her Majesty's Indian Forces.

WHEREAS it is expedient to amend the Articles of War for the government of Her Majesty's Indian Forces; It is hereby enacted as follows:—

Title and commencement.

I. (*1*) This Act may be called the Indian Articles of War Act, 1894; and

(*2*) It shall come into force on the first day of 1894.

V of 1869.

Repeal of clause (*c*) of Part I of Indian Articles of War.

2. Part I, clause (*c*), of the Indian Articles of War (hereinafter called "the said Articles"), is hereby repealed.

Substitution of new clause for clause (*d*) of Part I.

3. For Part I, clause (*d*), of the said Articles the following shall be substituted, namely:—

"(*d*).—*Application of Articles.*

"These Articles shall apply to all—

(*a*) persons to whom they actually apply at present;

(*b*) persons commissioned or gazetted as Native officers, or gazetted as warrant officers, of Her Majesty's Indian Forces;

(*c*) medical subordinates;

(*d*) persons attested under these Articles;

(*e*) unattested recruits;

(*f*) persons enrolled under these Articles;

(*g*) persons, not otherwise subject to military law, who, on active service, in camp, on the march, or at any frontier post specified by the Governor-General in Council by notification in this behalf, are employed by, or are in the service of, or are followers of, or accompany any portion of, Her Majesty's Indian Forces:

Provided as follows:—

if any person claims to belong to a class to which the Army Act is, and these Articles are not, applicable, the burden of proving that he belongs to that class shall lie upon him."

44 & 45 Vict., c. 58.

Substitution of new clause for clause (*e*) of Part I.

4. For Part I, clause (*e*), of the said Articles the following shall be substituted, namely:—

"(*e*).—*Definitions.*

"In these Articles, unless there is something repugnant in the subject or context,—

(1) 'notification' means a notification published in the official Gazette:

(2) 'prescribed' means prescribed by rules made by the Governor-General in Council or by any authority empowered by him in this behalf:

(3) 'British officer' means an officer holding a commission in Her Majesty's land forces, but does not include an honorary commissioned officer:

(4) 'Native officer' means an officer commissioned or gazetted as an officer holding a Native rank in Her Majesty's Indian Forces:

(5) 'officer' means a British officer or Native officer, but does not include a warrant officer or non-commissioned officer:

(6) 'medical subordinate' means a senior hospital assistant, a hospital assistant of the first, second or third class, and a sub-hospital assistant, but does not include an officer:

(7) 'superior officer,' when used in relation to a person subject to these Articles, includes a warrant officer, a non-commissioned officer and an acting non-commissioned officer:

(8) 'soldier' includes a non-commissioned officer and any armed person doing duty in the ranks of Her Majesty's Indian Forces:

(9) 'recruit' means a person enlisted for enrolment in any corps or department as a soldier:

(10) 'corps' means a unit of command, such as a regiment of cavalry, a regiment or battalion of infantry, a battery of artillery, and any other separate body of troops which is declared by the Governor-General in Council by general or special order to be a corps for the purposes of these Articles; it also includes an army hospital corps and a transport corps:

(11) 'department' includes any division or branch of a department:

(12) 'military reward' means any gratuity or annuity for long service or good conduct; it also includes any good-conduct pay or pension and any other pecuniary reward:

(13) 'enemy' includes all armed mutineers, armed rebels, armed rioters and pirates:

(14) 'active service,' as applied to a person subject to these Articles, means the time during which such person is attached to or forms part of a force which is engaged in operations against an enemy, or is engaged in military operations in a country or place wholly or partly occupied by an enemy, or is in military occupation of any foreign country

(15) the expression 'India' means British India, together with any territories of any Prince or Chief under the suzerainty of Her Majesty exercised through the Governor-General in Council or through any Governor in Council or other officer subordinate to the Governor-General in Council: and the expression 'British India' means all territories and places within Her Majesty's dominions which are for the time being governed by Her Majesty through the Governor-General in Council or through any Governor in Council or other officer subordinate to the Governor-General in Council:

(16) the expression 'general officer of the Command' means the general officer commanding the forces in a Command: and the expression 'Command' means one of the principal portions into which the army of India is, for the time being, divided:

(17) 'commanding officer' used in any provision of these Articles with reference to any separate portion of Her Majesty's forces or to any department, means the officer whose duty it is under the Army Regulations, India, or, in the absence of any such regulation, by the custom of the service, to discharge with respect to that portion of the forces of that department the functions of commanding officer in regard to matters of the description referred to in that provision:

(18) 'military custody' means the arrest or confinement of a person, according to the usages of the service:

(19) 'court-martial' means a court-martial held under these Articles:

(20) 'criminal court' means a court of ordinary criminal justice in British India, or established or continued elsewhere by the authority of the Governor-General in Council:

(21) 'civil offence' means an offence which if committed in British India would be triable by a criminal court: and

(22) expressions occurring in the Indian Penal Code and used in these Articles shall have the meanings respectively assigned to them by that Code."

XLV of 1860.

Substitution of new clause for clause (*f*) of Part I.

5. For Part I, clause (*f*), of the said Articles the following shall be substituted, namely:—

"(*f*).—*Saving of certain Regulations.*

"Nothing in these Articles shall affect any regulations by which the respective officers and

Bill to be introduced into the Council of the Governor of Fort St. George for making Laws and Regulations.

The following Bill, together with the Statement of Objects and Reasons accompanying it, is published for general information under Rule 33 of the Rules for the conduct of business at Meetings of the Council of the Governor of Fort St. George for making Laws and Regulations:—

No. 2 OF 1894.

A Bill to amend Madras Act II of 1890.

WHEREAS it is expedient to provide for the licensing of vessels carrying goods, animals or passengers otherwise than for hire on canals to which the Madras Canals and Public Ferries Act, 1890, applies; it is hereby enacted as follows:—

Preamble.

Substitution of new section for section 5.

1. For section 5 of the Madras Canals and Public Ferries Act, 1890, the following section shall be substituted:—

"5. All vessels using a canal shall be either licensed or registered as the Governor in Council may direct."

STATEMENT OF OBJECTS AND REASONS.

The effect of the use of the words "for hire" in section 5 of the Madras Canals and Public Ferries Act, 1890, is that vessels carrying goods belonging to the owners of the vessels are not required to be licensed. No distinction was made under the previous Act (I of 1870) between boats plying for hire and those not so plying and the distinction in the present Act not only involves a needless sacrifice of revenue but throws upon canal officers the task, which is sometimes almost impracticable, of deciding whether the cargo belongs to the owner of the vessel or to some other person. This effect of the use of the words "for hire" was probably not foreseen and it seems advisable to revert to the position occupied prior to the passing of Act II of 1890. The mere repeal of the words "for hire" would not, however, be a satisfactory solution of the question for it is not desirable that licenses should be required for all boats carrying goods or passengers. The section has therefore been recast so as to leave it to Government to decide what classes of vessels shall be licensed and what merely registered.

OOTACAMUND,
3rd September 1894.

(Signed) J. PENNYQUICK.

(By order.)

A. BUTTERWORTH,
Secretary to the Council.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 6th September 1894:—

No. 12 OF 1894.

A Bill to amend certain enactments relating to the Army.

WHEREAS it is expedient to amend certain enactments relating to the Army in manner hereinafter appearing; It is hereby enacted as follows:

Title and commencement.

1. (*1*) This Act may be called the Repealing and Amending (Army) Act, 1894; and

(*2*) It shall come into force on such date as the Governor-General in Council may, by notification in the *Gazette of India*, fix in that behalf.

Repeal and amendment of enactments.

2. (*1*) The enactment specified in the first schedule is hereby repealed to the extent mentioned in third column thereof.

(*2*) The enactments specified in the second schedule are hereby modified to the extent and in the manner mentioned in the third column thereof.

THE FIRST SCHEDULE.

Enactment repealed.

Number and year.	Title.	Extent of repeal.
1	2	3
Act of the Governor-General in Council.		
XI of 1877.	Military Lunatics Act, 1877.	In sections 4 and 6 *the words* divisions or. In section 7 *the word* division.

THE SECOND SCHEDULE.

Enactments amended.

Number and year.	Title or subject.	Amendments.
1	2	3.
Act of the Governor-General in Council.		
XI of 1877.	Military Lunatics Act, 1877.	In section 3, *for* Act for punishing Mutiny and Desertion and for the better payment of the Army and their quarters for the time being in force *read* Army Act; *for* military regulations of the Presidency to which he belongs *read* military regulations in force for the time being; *for* one of the Surgeons-General, either of the British Forces or of the Indian Medical Service, according to the Presidency and the service to which the said lunatic belongs *read* the Principal Medical Officer of Her Majesty's Forces in India, the Surgeon-General with the Government of India, the Surgeons-General with the Government of Madras, the Surgeon-General with the Government of Bombay, or the Principal Medical Officer of the local command to which the said lunatic belongs; *and for* such Surgeon-General *and* the Surgeon-General *read* such Principal Medical Officer or Surgeon-General. In sections 3, 6 and 7, *for the words* local military regulations, *wherever they occur, read* military regulations.

Enactments amended—cont.

Number and year.	Title or subject.	Amendments.
1	2	3
Regulations of the Madras Code.		
VII of 1808.	Power to establish martial law.	In the title, in the first place in which the words occur, in the preamble, in section 2 and in section 4, *for* Governor in Council *read* Governor-General in Council.
VIII of 1817.	Sepoy Malguzars.	In the title, *for* on the military establishment of the Presidency of Fort St. George *read* in the Madras Command. In section 9, clause *first*, *for* on the military establishment under the Presidency of Fort St. George *read* in the Madras Command.

STATEMENT OF OBJECTS AND REASONS.

The principal object of this Bill is to effect certain amendments in the Indian Statute-book which are necessitated by the proposed abolition of the presidential army system. The opportunity is taken to effect some formal amendments which are necessitated by change of circumstances.

HENRY BRACKENBURY.

The 3rd September 1894.

J. M. MACPHERSON,
Offg. Secy. to the Govt. of India.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

powers of cantonment magistrates and officers in charge of the police in cantonments are defined and controlled."

Substitution of new title for Title I of Part II.

6. For Part II, Title I, of the said Articles the following shall be substituted, namely:—

"TITLE I.—ENROLMENT ATTESTATION, DISMISSAL AND DISCHARGE.

Enrolment and attestation.

"*Article 1.*—(1) The Governor-General in Council may, by notification, declare what persons or classes of persons shall be enrolled only, or be both enrolled and attested respectively.

Mode of enrolment.

(2) A person shall be deemed to be enrolled under these Articles when his name has, with his consent been entered in the prescribed manner of the list of a corps or department of Her Majesty's Indian Forces.

Mode of attestation.

(3) Subject to the provisions of this article with respect to recruits, every person to be attested under these Articles shall be taken before the prescribed civil or military officer, and that officer shall read and explain to him, or cause to be read and explained to him in his presence, the questions set forth in the prescribed form of attestation, and such other matters (if any) as may be prescribed; and, after having cautioned him that if he makes a false answer to any question set forth in the attestation form he will be liable to be punished as provided by these Articles, shall record the answer to each question, and shall, if he is satisfied that the person fully understands the questions, and that the answer has been correctly recorded opposite each question, and if he perceives no impediment, administer to the person an affirmation or oath in the prescribed form.

(4) The form of affirmation or oath prescribed under this Article shall contain a promise that the person to be attested will be faithful to Her Majesty, Her heirs and successors, and that he will serve in Her Majesty's Indian Forces and go wherever he is ordered by land or sea, and that he will obey all commands of any officer set over him, even to the peril of his life.

(5) When a recruit is reported fit for duty, an affirmation or oath in the same form shall be administered to him in the prescribed manner by the commanding officer in front of the corps or such portion thereof or such members of the department as shall be present.

(6) After administering the affirmation or oath, the officer shall authenticate the attestation paper by his signature, and the person shall then be deemed to have been attested.

Treatment of enrolment and attestation as of same effect in certain cases.

(7) Subject to any rules which may be prescribed, the Commander-in-Chief in India, or the general officer of the Command, may direct that any persons to whom these Articles apply as attested persons shall, for the purposes of these Articles, be deemed to be enrolled, and that any persons to whom these Articles apply as enrolled persons shall, for the purposes of these Articles, be deemed to be attested.

Rank and subordination.

"*Article 2.*—(1) Subject to the provisions of the Army Act, the Governor-General in Council may, by notification, direct that persons of any class subject to these Articles shall, for any of the purposes of these Articles, be deemed to be Native officers, warrant officers or non-commissioned officers; and,

44 & 45 Vict., c. 58.

(2) Subject as aforesaid, any prescribed authority may issue an order giving a like direction with respect to any such person.

(3) Any notification or order issued under this article may be cancelled by the authority issuing the same; and,

(4) Subject as aforesaid, any person of the said classes with respect to whom no such notification or order is in force shall, so far as may be, be deemed for all the purposes of these Articles to be of a rank inferior to that of a non-commissioned officer.

(5) Should any question arise as to the rank of any other person subject to these Articles, or as to whether any such person is above or below a specified rank, the decision of the Governor-General in Council thereon shall be conclusive.

(6) Every person subject to these Articles shall, for the purposes thereof, be deemed to be under the commanding officer of the corps or department (if any) to which he is attached, and, if not attached to any corps or department, under any officer who may for the time being be named as his commanding officer by the general or other officer commanding the force with which such person may for the time being be serving, or of any other prescribed officer, or, if no such officer is named or prescribed, under the said general or other officer commanding;

Provided that a general or other officer commanding shall not place any person under an officer of official rank inferior to his own if there is present at the place where such person is any officer of higher rank under whom he can be placed.

Dismissal and discharge of commissioned officers.

"*Article 3.*—(1) Every commissioned officer shall be liable to dismissal from the service by the sentence of a general court-martial and to dismissal or discharge by order of the Governor-General of India in Council, or of the Commander-in-Chief in India, or of the general officer of the Command to which he belongs.

(2) A commissioned officer dismissed under these articles shall forfeit all claim to pension.

Dismissal and discharge of other persons.

"*Article 4.*—(1) Every person subject to these Articles, other than a commissioned officer, shall be liable to—

(a) dismissal from the service by the sentence of any court-martial empowered to try him, and

(b) dismissal or discharge from the service, by order of the Governor-General of India in Council, or of the Commander-in-Chief in India, or of the general officer of the Command to which he belongs, or of the general officer commanding the division or district in which he is serving, or, if he belongs to a force not attached to a command, by order of the officer commanding such force.

(2) Every person so dismissed shall forfeit all claim to pension.

Attested person dismissed or discharged and re-enlisting or making false answer at his attestation.

"*Article 5.*—(1) Every attested person of or below the rank of non-commissioned officer who has been dismissed or discharged from the service, and who subsequently re-enters the service without at the time stating the fact of his dismissal or discharge, or showing his certificate of dismissal or discharge, may be dismissed the service by the officer commanding the corps or department with which he is serving; and

(2) Every attested person of or below the rank of non-commissioned officer who is discovered to have made a wilfully false answer to any question set forth in the attestation paper which has been put to him by, or by direction of the officer before whom he appears for the purpose of being attested,

shall, on conviction by court-martial, be liable to suffer imprisonment (with hard labour and with or without solitary confinement) or such less punishment as is in these Articles mentioned.

"*Article 6.*—Every attested person who is dismissed or discharged from the service shall be furnished by his commanding officer with a certificate, in the English language and in the mother-tongue of such person (when his mother-tongue is not English), setting forth—

Certificate to person dismissed or discharged.

(*a*) the authority dismissing or discharging him;

(*b*) the cause of his dismissal or discharge and

(*c*) the full period of his service in the army."

7. In article 7, sentence 1, of the said Articles, the words "in any regiment, corps, detachment or guard" are hereby repealed.

Repeal of portion of article 7.

8. For the third sentence of the last-mentioned article the following shall be substituted, namely:—

Substitution of new sentence for third sentence of same article.

"or who, knowing or having reason to believe in the existence of any mutiny or sedition, or of any intention to mutiny or create sedition, or of any conspiracy against the State,".

9. In article 8 of the said Articles, for the words "under any circumstances in which the superior officer is distinguishable as such in any manner" the words "knowing or having reason to believe him to be such" shall be substituted

Amendment of article 8.

10. For articles 10 and 11 of the said Articles the following shall be substituted, namely:—

Substitution of new articles for articles 10 and 11.

"*Desertion.*

Article 10.—Who deserts or attempts to desert the service;—or

"*Re-enlistment without having been discharged.*

Article 11.—Who, without having first obtained a regular discharge from the corps or department to which he belongs, enlists or enrols himself in any other corps or department;—or".

11. For the last paragraph of article 24 of the said Articles the following shall be substituted, namely:—

Amendment of article 24.

"Whenever any person is convicted of an offence specified in article 7 and punishable with death under this article, all his property, moveable and immoveable, shall be forfeited to the Government."

12. For articles 25 and 26 of the said Articles the following shall be substituted, namely:—

Substitution of new articles for articles 25 and 26.

"*Unbecoming behaviour.*

Article 25.—Any officer, medical subordinate or warrant officer who behaves in a manner unbecoming his position and character;—and any person subject to these Articles—

"*Intoxication on duty.*

"*Article 26.*—Who is in a state of intoxication when on or after having been warned for any duty, or on parade, or on the line of march;—or".

13. For article 31 of the said Articles the following shall be substituted, namely:—

Substitution of new article for article 31.

"*Failure to rejoin.*

"*Article 31.*—Who, being on leave of absence and having received information from proper authority that his corps or department has been ordered on service, fails, without sufficient cause, to rejoin without delay;—or".

14. For article 39 of the said Articles the following shall be substituted, namely:—

Substitution of new article for article 39.

"*Impeding Provost-marshal.*

"*Article 39.*—Who impedes a provost-marshal or an assistant provost-marshal, or any officer or non-commissioned officer or other person legally exercising authority under or on behalf of a provost-marshal, or, when called on, refuses to assist, in the execution of his duty, the provost-marshal, assistant provost-marshal, or any such officer, non-commissioned officer, or other person;—or".

15. In article 40 of the said Articles the words "enrolled or" shall be inserted between the word "person" and the word "attested."

Amendment of article 40.

16. For article 47 of the said Articles the following shall be substituted, namely:—

Substitution of new article for article 47.

"*Making away with regimental necessaries.*

Article 47.—Who—

(*a*) designedly or through neglect kills, injures or loses his horse or ill-treats any animal used in the public service;—or

(*b*) dishonestly or fraudulently removes, conceals or delivers to any person, or designedly or through neglect injures or loses his arms, clothes, tools, musical or surgical instruments, equipments, ammunition, accoutrements or regimental necessaries, or any such articles entrusted to him or belonging to any other person;—or

(*c*) sells, pawns, destroys or defaces any medal or decoration granted to him by order of Her Majesty, or of the Governor-General of India in Council for service in the field or for general good conduct;—or".

17. In article 48 of the said Articles, for the word "and" where it first occurs the word "or" shall be substituted.

Amendment of article 48.

18. For article 57 of the said Articles the following shall be substituted, namely:—

Substitution of new article for article 57.

"*Punishment for offences mentioned in articles 54, 55 and 56.*"

"*Article 57.*—Shall, if convicted by a general court-martial, be sentenced to be dismissed the service and to forfeit any arrears of pay and allowances due to him at the time of dismissal, and shall be punishable also with imprisonment (with or without hard labour, and with or without solitary confinement) for a term which may extend to two years: and shall, if convicted by a district court-martial, be liable to any or all of the penalties which such court is competent to inflict."

19. In article 65 of the said Articles the word "other" shall be omitted.

Amendment of article 65.

20. For article 66 of the said Articles the following shall be substituted, namely:—

Substitution of new article for article 66.

"*Penalties for offences specified in articles 58 to 65.*

"*Article 66.*—Shall, on conviction by a general or district court-martial, be liable to any or all of the punishments, other than death or transportation, which the court-martial is competent to award."

21. In article 69 of the said Articles for the words "such punishments as" the words "any or all of the punishments, other than death or transportation, which" shall be substituted.

Amendment of article 69.

22. For article 71 of the said Articles the following shall be substituted, namely:—

Substitution of new article for article 71.

"*Abetment.*

"*Article 71.*—Every person who abets, within the meaning of the Indian Penal Code, any offence punishable under these Articles may be punished with the punishment hereinbefore provided in these Articles for such offence."

XLV. of 1860.

23. For articles 72 to 74 of the said Articles the following shall be substituted, namely:—

Substitution of new articles for articles 72 to 74.

"*Article 72.*—For the purposes of these Articles, there shall be five kinds of courts-martial, that is to say—

Courts-martial and the kinds thereof.

(1) General courts-martial	Hereinafter called ordinary courts-martial.
(2) District courts-martial	
(3) Regimental courts-martial	
(4) Summary general courts-martial.	Hereinafter called extraordinary courts-martial.
(5) Summary courts-martial	

"*Ordinary Courts-martial.*

"*Article 73.*—(*1*) The following authorities shall have power to convene general or district courts-martial, namely:—

Power to convene ordinary courts-martial.

(*a*) the Commander-in-Chief in India,

(*b*) the general officer of the Command,

(*c*) any officer empowered in that behalf by warrant of the Commander-in-Chief in India or the general officer of the Command.

(*2*) The power of convening general or district courts-martial may be granted under clause (1), sub-clause (*c*), subject to such restrictions, reservations, exceptions and conditions as the Commander-in-Chief in India or the general officer of the Command granting the power may think fit.

(*3*) Any warrant under this article for convening general or district courts-martial, or either of them, may be addressed to an officer by name, or by designation of his office, or partly in one way and partly in the other, and may or may not, according to the terms thereof and the mode in which it is addressed, be limited to an officer named or be extended to any person for the time being performing the duties of such officer, or to the successors in command of such officer.

"*Article 74.*—A general court-martial shall, if held in British India, consist of not less than seven officers, unless that number, due regard being had to the public service, is not available, in which case the court may consist of not less than five officers."

Composition of general courts-martial.

24. Articles 75, 77, 78 and 79 of the said Articles are hereby repealed.

Repeal of articles 75, 77, 78 and 79.

25. In article 76 of the said Articles, for the words "reduction to the ranks" the words "reduction to a lower grade or to the ranks" shall be substituted.

Amendment of article 76.

26. For articles 80 and 81 of the said Articles the following shall be substituted, namely:—

Substitution of new article for articles 80 and 81.

"*Article 80.*—A district court-martial shall consist of not less than five officers, unless that number, due regard being had to the public service, is not available, in which case the court may consist of not less than three officers.

Composition of district court-martial.

"*Article 81.*—A district court-martial may, when necessary, be composed wholly of officers of the corps or department to which the accused belongs."

27. In article 82 of the said Articles the words "or garrison" and the words "other than mutiny" shall be omitted.

Amendment of article 82.

28. In the last-mentioned article, for the words "one year" the words "two years" and for the words "reduction to the ranks" the words "reduction to a lower grade or to the ranks" shall be respectively substituted.

Further amendment of same article.

29. After article 82 of the said Articles the following article shall be inserted, namely:—

Insertion of new article after article 82.

"*Article 82A.*—Whenever a general or district court-martial is ordered to be composed of the smaller number of officers specified in article 74 or 80, the order convening the court shall expressly state that the larger number officers is not, due regard being had to the public service, available; and that statement shall be conclusive evidence of the fact so stated."

Convening order to state if larger number of officers is not available.

30. For articles 84 and 85 of the said Articles the following shall be substituted, namely:—

Substitution of new articles for articles 84 and 85.

"*Article 84.*—A regimental court-martial shall consist of not less than three officers."

Composition of regimental court-martial.

"*Article 85.*—A regimental court-martial shall have power to try all persons subject to these Articles and not above the rank of non-commissioned officer—

Powers of such court.

(*a*) for any offence triable by a court-martial under these Articles, except an offence punishable, under articles 7 to 23 (both inclusive), articles 59 to 65 (both inclusive, or articles 171 to 173 (both inclusive), and,

(*b*) with the previous sanction of the prescribed authority, for any of the offences so excepted.

"*Article 85A.*—A regimental court-martial shall have power to pass any sentence which might have been passed by a district court-martial for the like offence other than suspension from rank, pay and allowances:

Powers as to sentences of such courts.

Provided that no sentence of imprisonment for a term exceeding six months, nor any of the additional punishments specified in article 135, shall be passed by a regimental court-martial."

31. For articles 86 to 89 of the said Articles the following shall be substituted, namely:—

Substitution of new articles for articles 86 to 89.

"*Article 86.*—(*1*) The officers composing a court-martial convened under the foregoing provisions shall, except as hereinafter provided, be Native officers.

Native and British officers when to be nominated.

(*2*) The Governor-General in Council, or the Commander-in-Chief in India, or the general officer of the Command, or any officer authorized by the Governor-General in Council, or by the Commander-in-Chief in India or the general

officer of the Command, may direct that any court-martial convened under these Articles shall be composed of British instead of Native officers.

(3) Any person subject to these Articles, who is under orders for trial by any court-martial, may claim to be tried by British officers.

(4) In all cases the right of making such a claim shall, before the court is convened, be explained to the person under orders for trial by the commanding officer, or some officer deputed by him in this behalf, and, when such a claim is made, the court shall be constituted accordingly.

(5) A court-martial convened for the trial of any person subject to these Articles, and serving with any British corps or detachment, may be composed of British officers if, in the opinion of the officer convening the court (such opinion to be expressed in the order convening the court and to be conclusive), Native officers are not available with due regard to the public service for service on the court.

Judge advocate and appointment of superintending officer for Native court-martial.

"*Article 87.*—(1) Every general court-martial shall be attended by a judge advocate.

(2) If no officer of the judge advocate general's department is available, the officer convening the court shall appoint a fit person to act as judge advocate at the trial.

(3) No person under orders for trial or under trial by any court-martial may, without the leave of the court, object to any person acting or professing to act as judge advocate.

(4) A British officer of not less than four years' service, hereinafter called the superintending officer, shall be appointed to superintend the proceedings of every court-martial composed of Native officers which is not attended by a judge advocate.

President.

"*Article 88.*—(1) At every court-martial the senior officer shall sit as president without special appointment as such.

(2) In case of the death or unavoidable absence of the president, the next senior officer shall take the place of the president, without special appointment as such, and the trial shall proceed if the court is still composed of not less than the smallest number of officers of which it is required by these Articles to consist.

Finding and sentence invalid without confirmation.

"*Article 89.*—No finding or sentence of a general, district or regimental court-martial shall be valid, except so far as it may be confirmed as provided by these Articles.

By whom finding and sentence may be confirmed or otherwise disposed of.

"*Article 89A.*—(1) The following authorities shall have power to confirm the findings and sentences of general and district courts-martial:—

(a) the Commander-in-Chief in India;

(b) the general officer of the Command, as regards troops under his command wherever stationed;

(c) the officer commanding a force not attached to a Command;

(d) any officer empowered in that behalf by warrant of the Commander-in-Chief in India or the general officer of the Command:

Provided that, except on active service or beyond the limits of India, no warrant issued under this article shall be deemed to empower an officer to confirm any finding or sentence in the case of an officer, medical subordinate or warrant officer, or a sentence of death, transportation, or imprisonment for a term exceeding seven years, in any case whatever.

(2) The provisions of article 73, clauses (2) and (3), shall, with the necessary modifications, apply to warrants issued under this article.

(3) The officer who convenes a regimental court-martial or the officer having authority to convene such court-martial, at the date of the submission of the finding and sentence thereof, shall have power to confirm the same.

Power of confirming officer to mitigate, remit or commute sentence.

Article "*89 B.*—Subject to such restrictions as may be contained in any warrant issued under the last preceding article, the confirming officer may, when confirming the sentence of a court-martial, mitigate or remit the punishment thereby awarded, or commute that punishment for any less punishment or punishments to which the offender might have been sentenced by the court-martial:

Provided that a sentence of transportation shall not be commuted to a sentence of imprisonment for a term exceeding the term of transportation awarded by the court."

Substitution of new articles for articles 90 to 97.

32. For articles 90 to 97 of the said Articles the following shall be substituted, namely:—

"*Extraordinary Courts-Martial.*

Convening of summary general courts-martial.

"*Article 90.*—The following authorities shall have power to convene a summary general court-martial, and such a court-martial may be convened—

(a) in any place whether within or beyond British India, by an officer empowered in this behalf by an order of the Governor-General in Council or of the Commander-in-Chief in India or of the general officer of the Command;

(b) by an officer commanding any detached portion of Her Majesty's troops upon active service when, in his opinion, it is not practicable, with due regard to discipline and the exigencies of the service, that an offence should be tried by an ordinary general court-martial.

Composition of summary general courts-martial.

"*Article 91.*—(1) A summary general court-martial shall consist of not less than three officers, who may be either British or Native, or both British and Native officers, as the officer convening the court thinks fit.

(2) Such court may be convened and the proceedings thereof be recorded in accordance with the form in the appendix to these Articles:

Provided that the convening officer may, in respect of any such trial by such court, specially order the evidence, together with the prisoner's statement in defence, to be fully recorded in writing.

Powers of a summary general court-martial.

"*Article 92.*—A summary general court-martial shall have all the powers of a general court-martial, and, subject to any instructions contained in the order convening the court, its sentence shall be valid, and may be carried out forthwith if it does not exceed that which a district court-martial is empowered to pass and in any other case when confirmed by the authority convening the court.

By whom a summary court-martial may be held.

"*Article 93.*—(1) A summary court-martial may be held—

(a) by the commanding officer, being a combatant officer, of any corps or department of Her Majesty's Indian forces, or of any detachment of those forces.

(b) by the commanding officer of any British corps or detachment to which Native combatant details subject to these Articles are attached.

Constitution of a summary court-martial.

(2) At every summary court-martial the officer holding the trial shall alone constitute the court, but the proceedings shall be attended throughout by two other officers, British or Native, who shall not, as such, be affirmed or sworn.

(3) The proceedings shall be recorded in the English language, and, when closed, shall be signed by the officer holding the trial, and by the officers attending thereat.

Persons triable by a summary court-martial.

(4) A summary court-martial may try any person subject to these Articles and under the command of the officer holding the court, except an officer, medical subordinate or warrant officer.

(5) Any member of an army hospital corps may be tried by summary court-martial by any officer authorised in this behalf by the officer commanding the division, district, brigade or station to which the alleged offender belongs.

Offences triable by a summary court-martial.

"*Article 94.*—A summary court-martial may try any offence punishable under any of these Articles.

Provided that when there is no grave reason for immediate action, and reference can, without detriment to discipline, be made to superior authority, a summary court-martial shall not try without such reference any of the following offences, namely:—

(a) any offence punishable under any of the articles 7 to 28, both inclusive, or articles 50 to 65, both inclusive, or article 171;

(b) any offence against the officer holding the court.

Powers of a summary court-martial.

"*Article 95.*—(1) A summary court-martial held by the commanding officer of a corps or department may pass any sentence which can be passed under these Articles, except a sentence of death or transportation, or of imprisonment for a term exceeding one year.

(2) A summary court-martial held by any other officer may pass any sentence which can be passed under these Articles, except a sentence of death or transportation, or of imprisonment for a term exceeding six months.

Finding and sentence of a summary court-martial.

"*Article 96.*—The finding and sentence of a summary court-martial shall not require to be confirmed, but may be carried out at once:

Provided that, if the officer holding the trial is of less than five years' service, he shall not, except on active service, carry into effect any sentence until it has received the approval of a superior military officer commanding not less than a corps.

Transmission of proceedings.

"*Article 97.*—The proceedings of every summary court-martial shall, without delay, be forwarded to the officer commanding the district, or the division or brigade, within which the trial was held, or to the prescribed officer: and such officer or the Commander-in-Chief in India or the general officer of the Command, or, when the court is held in a force not attached to a Command, the officer commanding the force, may, for reasons based on the merits of the case, but not on any merely technical grounds, set aside the proceedings."

Substitution of new article for article 100.

33. For article 100 of the said Articles the following shall be substituted, namely:—

Arrest or confinement of accused.

"*Article 100.*—(1) Whenever any person subject to these articles is accused of any offence which his commanding or other superior officer considers should be tried by court-martial, such officer shall order the accused to be placed in military custody until he can be tried by a court-martial or is discharged by proper authority.

(2) No such person shall be detained in military custody longer than is necessary for the purposes of justice."

Repeal of article 101.

34. Article 101 of the said Articles is hereby repealed.

Substitution of new article for article 102.

35. For article 101 of the said Articles the following shall be substituted, namely:—

Interpreter.

"*Article 102.*—(1) An interpreter shall be appointed to every court-martial.

(2) If no duly qualified interpreter is available at the station or place where the court-martial sits, the officer appointing the court, or the officer commanding in the district or place within or at which the trial is to be held, shall appoint any competent person to perform the duty of interpreter.

(3) When no other qualified or competent person is available, the superintending officer, or, in the case of an European court, the president, shall perform the duty of interpreter.

(4) In the case of a trial by a summary court-martial, the officer holding the trial, or one of the officers in attendance thereat, may perform the duty of interpreter if no other competent interpreter is available.

(5) No interpreter shall, as such, have a vote upon any matter."

Substitution of new articles for article 103.

36. For article 103 of the said Articles the following shall be substituted, namely:—

Dissolution of courts.

"*Article 103.*—(1) When a court-martial after the commencement of the trial is reduced below the smallest number of officers of which it is by these Articles required to consist, it shall be deemed to be dissolved.

(2) If, on account of the illness of the prisoner before the finding, it is impossible to continue the trial, a court-martial shall be dissolved.

(3) Where a court-martial is dissolved under this article, the prisoner may be tried again.

Power to clear court.

"*Article 103A.*—The president of a court-martial may, on any deliberation among the members, cause the court to be cleared of all other persons.

Power to view place.

"*Article 103B.*—The court may, when it thinks fit, view any place."

Amendment of article 104.

37. In article 104 of the said Articles the words "general court-martial appointed under an Order in Council, or of any other" shall be omitted.

Amendment of article 107.

38. In article 107 of the said Articles, for the words "courts-martial, other than courts-martial appointed under an Order in Council, or summary," the word "ordinary" shall be substituted.

Insertion of new article after article 108.

39. After article 108 of the said Articles the following article shall be inserted, namely:—

"*Article 108A.*—At a summary court-martial the interpreter shall make affirmation or oath down to the words 'published by authority' only."

Affirmation or oath of interpreter.

40. Article 114 of the said Articles is hereby repealed.

Repeal of article 114.

41. For article 116 of the said Articles the following shall be substituted, namely:—

Substitution of new article for article 116.

"*Article 116.*—(*1*) A prisoner charged before a court-martial with desertion may be found guilty of attempting to desert or of being absent without leave.

Conviction of an offence on charge of another.

(*2*) A prisoner charged before a court-martial with attempting to desert may be found guilty of desertion or of being absent without leave.

(*3*) A prisoner charged before a court-martial with any one of the following offences, that is to say, theft, dishonest misappropriation or conversion, criminal breach of trust, or dishonestly receiving or retaining stolen property, may be found guilty of any other of those offences.

(*4*) A prisoner charged before a court-martial with any other offence under these Articles may, on failure of proof of an offence having been committed under circumstances involving a more severe punishment, be found guilty of the same offence as having been committed under circumstances involving a less severe punishment."

42. For article 117 of the said Articles the following shall be substituted, namely:—

Substitution of new article for article 117.

"*Article 117.*—(*1*) When any person subject to these Articles has been convicted by a court-martial of any military offence, such court-martial shall enquire into, and receive and record evidence of, any previous convictions of such person, either by a court-martial or by a criminal court, and shall further enquire into and record the general character of such person.

Evidence of previous convictions and general character.

(*2*) Evidence received under this article may be either oral, or in the shape of entries in, or certified extracts from, court-martial books or other official records; and it shall not be necessary to prove the signature to such certified extracts, nor shall it be necessary to give notice before trial to the person tried that evidence as to his previous convictions or character will be received.

(*3*) At a summary court-martial the commanding officer holding the trial may, if he thinks fit, record any previous convictions against the offender and his general character, as of his own knowledge, instead of requiring them to be proved under the foregoing provisions of this article

"*Article 117A.*—Subject to the provisions of the last foregoing article, the Indian Evidence Act, 1872, subject to such modifications thereof and to such additional rules of evidence as the Governor-General in Council may, by notification, direct, shall apply to all proceedings before a court-martial."

I of 1872.

General rule as to evidence.

43. For articles 119 and 120 of the said Articles the following shall be substituted, namely:—

Substitution of new articles for articles 119 and 120.

"*Article 119.*—No sentence of death shall be passed by any court-martial without the concurrence of two-thirds at the least of the members of the court.

Majority requisite to sentence of death.

"*Article 120.*—(*1*) The finding or sentence of any court-martial may be once revised by order of the officer authorised to dispose of the proceedings, and, on such revision, the court, if so directed by him, may take additional evidence.

Revision of finding or sentence.

(*2*) The court, on revision, shall consist of the same officers as were present when the original decision was passed, unless any of those officers shall be unavoidably absent.

(*3*) In case of such unavoidable absence the cause thereof shall be duly certified in the proceedings, and the court shall proceed with the revision, provided it still consists of the smallest number of officers of which such court is by these Articles required to consist."

Substitution of new articles for articles 122 to 124.

44. For articles 122 to 124 of the said Articles the following shall be substituted, namely:—

"*Article 122.*—(*1*) The judge advocate in the case of a general court-martial, and the officer ordering the trial in the case of any other court-martial, may, by summons under his hand, require the attendance before the court, at a time and place to be mentioned in the summons, of any person either to give evidence or to produce any document or other thing.

Summoning witnesses and production of documents.

(*2*) In the case of a witness amenable to military authority, the summons shall be sent to the officer actually commanding the corps, department or detachment to which he belongs, and such officer shall serve it upon him accordingly.

(*3*) In the case of any other witness, the summons shall be sent to the magistrate within whose jurisdiction he may be or reside, and such magistrate shall give effect to the summons as if the witness were required in the court of such magistrate.

(*4*) When a witness is required to produce any particular document or other thing in his possession or power, the summons shall describe it with convenient certainty.

(*5*) Nothing in this section shall be deemed to affect the Indian Evidence Act, 1872, sections 123 and 124, or to apply to any letter, post-card, telegram or other document in the custody of the postal or telegraph authorities.

I

(*6*) If any document in such custody is, in the opinion of any district magistrate, chief presidency magistrate, high court or court of session, wanted for the purposes of any court-martial, such magistrate or court may require the postal or telegraph authorities, as the case may be, to deliver such document to such person as such magistrate or court may direct.

(*7*) If any such document is, in the opinion of any other magistrate or of any commissioner of police or district superintendent of police, wanted for any such purpose, he may require the postal or telegraph department, as the case may be, to cause search to be made for and to detain such document pending the orders of any such district magistrate, chief presidency magistrate or court.

"*Article 123.*—(*1*) Any witness duly summoned, and any person who commits any contempt of court in the presence of a court-martial, or any offence described in articles 64, 75 or 76, shall, if subject to these Articles, be proceeded against as the court may direct.

Contempts of court.

(*2*) If any such witness or person is not so subject, the president of the court-martial may certify the offence under his hand to the court of any magistrate within the local limits of whose jurisdiction it was committed, and the magistrate may thereupon take cognizance of the case, and, after hearing anything which the accused may desire to say, dispose of it as if the offence had been committed in a proceeding in the court of such magistrate.

"*Article 124.*—(*1*) No president or member of a court-martial, no judge advocate or superintending officer, no party to any proceeding before a court-martial or his legal practitioner or agent, and no witness acting in obedience to a summons to attend a court-martial, shall, while proceeding to, attending on or returning from, a court-martial, be liable to arrest under civil or revenue process.

Privileges of persons attending courts-martial.

(*2*) If any such person is arrested under any such process, he may be discharged by order of the court-martial."

Repeal of articles 125 to 129.

45. Articles 125 to 129 of the said Articles are hereby repealed.

Amendment of article 130.

46. In article 130, clause (*d*), sentence 1, of the said Articles, for the words "one year" the words "two years" shall be substituted.

Substitution of new article for article 131.

47. For article 131 of the said Articles the following shall be substituted, namely:

"*Article 131.*—Dismissal from the service may accompany any other sentence passed by a court-martial."

Dismissal.

Insertion of words in article 132.

48. In article 132 of the said Articles, after the word "reduced" the words "to a lower grade or" shall be inserted.

Substitution of new articles for articles 133 to 137.

49. For articles 133 to 137 of the said Articles the following shall be substituted, namely:—

"*Article 133.*—In executing a sentence of solitary confinement, such confinement shall in no case exceed fourteen days at a time, with intervals between the periods of solitary confinement of not less duration than such periods; and, when the imprisonment awarded shall exceed three months, the solitary confinement shall not exceed seven days in any one month of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods.

Solitary confinement.

"*Article 134.*—A non-commissioned officer sentenced by court-martial to any of the punishments specified in the second paragraph of article 132 shall be deemed to be reduced to the ranks.

Reduction of non-commissioned officers to ranks.

"*Article 135.*—On a conviction of any offence, a general, summary general or district court-martial may, in addition to any other punishment which it is empowered to award, sentence the offender to forfeit all advantage as to additional pay and claim to pension on discharge which might otherwise have accrued from the length or nature of his former service, or to forfeit all such advantage absolutely, whether it has accrued from former service or may accrue from future service, or to forfeit service for the purpose of promotion, increased pay or pension or any other prescribed purpose, or to forfeit any military decoration or reward.

Forfeiture of pay and pension.

"*Article 136.*—Whenever a person subject to these Articles is convicted by a court-martial, his good-conduct pay shall, subject to any rules or orders which may from time to time be made with the previous sanction of the Governor-General in Council, cease.

"*Article 137.*—On a conviction for any offence, if the offender is sentenced to dismissal from the service, or if his sentence involves such dismissal, he shall further be sentenced to forfeit, as the court may direct,—

Forfeiture of arrears of pay.

(*a*) all or any arrears of pay and allowances or other public money due to him at the time of his dismissal, or

(*b*) such portion thereof as may be required to make good any proved loss or damage arising out of his offence."

Amendment of article 138.

50. The first paragraph of article 138 of the said Articles, and the word "and" at the beginning of the second paragraph of the same article, are hereby repealed.

Amendment of article 139.

51. In article 139 of the said Articles, for the words "in the case of an officer, two-thirds, or, in the case of any other person, one-half of his" the words "one-half of the offender's" shall be substituted.

Repeal of articles 142 to 150.

52. Articles 142 to 150 of the said Articles are hereby repealed

Amendment of article 151.

53. In article 151 of the said Articles, for the words "the nearest jail" the words "a jail" shall be substituted.

Addition to same article.

54. To the last-named article the following proviso shall be added, namely:—

"Provided that, in the case of a sentence of such imprisonment for a period not exceeding three months, the confirming or superior authority or, in the case of a summary court-martial, the commanding officer holding the trial may direct that the sentence shall be undergone in military custody."

Amendment of article 152.

55. The article 152 of the said Articles the words "Subject to the control of the Commander-in-Chief in India" shall be prefixed; and for the words "the Commander-in-Chief of a Presidency" the following words shall be substituted, namely:—"the general officer of the Command."

Further amendment of same article.

56. To the second paragraph of the last-mentioned article the words "Subject as aforesaid," shall be prefixed.

Insertion of new words in article 155.

57. In article 155 of the said Articles, after the words "from the date of such sentence" the words "or if an appeal be preferred against such sentence and fail, from the date of the disposal of such appeal," shall be inserted.

Addition to same article.

58. To the last-mentioned article the following shall be added, namely:—

"Provided that on active service any such person may, by order of the officer empowered under these Articles to confirm or otherwise dispose of the proceedings of the trial, be retained to serve in the ranks, and his service therein shall be reckoned as part of his term of transportation or imprisonment."

Repeal of articles 156 to 159.

59. Articles 156 to 159 of the said Articles are hereby repealed.

Substitution of new article for article 160.

60. For article 160 of the said Articles the following shall be substituted, namely:—

"*Article 160.*—When any person subject to these Articles has been convicted by a court-martial of any offence.—

Pardons and remissions.

(*a*) the Governor-General in Council, or,

(*b*) when the person has been convicted of any offence other than a civil offence, the Commander-in-Chief in India of the general officer of the Command,

may—

(*1*) pardon the person;

(*2*) remit wholly or in part any punishment awarded to him;

(*3*) order the restoration to him of any service or other advantage forfeited under his sentence; or

(*4*) re-admit him to the service when he has been dismissed therefrom:

Provided that the general officer of the Command shall not exercise the powers conferred by this section in respect of any person unless—

(*1*) the person was under his authority when sentenced; and

(*2*) the person is still in the service, or, if the person has been dismissed from the service, the corps or department from which he was dismissed has since continued under the authority of that officer.

Amendment of article 161.

61. In article 161 of the said Articles the words "or to the Government of Fort St. George, or to the Government of Bombay," shall be repealed; and for the words "Commander-in-Chief of any Presidency or of the officer commanding any force not attached to a Presidency" the following words shall be substituted, namely:—"Commander-in-Chief in India or the general officer of the Command or of the officer commanding any force not attached to a Command."

Addition of new article after article 161.

62. After article 161 of the said Articles the following shall be inserted, namely:—

"*Preservation of Proceedings.*

Preservation of proceedings of court-martial.

"*Article 161A.*—(*1*) The proceedings of all general courts-martial shall be preserved by the judge advocate general for not less than seven years, and the proceedings of summary general courts-martial and district courts-martial for not less than three years, from the date of the confirmation of the finding and sentence:

(*2*) The proceedings of regimental and summary courts-martial shall be preserved for three years with the records of the corps or department to which the prisoner belonged.

(*3*) Every person tried by a court-martial shall be entitled, on demand at any time after the confirmation of the finding and sentence where such confirmation is required, and before the proceedings are destroyed, to obtain from the officer or person having the custody of the proceedings a copy thereof, including the proceedings upon revision, if any, upon payment for the same at the prescribed rate."

Substitution of new article for article 162.

63. For article 162 of the said Articles the following shall be substituted, namely:—

Enquiry on absence of person subject to Articles.

"*Article 162.*—(*1*) When any person subject to these Articles has been absent without due authority from his duty for a period of sixty days, a court of enquiry shall, as soon as practicable, be assembled, and, upon affirmation or oath administered in the prescribed manner, shall enquire respecting the absence of the person, and the deficiency, if any, of property of the Government entrusted to his care, or of his arms, ammunition, equipments, instruments, clothing or necessaries; and, if satisfied of the fact of such absence without due authority or other sufficient cause, the Court shall declare such absence and the period thereof, and the said deficiency, if any; and the commanding officer of the corps or department to which the person belongs shall enter in the court-martial book of the corps or department a record of the declaration.

(*2*) If the person declared absent does not afterwards surrender, or is not apprehended, the record shall have the legal effect of a conviction of desertion.

(*3*) If the person declared absent surrenders or is apprehended, the record or a copy thereof, purporting to bear the signature of the officer having the custody of the court-martial book, shall, on the trial of the person for desertion, be presumptive evidence of the facts therein recorded; and, on proof of the identity of the prisoner with the person therein mentioned, he may be found guilty of desertion and of the deficiency, if any, therein recorded."

Amendment of article 163.

64. For the last paragraph of article 163 of the said Articles the following shall be substituted, namely:—

"Such recommendation, duly confirmed by the Commander-in-Chief in India, or by the general officer of the Command, or the officer commanding any force not attached to a Command to which he belongs, or by any general officer under whose command the person is serving, shall entitle him to receive such arrears and reckon service accordingly."

Substitution of new article for article 164.

65. For article 164 of the said Articles the following shall be substituted, namely:—

Reduction to lower grade or ranks.

"*Article 164.*—The Commander-in-Chief in India, the general officer of the Command, the officer commanding any force not attached to a command, and the officer commanding any district or division or brigade, shall respectively have power to reduce to a lower grade or to the ranks any non-commissioned officer under his command."

Amendment of article 165.

66. In article 165 of the said Articles the words "No such minor punishment shall be awarded by a court-martial, and," the words "or of the Commander-in Chief of the Presidency, as the case may be," and the words "Whenever a soldier is convicted by a court-martial, his good-conduct pay shall cease" shall be omitted; and for the words "either by order of the commanding officer or by sentence of a court-martial" the words "by order of the commanding officer" shall be substituted.

Amendment of article 166.

67. In article 166 of the said Articles, the words "the Governor of Fort St. George in Council, the Governor of Bombay in Council, or any other Local Government" shall be omitted.

Amendment of article 168.

68. In article 168 of the said Articles, for the words "the Commander-in Chief of the Presidency" the words "the Commander-in-Chief in India or the general officer of the Command" shall be substituted.

Amendment of article 169.

69. In the second paragraph of article 169 of the said Articles, for the words "warrant officer" the words "non-commissioned officer" shall be substituted.

Repeal of part of article 170.

70. The second and third paragraphs of article 170 of the said Articles are hereby repealed.

Substitution of new articles for articles 171 to 175.

71. For articles 171 to 175 of the said Articles the following shall be substituted, namely:—

"*Civil Offences.*

Military jurisdiction with respect to civil offences.

"*Article 171.*—Every person subject to these Articles who at any place beyond British India commits any civil offence shall be deemed to be guilty of an offence against military law, and if charged therewith under this article shall, subject to the provisions of these Articles, be liable to be tried for the same by court-martial at any place, whether within or beyond British India, and on conviction to be punished as follows, that is to say:—

(*a*) if the offence is one which would be punishable under the law of British India with death or with transportation, or with imprisonment for a term exceeding three years, he shall be liable to suffer any punishment assigned for the offence by the law of British India; and

(*b*) in other cases, he shall be liable to suffer any punishment assigned for the offence by the law of British India or such punishment as might be awarded to him in pursuance of these Articles in respect of an act to the prejudice of good order and military discipline.

Extension of article 171 to certain civil offences.

"*Article 172.*—The Governor-General in Council may, by notification, extend the last foregoing article to civil offences or any class of those offences committed by a person subject to these Articles when on active service in British India, and may cancel any such notification.

Certain offences when triable by military law.

"*Article 173.*—Every person subject to these Articles who, whether within or beyond British India, commits or attempts to commit or abets the commission of any of the following offences against any person subject to military law, that is to say, murder, culpable homicide or any offence punishable under any of the sections 223 to 335 (both inclusive) or section 306 of the Indian Penal Code, shall be deemed to be guilty of an offence against military law, and if charged under this Article with any such offence shall, subject to the provisions of these Articles, be liable to be tried by court-martial at any place whether within or without British India, and on conviction shall be liable to suffer any punishment assigned for the offence by the said Code.

XLV of 1860.

Jurisdiction over certain offences.

"*Article 174.*—When under any of the foregoing Articles a criminal court and a court-martial have each jurisdiction in respect of an offence, it shall be in the discretion of the prescribed military authority to decide before which court the proceedings shall be instituted, and, if that authority decides that they shall be instituted before a court-martial, to direct that the accused person shall be detained in military custody.

Power of criminal court to require delivery of offender.

"*Article 175.*—(*1*) When a criminal court having jurisdiction is of opinion that proceedings ought to be instituted before itself in respect of any alleged offence, it may, by written notice, require the convening authority or the prescribed military authority at his option either to deliver over the offender to the nearest magistrate to be proceeded against according to law or to postpone proceedings pending a reference to the Governor-General in Council.

(*2*) In every such case the said authority shall either deliver over the offender in compliance with the requisition or shall forthwith refer the question as to the court before which the proceedings are to be instituted for the determination of the Governor-General in Council, whose order upon such reference shall be final."

Substitution of new articles for articles 175 to 179.

72. For articles 176 to 179 of the said Articles the following shall be substituted, namely:—

"TITLE VI.—PROPERTY OF DECEASED PERSONS AND DESERTERS.

Property of deceased persons, deserters and lunatics.

"*Article 176.*—The following rules are enacted respecting the disposal of the property of every person who belongs to a class subject to these articles who dies, is killed in the field, or deserts:—

(*1*) The commanding officer shall secure all the moveable property that is on the spot, and cause an inventory, thereof to be made; and draw any pay and allowances due to the deceased or deserter.

(*2*) In the case of a deceased person who has left in a Government Savings Bank (including any Post Office Savings Bank, however named) a deposit not exceeding one thousand rupees, the commanding officer may, if he thinks fit, require the secretary or other proper officer of the bank to pay the deposit to him forthwith notwithstanding anything in any departmental rules; and, after the payment thereof in accordance with such requisition, no person shall have any right in respect of the deposit except as hereinafter provided.

(*3*) In the case of a deceased person whose representative is on the spot and has given security for the payment of the regimental debts (if any) of the deceased, the commanding officer shall deliver over the property and the amount of the deposit (if any) received under clause (*2*) of this article to that representative.

(*4*) In the case of a deceased person whose estate is not dealt with under clause (*3*) of this article, and in the case of any deserter, the commanding officer shall cause the property to be sold by public auction, and shall pay the regimental debts and other debts in camp or quarters (if any), and in the case of a deceased person the expenses of his funeral ceremonies, from the proceeds of the sale and the amount of the deposit (if any) received under clause (*2*) of this article.

(*5*) The surplus, if any, shall in the case of a deceased person be paid to his representative, if any, or in the event of no claim to such surplus being established within twelve months after the death, then the same shall be remitted to the prescribed officer.

(*6*) In the case of the sale of the effects of a deserter, the amount remaining in the hands of the commanding officer shall be forthwith remitted to the prescribed officer.

Disposal of certain property without production of probate, &c.

"*Article 177.*—Property deliverable and money payable to the representative of a deceased person under the last foregoing article may, if the total value or amount thereof does not exceed one thousand rupees, and if the prescribed officer thinks fit, be delivered or paid to any person appearing to him to be entitled to receive it or to administer the estate of the deceased, without requiring the production of any probate, letters of administration, certificate or other such conclusive evidence of title; and such delivery or payment shall be a full discharge to those ordering or making the same and to the Secretary of State for India in Council from all further liability in respect of the property or money; but nothing in this article shall affect the rights of any executor or administrator or other representative, or of any creditor, of a deceased person against any person to whom such delivery or payment has been made.

"*Article 178.*—A person shall be deemed to have deserted within the meaning of article 176 who has been convicted of desertion, or who has been illegally absent from duty for a period of sixty days and has not subsequently surrendered or been apprehended.

Meaning of desertion in article 176.

"*Article 179.*—The provisions of the last mentioned article shall, so far as they can be made applicable, apply in the case of a person subject to these articles becoming insane, such allowance being made for his support as is authorised by the Military Lunatics Act, 1877."

Application of article 178 to lunatics.

XI of 1877.

73. For Part III of the said Articles the following shall be substituted, namely :—

Substitution of new Part for Part III.

"PART III.—MISCELLANEOUS.

"*Article 180.*—When any person subject to these Articles as has been acquitted or convicted of an offence by a court-martial or by a criminal court, or has been summarily dealt with for an offence under article 165 or 166, he shall not be liable to be again tried for the same offence by a court-martial or dealt with summarily in respect of it under either of the said Articles.

Prohibition of second trial.

"*Article 181.*—(*1*) No person subject to these Articles shall, so long as he belongs to Her Majesty's Indian Forces, be liable to be arrested for debt under any process issued by, or by the authority of, any civil or revenue court or revenue-officer.

Exemption from arrest for debt.

(*2*) The judge of any such court may examine into any complaint made by such person or his superior officer of the arrest of such person contrary to the provisions of this article, and may by warrant under his hand discharge the person, and award reasonable costs to the complainant, who may recover those costs in like manner as he might have recovered costs awarded to him by a decree against the person obtaining the process.

(*3*) For the recovery of such costs no fee whatever shall be payable to the court by the complainant.

"*Article 182.*—Neither the arms, clothes, equipment, accoutrements or necessaries of any person subject to these Articles nor any animal used by him for the discharge of his duty, shall be seized ; nor shall the pay and allowances of any such person or any part thereof be attached, by direction of any civil or revenue court or any revenue-officer, in satisfaction of any decree or order enforceable against him.

Property exempted from attachment.

"*Article 183.*—Every person belonging to the Indian Reserve Forces shall, as an officer or soldier, be entitled to all the privileges accorded by the two last foregoing articles to a person subject to these Articles.

Application of the last two foregoing articles to reservists.

"*Article 184.*—On the presentation to any court by or on behalf of any officer or soldier subject to these Articles of a certificate, from the proper military authority, of leave of absence having been granted to or applied for by him for the purpose of prosecuting or defending any suit or other proceeding in such court, the court shall, on the application of such officer or soldier, arrange, so far as may be possible, for the hearing and final disposal of such suit or other proceeding within the period of the leave so granted or applied for.

Priority of hearing by courts of cases in which Native officers and soldiers are concerned.

(*2*) The certificate from the proper military authority must state the first and last day of the leave or intended leave, and set forth a description of the case with respect to which the leave was granted or applied for.

(*3*) No fee whatever shall be payable to the court in respect of the presentation of any such certificate, or in respect of any application by or on behalf of any such officer or soldier for priority for the hearing of his case.

(*4*) Where the court is unable to arrange for the hearing and final disposal of the suit or other proceeding within the period of such leave or intended leave as aforesaid, it shall record its reasons for having been unable to do so, and shall cause a copy thereof to be furnished to such officer or soldier on his application, without any payment whatever by him in respect either of the application for such copy or of the copy itself.

(*5*) If in any case a question arises as to the proper military authority qualified to grant such certificate as aforesaid, such question shall be at once referred by the court to the nearest officer commanding a corps, whose decision shall be final.

"*Article 185.*—(*1*) Whenever any person subject to these Articles deserts, the commanding officer of the corps, department or detachment to which he belongs shall give written information of the desertion to such civil, political or police authorities as, in his opinion, may be able to afford assistance towards the capture of the deserter ; and such authorities shall thereupon take steps for the apprehension of the said deserter in like manner as if he were a person for whose capture a warrant had been issued by a magistrate, and shall deliver the deserter, when apprehended, to military custody.

Capture of deserters.

(*2*) Such authorities shall also, by such means as appear to them best adapted for the purpose, prevent persons reasonably believed to be subject to these Articles from travelling through the areas subject to their jurisdiction, unless on duty, or furnished with a certificate of leave or discharge.

(*3*) Any police-officer may arrest, without warrant, any person reasonably believed to be travelling without authority, and shall bring him without delay before the nearest magistrate, or the nearest military commanding officer when no magistrate is readily accessible, to be dealt with according to law.

"*Article 186.*—Whenever any person subject to these Articles, who is accused of any military offence, is within the jurisdiction of any civil, political or police officer, such officer shall aid in the apprehension and delivery to military custody of such person upon receipt of a written application to that effect signed by his commanding officer.

Apprehension of military offenders.

"*Article 187.*—In any proceeding under these Articles, any application, certificate, warrant, reply or other document purporting to be signed by an officer in the civil or military service of the Government shall, on production, be presumed to have been duly signed by the person and in the character by whom and in which it purports to have been signed, until the contrary is shown.

Presumption as to signatures.

"*Article 188.*—(*1*) The Governor-General in Council may direct that for the purposes of these Articles—

Portions of the forces under an Army Command.

(*a*) any portion of Her Majesty's Indian Forces belonging to a Command shall, when serving beyond the ordinary limits of the Command, continue subject to the authority of the general officer of the Command ; or

(*b*) any portion of those forces not belonging to a Command shall be attached to a Command, and shall be subject to the authority of the general officer of the Command.

(*2*) Except as may be directed under clause (*1*) of this article, any portion of the said forces shall, when serving in a Command, be for the purposes of these articles subject to the authority of the general officer of that Command.

"*Article 189.*—Nothing in these Articles shall be deemed to affect the authority conferred on the Commander-in-Chief in India by any Act of Parliament or by Royal Warrant or Commission.

Saving of authority of Commander-in-Chief in India.

"*Article 190.*—(*1*) The Governor-General in Council may, by notification, make rules consistent with these Articles to regulate the procedure of courts-martial and officers, military, civil or political, having any jurisdiction or authority under these Articles, and for the purpose of carrying these Articles into execution, so far as relates to the investigation, trial and punishment of offences triable under them.

Power to make rules.

(*2*) Rules under this article may provide among other matters for the following :—

(*a*) the assembly and procedure of courts of enquiry ;

(*b*) the convening and constituting of courts-martial ;

(*c*) the adjournment, dissolution and sittings of courts-martial ;

(*d*) the procedure to be observed in trials by courts-martial ;

(*e*) the confirmation and revision of the findings and sentences of courts-martial ;

(*f*) the carrying into effect sentences of courts-martial ;

(*g*) the forms of orders to be made under the provisions of these Articles relating to courts-martial, transportation or imprisonment.

(*3*) The Governor-General in Council may by any such rule confer on any court-martial or officer any power (other than a power to try an accused person or pass a sentence) conferred on a court of original jurisdiction by the Code of Criminal Procedure, 1882."

of 1882.

WHEREAS it is provided by section 177 of the Army Act that where any force is raised in India any law in India may extend to the officers, non-commissioned officers and men belonging to such force, whether within or without the limits of India ;

44 and 45 Vict., c. 58.

And whereas doubts exist whether certain forces which have been raised and are maintained in India under the authority of the Governor-General in Council are or are not parts of Her Majesty's Indian Forces subject to the said articles, and it is expedient to provide for the discipline and regulation of such forces ;

It is hereby enacted as follows :—

74. (*1*) The Governor-General in Council may, by notification, apply all or any of the provisions of the said articles as amended by this Act to any such force, and may cancel or modify any such notification.

Powers to apply articles to certain forces under the Government of India.

(*2*) While any of the provisions of such articles apply to any such force, the Governor-General in Council may, by notification, direct by what authority any jurisdiction, powers or duties incident to the operation of those provisions shall be exercised or performed in respect to that force.

APPENDIX.

FORM FOR RECORD OF PROCEEDINGS OF SUMMARY GENERAL COURT-MARTIAL.

(*See Manual of Military Law.*)

STATEMENT OF OBJECTS AND REASONS.

Act V of 1869, known as the Indian Article of War, has long been felt to require amendment and re-casting, as much for the many defects and redundancies contained therein as for its faulty arrangement.

In 1887, the Indian Army Bill was drafted on the basis of the Army Act with the view to extending to the Native Army, as far as the difference of circumstances would permit, the improvements in military law introduced into the British Army by the Army Act and the preceding Discipline Act ; but, as that Bill did not meet with the approval of the Secretary of State, a Bill for the amendment of Act V of 1869 was ordered, and is now submitted, dealing only with the more glaring defects of the Articles of War, following very greatly the proposals of the Indian Army Bill, 1887.

A further reason for the amendment of the Act arises from the passing by Parliament of the Madras and Bombay Armies Act, abolishing, from a date to be determined by the Governor-General in Council, the Presidential system.

It has been deemed expedient to confer on the General Officers Commanding the Forces in the four Commands into which the Army of India is to be divided under the new system all the powers now held by the Commanders-in-Chief of Madras and Bombay.

The powers now held by the Governors of Madras and Bombay have been entirely rescinded.

In explaining some of the more important of the proposed amendments the order of the sections will, as far as possible, be adhered to.

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1. *Section 3* specifies the different classes of persons subject to military law. It will be observed that persons who are not gazetted, attested or enrolled, and who are included merely on the ground of their being servants or followers, are subject to the law only when on active service, in camp, on the march, or at a frontier post at which the Governor-General in Council may direct that they shall be so subject.

It follows that all persons attached to the Native Army, whom it is desired to subject to military law in cantonments, must be either attested or enrolled, and it is left to executive action to determine what classes of persons shall be enrolled and what classes attested.

2. *Section 6* provides that the Governor-General in Council may declare what persons are to be enrolled only or be both enrolled and attested. It is apprehended that the distinction between attestation and enrolment has not been always attended to, and that persons may thus have been attested who ought to have been enrolled, and *vice versa* ; and, as the amendment makes certain substantial distinctions between attested and enrolled persons, it has been thought well to empower the Commander-in-Chief in India, and General Officers

Commanding the Forces in the four Commands, subject to any rules which may be prescribed by the Governor-General in Council, to direct that any persons who have been attested under the old law shall be deemed to be enrolled under the new law, and *vice versa*.

Sub-section (3) provides that, except in the case of a recruit, who will be attested when reported fit for duty, the form of attestation should be gone through as soon as possible upon enlistment or enrolment before a civil or military officer; and it should be stated that the intention is that the officer should ordinarily be an officer invested with magisterial powers.

3. In connection with this amendment a question of some importance presents itself as to the mode of dealing with classes of Natives serving with British corps.

The persons in question may, in some cases, be mere servants, as, for example, the grass-cutters attached to a British cavalry regiment; but in other cases, like that of the mahouts attached to a British heavy battery, they may be said to constitute an integral part of the corps.

The necessity of subjecting some persons of those classes to military law appears to be recognized; and it seems clear and is further in accordance with the general intention shown in the Mutiny Acts and in the Army Act, and by the recent action of the Government of India in bringing native drivers of British mountain batteries and the men of the Transport Corps under the Indian Articles of War, that they should, if subject to military law, be subject to that form of it provided for the Native Army.

The Army Act, in so far as it applies Indian military law to any persons of these classes, applies it only to them in certain cases where they are on active service—see section 176 (10); and it is understood that the usual practice has been to enrol them or attest them in some manner under the Indian Articles and then treat them as persons who, though their services are placed at the disposal of the British corps, belong to the Native Army and are subject to the Indian Articles. The amendment will admit of this practice being continued, but with a slight additional formality, in the case of persons who are merely enrolled and not attested. In the case of these persons it would be impracticable to prescribe any more elaborate process for subjecting them to military law than the mere entry of their names on a list with their consent. This being so, the list on which they are entered ought to become specially appropriated to this purpose. If, for example, they were merely entered on the pay list of a British corps which might contain the names of other classes of Native servants whom it is not proposed to subject to military law, there would be nothing to distinguish their position from that of those other servants, and, as has occasionally happened, a doubt might arise on the important point as to whether they were or were not subject to military law. To prevent this the amendment provides that the name of a person to be enrolled must be entered on the list of some corps or department of Her Majesty's Indian Forces. Special lists will therefore have to be kept in such British corps in which Natives attached to the corps, and whom it is desired to subject to Indian military law, will be entered as belonging to some sort of servants, corps or department of Her Majesty's Indian Forces. This, it is believed, will not give much trouble, and it will put an end to the difficulties which now from time to time arise regarding the position of these persons

4. *Article 2* (1), (2), (3) *and* (4) empower certain authorities to confer upon servants and followers subject to military law a status higher than that of a soldier for the purposes of any provision of the law, and has been suggested by section 175 (8) of the Army Act; but, having regard to the great diversities of position among the numerous persons who accompany an army in this country in connection with the furnishing of supplies, for the performance of clerical work, as private traders, and otherwise, it has been thought well to give a wider discretion and to allow not merely the status of an officer but also that of a warrant officer or non-commissioned officer to be thus conferred.

5. *Article 2* (5) empowers the Governor-General in Council to determine in cases of doubt any question as to the rank of any person, or as to whether he is above or below a specified rank, and has been introduced with reference to those Articles which apply, *e.g.*, to persons "below the rank of warrant officer" or "below the rank of non-commissioned officer." It is believed that, as a rule, there will be no difficulty in determining the rank of a person subject to the Articles of War; but, as in the case of some enrolled persons a doubt might arise, it has been deemed advisable to provide for its removal.

6. *Articles 3 and 4.*—Under the existing law, the discharge, as distinguished from the dismissal, of a commissioned officer or other person has been practically impossible. Dismissal carries with it forfeiture of all claim to pension. This has not unfrequently been found to be inconvenient. It may often be desirable to discharge a commissioned officer or soldier under conditions which do not call for a forfeiture of pension earned.

The proposed amendment will effect this end without injustice to the discharged person.

The further amendment in article 4, giving power to General Officers Commanding divisions or districts to dismiss or discharge, is thought to be very desirable. This power is exercised by the General Officers Commanding the Punjab Frontier Force and the Hyderabad Contingent under the existing law, and has worked well.

Courts-martial.

7. An effort, which necessarily leads to the repealing of a large number of the existing Articles, has been made to effect a considerable simplification. At present there are no less than ten different kinds of courts-martial. The formal list in article 72 mentions only eight, but the headings "General Courts-martial" and "District Courts-martial" in that list each comprise two sub-divisions, General and District Courts-martial being practically different Courts when they are convened under the authority of an Order in Council from what they are when otherwise convened.

The amendment provides for only five descriptions of court-martial, namely:—

General Courts-martial, District Courts-martial, and Regimental Courts-martial } which are called ordinary Courts-martial.

and

Summary General Courts-martial and Summary Courts-martial, } which are called extraordinary Courts-martial.

8. The General Court-martial corresponds to the General Court-martial of the Army Act and the present articles, and will consist of seven officers instead of nine; but, if the full complement of seven officers is not available, it may consist of any number not less than five.

The District Court-martial corresponds to the District and Garrison Courts-martial of the present Articles, but differs therefrom in the following particulars, that it is to consist of not less than five officers instead of seven, but, if so many as five are not available, it may consist of any number not less than three: that it is competent to try any offence under the articles, and its power of awarding imprisonment is extended from one to two years. It will be observed that, as to this last particular, its powers have been put on the same footing as those of a District Court-martial under the Army Act.

The Regimental Court-martial corresponds to the Regimental Court-martial, Regimental Detachment Court-martial and Detachment Court-martial of the present Articles. Its powers remain the same, but it is to consist of three—instead of five—officers.

It is debarred from trying a considerable number of the more serious military offences and any civil offence without the permission of superior authority. It can try any person subject to the articles and not above the rank of non-commissioned officer who is under the command of the convening officer.

9. *Article 89.*—Every finding and sentence of an ordinary Court-martial requires confirmation and will be valid only in so far as it is confirmed. This is in substantial accordance with the existing law, but an important change is proposed in article 89A, sub-section (1), which, except on active service or beyond the limits of India, makes sentences of death, transportation or imprisonment for a term exceeding seven years confirmable only by the Commander-in-Chief in India, the General Officer of a Command or an officer commanding a force not attached to a Command.

10. Of the extraordinary Courts-martial the Summary General Court-martial corresponds to the Field General Court-martial of the Army Act and to the Detachment General Court-martial of the present articles. It is intended also to replace to some extent the General Court-martial which the present articles allow to be convened under an Order in Council, but which has, as a matter of fact, now fallen into disuse. It may be convened by an officer specially empowered by the Government of India or by the Commander-in-Chief in India, or the General Officer of a Command, or by an officer commanding any detached portion of Her Majesty's troops on active service, when, in his opinion, it is not practicable, with due regard to discipline and the exigencies of the service, that an offence should be tried by an ordinary General Court-martial.

It has the same powers as a General Court-martial and differs from a General Court-martial chiefly in this, that it may consist of any number of officers not less than three, that these officers may be either British officers or Native officers, or both combined, as the convening officer thinks fit, that it may be convened and the proceedings may be recorded in the form in which a Field General Court-martial under the Army Act is convened and records its proceedings, that is, without recording the evidence, unless the convening officer specially directs the evidence together with the prisoner's statement in defence to be fully recorded; and that a sentence passed by it, and not exceeding that which might be passed by a District Court-martial, is valid without confirmation, while more severe sentences passed by it are confirmed by the convening officer.

11. The Summary Court-martial corresponds to the Summary Court-martial of the present articles. It is an institution peculiar to Indian military law. It may be held by the Commanding Officer, *being a combatant officer*, of any corps or department of Her Majesty's Indian Forces or of any detachment thereof, or by the Commanding Officer of any British corps or detachment to which Native combatant details are attached. It consists of the Commanding Officer sitting with two other officers, who attend to watch the trial and sign the proceedings. Its ordinary functions are restricted to the trial of any person under the command of the officer holding the trial, except an officer, medical subordinate or warrant officer, but a member of an Army Hospital Corps may be tried by Summary Court-martial by any officer authorised in this behalf by the Officer Commanding the district. It can take cognizance of any of the less serious offences punishable under the articles where they do not happen to be offences committed against the officer holding the trial, and when there is grave reason for immediate action, or reference cannot, without detriment to discipline, be made to superior authority, of any offence whatever. When held by an Officer Commanding a corps or department, it can pass any sentence except one of death, transportation or imprisonment for a term exceeding one year, but when held by an Officer Commanding a detachment it cannot pass a sentence of imprisonment for a term exceeding six months.

A sentence of a Summary Court-martial, except when it is a sentence passed by an officer of less than five years' service, will not require confirmation, but the proceedings in all cases must, without delay, be submitted to the Commander-in-Chief or some other superior officer, who is empowered, if he thinks fit, to set aside the trial on the merits of the case, but not on merely technical grounds.

12. *Article 117A* allows the Governor-General in Council to modify the provisions of the Indian Evidence Act as applied to courts-martial.

13. *Article 120.*—This provision, differing from the corresponding provision of the Army Act, will empower the officer to whom the proceedings of a Court-martial are submitted for confirmation to direct, when the proceedings are sent back for revision, additional evidence to be taken when necessary.

This seems desirable in order to avoid the necessity for ordering a fresh trial in cases where, as may happen in outlying stations in this country, irregularities and omissions are apt to occur.

Miscellaneous.

14. *Article 132.*—Following on the principles of the Army Act, it will now be possible for a Court-martial to reduce a non-commissioned officer to a junior grade instead of necessarily being compelled to reduce him to the ranks; and further, a Court-martial will be in a position to award, on occasion, a duplicate punishment, as, for example, dismissal coupled with one of the other punishments awardable under the article.

15. *Article 151.*—This proviso is intended to do away with the anomaly of a sentence of less than three months' hard labour imprisonment having either to be commuted to simple imprisonment, or, if not commuted, losing the services of a soldier for perhaps a comparatively venial offence, as it is held to be prejudicial to the interests of a regiment to receive back into the ranks a person who has been an inmate for any time of a civil jail.

16. *Article 155* provides a necessary safeguard to the soldier who, having been convicted by the civil power in a Court of first instance, is acquitted on appeal.

It further provides for the temporary retention in the ranks of a soldier who, on active service, has been sentenced to transportation or imprisonment, and declares the time the soldier is so retained shall be reckoned as part of his term of transportation or imprisonment.

17. *Article 161A*, following generally on the provisions of the Army Act, makes due provisio for the preservation of the proceedings of Cour martial, and the means by which these reco will be available to persons interested.

18. *Article 162.*—The amendments will empower the Court of Enquiry not only to declare the unauthorised absence and the period thereof, but also to take evidence upon oath as to any deficiency of Government property which had been entrusted to the absentee, and the recorded declaration thereof will be, at any subsequent trial, presumptive evidence of that deficiency.

19. *Article 164.*—Power is given to a General Officer Commanding a District to summarily reduce a non-commissioned officer to a lower grade or to the ranks.

The want of this power has been greatly felt and is considered to be a very desirable power to grant to General Officers Commanding Districts.

20. *Articles 171 to 175.*—Civil offences committed beyond British India, or on active service within British India. These articles will entirely remove the difficulties which have not unfrequently been experienced in dealing with civil offences of the graver classes committed by soldiers when serving beyond the limits of British India.

The Criminal Courts are given concurrent jurisdiction with Courts-martial over such offences. Conflicts may at times arise, but, to prevent any difficulty from this, it is provided that when the two classes of courts have concurrent jurisdiction it will be for the military authorities to decide in the first instance on the tribunal to which the case is to be submitted; but that, if the ordinary criminal court having jurisdiction is of opinion that the case ought to be tried before itself, it may require the military authorities to stop their proceedings pending a reference to the Governor-General in Council.

Article 173 is quite a new provision, but it is in accordance with the practice which has to some extent at least prevailed under the existing law when violence or threats have been made against a superior officer.

It provides that certain grave offences involving violence or threats against any person subject to military law shall, though committed in British India, be cognizable by a Court-martial.

The British soldier is, throughout the greater part of British India, triable by a Court-martial for a civil offence.

The Native soldier, on the contrary, is triable by court-martial only for military offences, and the Indian Articles in defining these offences do not provide expressly for the case of a soldier killing, or inflicting some serious injury on, his superior officer. In such a case, therefore, the Native soldier ought, strictly speaking, to be made over for trial to the ordinary criminal court; but it is thought sometimes desirable that he should be tried by a court-martial, which would dispose of the case rapidly and with a due regard to the interests of discipline; and he is accordingly put on his trial before a court-martial "for assaulting his superior officer"—an offence punishable with death or any less penalty under the existing articles, and thus substantial justice is done and the ends of discipline are secured, though by a procedure which must be allowed to be somewhat irregular. It should be observed that, apart from the irregularity of trying for a mere assault a man who is guilty perhaps of murder, this mode of dealing with such cases is practicable only under a law which, like the present articles, makes all assaults on a superior officer indiscriminately punishable with death without taking account, as the Army Act does, of circumstances so important as that of the officer being in the execution of his duty or otherwise, or that of the offence being committed on active service or in a cantonment; and such a law it seems difficult to maintain.

It has accordingly been thought better to recognize the fact that it is desirable in the interests of discipline that certain civil offences whether against a superior officer or other person subject to military law should be triable by a Court-martial instead of, exclusively, by an ordinary Criminal Court, and to make them triable by a Court-martial in the same way as civil offences committed by a British soldier.

21. *The concluding section* gives the Governor-General in Council power to apply all or any of the provisions of the articles as amended by this Bill to any force raised in India under the authority of the Governor-General in Council, with respect to which there may be doubt whether it forms part of Her Majesty's Indian Army. It will, it is thought, be found useful as affording a means of removing the difficulties which have occasionally been felt regarding the application of any form of military law to certain forces which are maintained chiefly for local purposes under the control of the Governor-General's Agents in Native territory, and which are entirely distinct from the forces of Native States known as Imperial Service Troops.

HENRY BRACKENBURY.

The 13th August 1894.

(Republished by order of the Right Honorable the Governor in Council.)

D. J. S. McLEOD, Colonel,
Offg. Secretary to Govt.

MADRAS: PRINTED AND PUBLISHED BY THE SUPRINTENDNT, GOVERNMENT PRESS.

FORT ST. GEORGE GAZETTE SUPPLEMENT. | TUESDAY EVENING, OCTOBER 16, 1894.

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

The following Report of the Select Committee on the Bill to amend certain enactments relating to the Army was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 4th October 1894:—

We, the undersigned, Members of the Select Committee to which the Bill to amend certain enactments relating to the Army was referred, have considered the Bill, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

2. With the exception of a slight verbal alteration in the portion of the schedule referring to section 3 of Act XI of 1877, we have no change to suggest in the Bill as introduced.

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

In English.

Gazette.	Date.
Gazette of India	8th September 1894.
Fort St. George Gazette	25th September 1894.
Bombay Government Gazette	13th September 1894.
Calcutta Gazette	19th September 1894.
North-Western Provinces and Oudh Government Gazette	15th September 1894.
Punjab Government Gazette	13th September 1894.
Central Provinces Gazette	15th September 1894.
Burma Gazette	29th September 1894.
Assam Gazette	29th September 1894.
Coorg District Gazette	(Date not yet reported.)

4. 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.

H. BRACKENBURY.
GEO. S. WHITE.
ALEX. EDW. MILLER.
A. P. MacDONNELL.

The 4th October 1894.

No. II.

A Bill to amend certain enactments relating to the Army.

WHEREAS it is expedient to amend certain enactments relating to the Army in manner hereinafter appearing; It is hereby enacted as follows:

Title and commencement.

1. (*1*) This Act may be called the Repealing and Amending (Army) Act, 1894; and

(*2*) It shall come into force on such date as the Governor-General in Council may, by notification in the *Gazette of India*, fix in that behalf.

Repeal and amendment of enactments.

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

(*2*) The enactments specified in the second schedule are hereby modified to the extent and in the manner mentioned in the third column thereof.

THE FIRST SCHEDULE.

ENACTMENT REPEALED.

Number and year.	Title.	Extent of repeal.
1	2	3
Act of the Governor-General in Council.		
XI of 1877 ..	Military Lunatics Act, 1877.	In sections 4 and 6 *the words* divisions or. In section 7 *the word* division.

THE SECOND SCHEDULE.

ENACTMENTS AMENDED.

Number and year.	Title or subject.	Amendments.
1	2	3
Act of the Governor-General in Council.		
XI of 1877 ..	Military Lunatics Act, 1877.	In section 3, *for* Act for punishing Mutiny and Desertion and for the better payment of the Army and their quarters for the time being in force *read* Army Act; *for* military regulations of the Presidency to which he belongs *read* military regulations in force for the time being; *for* one of the Surgeons-General, either of the British Forces or of the Indian Medical Service, according to the Presidency and the service to which the said lunatic belongs *read* the Principal Medical Officer of Her Majesty's Forces in India, the Surgeon-General with the Government of India, the Surgeon-General with the Government of Madras, the Surgeon-General with the Government of Bombay, or the Principal Medical Officer of the "Command" to which the said lunatic belongs; *and for* such Surgeon-General *and* the Surgeon-General *read* such Principal Medical Officer or Surgeon-General.
		In sections 3, 6 and 7, *for the words* local military regulations, *wherever they occur*, *read* military regulations.
Regulations of the Madras Code.		
VII of 1808 ..	Power to establish martial law.	In the title, in the first place in which the words occur in the preamble, in section 2 and in section 4, *for* Governor in Council *read* Governor-General in Council.
VIII of 1817	Sepoy Malguzars.	In the title, *for* on the military establishment of the Presidency of Fort St. George *read* in the Madras Command.
		In section 9, clause *first*, *for* on the military establishment under the Presidency of Fort St. George *read* in the Madras Command.

ENACTMENTS AMENDED *cont.*

Number and year.	Title or subject.	Amendments.
1	2	3
XI of 1877—*cont.*	....	General with the Government of Bombay, or the Principal Medical Officer of the "Command" to which the said lunatic belongs; *and for* such Surgeon-General *and* the Surgeon-General *read* such Principal Medical Officer or Surgeon-General.
		In sections 3, 6 and 7, *for the words* local military regulations, *wherever they occur*, *read* military regulations.

J. M. MACPHERSON,
Dy. Secy. to the Govt. of India.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

FORT ST. GEORGE GAZETTE SUPPLEMENT.

TUESDAY EVENING, OCTOBER 16, 1894.

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

The following Report of the Select Committee on the Bill to amend the Articles of War for the government of Her Majesty's Indian Forces was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 4th October 1894:

We, the undersigned, Members of the Select Committee to which the Bill to amend the Articles of War for the government of Her Majesty's Indian Forces 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 Government, Bengal, No. 1291 J. D, dated 5th September 1894 [Paper No. 1].
From High Court, Calcutta, No. 1999, dated 10th September 1894 [Paper No. 2].
From Chief Commissioner, Coorg, No. 1658—125-94, dated 10th September 1894 [Paper No. 3].
From Government, Madras, No. 5881, dated 22nd September 1894, and enclosure [Paper No. 4].
From Chief Commissioner, Central Provinces, No. 6631, dated 24th September 1894 [Paper No. 5].
Telegram from Agent to Governor-General in Baluchistan, No. 0402, dated 27th September 1894 [Paper No. 6].
From Government, North-Western Provinces and Oudh, No. 1895—111-30-C., dated 25th September 1894, and enclosure [Papers No. 7].
Telegram from Chief Commissioner, Assam, No. 6054-J., dated 27th September 1894 [Paper No. 8].
From Government, Punjab, No. 954-S., dated 28th September 1894, and enclosures [Papers No. 9].
From Chief Commissioner, Burma, No. 872—5-C.-39, dated 22nd September 1894, and enclosure [Papers No. 10].
From Resident, Hyderabad, No. 164, dated 26th September 1894, and enclosures [Papers No. 11].

2. We have extended the scope of the definition of "active service" proposed by section 4 of the Bill so as to include a force which is on the line of march to a country or place wholly or partly occupied by an enemy, as we consider it desirable that the provisions of the Articles relating to active service should apply to persons attached to or forming part of such a force.

3. We have thought it expedient to make it clear, by the insertion of the word "British" before "officer" in the definition of "commanding officer" proposed by the same section of the Bill, that under no circumstances shall a native officer be deemed to be a commanding officer for the purposes of the articles.

4. In view of the definition of "Native officer" in Part I, clause (*e*) (4) of the Articles as amended by the Bill, we have changed the expression "commissioned officer" in the new articles 3 and 4 proposed by the Bill into "Native officer." From the latter of these articles we have also omitted the word "general" the second time it occurs, as it is intended that the power conferred by the article should be exercised by the officer commanding the division or district whether he happens to be a general officer or not.

5. We have omitted section 17 of the Bill as introduced, as we do not consider that the amendment, which it proposed to make in article 48, is desirable. We are of opinion that the present article, which, like the civil law as contained in the Penal Code, requires a person who attempts to commit suicide to do some act towards the commission of the offence before he makes himself liable to punishment, should be maintained unaltered.

6 We have assimilated the language of clause (2) of the new article 86 proposed by section 31 of the Bill to that of clause (1) (*c*) of the new article 73 proposed by section 23 of the Bill, so as to make it clear that, if thought expedient, authority to direct that courts-martial shall be composed of British instead of Native officers may be conferred by warrant of the Commander-in-Chief or the general officer of the Command on the same officers and in the same way as authority to convene ordinary courts-martial.

7. We have amended the new article 137 proposed by section 49 of the Bill so as to leave it to the discretion of the convicting Court in each case to direct the forfeiture of arrears of pay or not as it may deem fit, as we do not think that such forfeiture should follow conviction as a matter of course.

8. We have restored article 150, which was inadvertently repealed by section 52 of the Bill as introduced, and we have amended the same article and article 151 so as to prevent the practical inconvenience which is sometimes caused by the immediate despatch of a military convict to a civil jail.

9 As the amendments in article 165 proposed by section 66 of the Bill were incomplete as well as confusing, we have thought it preferable to set out the revised portions of the article at length.

10. We consider that the new article 183 proposed by section 73 of the Bill is too wide. We are of opinion that reservists should only be entitled to the privileges as to exemption from arrest and from attachment of their property when called out for or engaged upon or returning from training or service, and we have therefore amended the article accordingly.

11 We have omitted the preambles to section 74 of the Bill as introduced, as they are in our opinion unnecessary, and we have transformed the section into an additional article which we have numbered article 191.

12. We have, by a new section 74, added a Second Appendix to the Articles, setting out a form for assembly and proceedings of summary general courts-martial adapted from the form in the Manual of Military Law referred to in the Appendix to the Bill as introduced.

13. Lastly, the other changes we have made in the Bill are either merely verbal alterations or are not of sufficient importance to require special notice.

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

In English.

Gazette.	Date.
Gazette of India	18th August 1894.
Fort Saint George Gazette	4th September 1894.
Bombay Government Gazette	23rd August 1894.
Calcutta Gazette	29th August 1894.
North-Western Provinces and Oudh Government Gazette ..	25th August 1894.
Punjab Government Gazette	23rd August 1894.
Central Provinces Gazette	25th August 1894.
Burma Gazette	8th September 1894.
Assam Gazette	8th September 1894.
Coorg District Gazette	(Date not yet reported.)

In the Vernacular.

Province.	Language.	Date.
Madras	Hindustani	18th September 1894.
	Tamil	25th September 1894.
	Telugu	25th September 1894.

15. 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.

H. BRACKENBURY.
GEO. S. WHITE.
ALEX. EDW. MILLER.
A. P. MacDONNELL.

The 4th October 1894.

No. II.

THE INDIAN ARTICLES OF WAR BILL.

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74. Addition of Second Appendix to Articles.

No. II.

A Bill to amend the Articles of War for the government of Her Majesty's Indian Forces.

WHEREAS it is expedient to amend the Articles of War for the government of Her Majesty's Indian Forces; It is hereby enacted as follows:—

Title and commencement.

1. (*1*) This Act may be called the Indian Articles of War *Amendment* Act, 1894; and

(*2*) It shall come into force on *such date as the Governor-General in Council may by notification in the Gazette of India fix in that behalf.*

Repeal of clause (*c*) of Part I of Indian Articles of War.

2. Part I, clause (*c*), of the Indian Articles of War (hereinafter called "the said Articles"), is hereby repealed.

Substitution of new clause for clause (*d*) of Part I.

3. For Part I, clause (*d*), of the said Articles the following shall be substituted, namely:—

"(*d*).—*Application of Articles.*

"These Articles shall apply to all—

(*a*) persons to whom they actually apply at present;

(*b*) persons commissioned or gazetted as Native officers, or gazetted as warrant officers, of Her Majesty's Indian Forces;

(*c*) medical subordinates;

(*d*) persons attested under these Articles;

(*e*) unattested recruits;

(*f*) persons enrolled under these Articles;

(*g*) persons, not otherwise subject to military law, who, on active service, in camp, on the march, or at any frontier post specified by the Governor-General in Council by notification in this behalf, are employed by, or are in the service of, or are followers of, or accompany any portion of, Her Majesty's Indian Forces:

Provided as follows:

if any person claims to belong to a class to which the Army Act is, and these Articles are not, applicable, the burden of proving that he belongs to that class shall lie upon him." 44 & 45 Vict., c. 58.

Substitution of new clause for clause (*e*) of Part I.

4. For Part I, clause (*e*), of the said Articles the following shall be substituted, namely:

"(*e*).—*Definitions.*

"In these Articles, unless there is something repugnant in the subject or context,—

(1) 'notification' means a notification published in the official Gazette:

(2) 'prescribed' means prescribed by rules made by the Governor-General in Council or by any authority empowered by him in this behalf:

(3) 'British officer' means an officer holding a commission in Her Majesty's land forces, but does not include an honorary commissioned officer:

(4) 'Native officer' means an officer commissioned or gazetted as an officer holding a Native rank in Her Majesty's Indian Forces:

(5) 'officer' means a British officer or Native officer, but does not include a warrant officer or non-commissioned officer:

(6) 'medical subordinate' means a senior hospital assistant, a hospital assistant of the first, second or third class, and a sub-hospital assistant, but does not include an officer:

(7) 'superior officer,' when used in relation to a person subject to these Articles, includes a warrant officer, a non-commissioned officer and an acting non-commissioned officer:

(8) 'soldier' includes a non-commissioned officer and any armed person doing duty in the ranks of Her Majesty's Indian Forces:

(9) 'recruit' means a person enlisted for enrolment in any corps or department as a soldier:

(10) 'corps' means a unit of command, such as a regiment of cavalry, a regiment or battalion of infantry, a battery of artillery, and any other separate body of troops which is declared by the Governor-General in Council by general or special order to be a corps for the purposes of these Articles; it also includes an army hospital corps and a transport corps;

(11) 'department' includes any division or branch of a department:

(12) 'military reward' means any gratuity or annuity for long service or good conduct; it also includes any good-conduct pay or pension and any other pecuniary reward:

(13) 'enemy' includes all armed mutineers, armed rebels, armed rioters and pirates:

(14) 'active service,' as applied to a person subject to these Articles, means the time during which such person is attached to or forms part of a force which is engaged in operations against an enemy, or is engaged in military operations in, *or is in the line of march to*, a country or place wholly or partly occupied by an enemy, or is in military occupation of any foreign country.

(15) the expression 'India' means British India, together with any territories of any Prince or Chief under the suzerainty of Her Majesty exercised through the Governor-General in Council or through any Governor in Council or other officer subordinate to the Governor-General in Council: and the expression 'British India' means all territories and places within Her Majesty's dominions which are for the time being governed by Her Majesty through the Governor-General in Council or through any Governor in Council or other officer subordinate to the Governor-General in Council:

(16) the expression 'general officer of the Command' means the general officer commanding

the forces in a Command: and the expression 'Command' means one of the principal portions into which the army of India is, for the time being, divided:

(17) 'commanding officer' *when* used in any provision of these Articles with reference to any separate portion of Her Majesty's forces or to any department, means the *British* officer whose duty it is under the Army Regulations, India, or, in the absence of any such regulation, by the custom of the service, to discharge with respect to that portion of the forces of that department the functions of commanding officer in regard to matters of the description referred to in that provision:

(18) 'military custody' means the arrest or confinement of a person, according to the usages of the service:

(19) 'court-martial' means a court-martial held under these Articles:

(20) 'criminal court' means a court of ordinary criminal justice in British India, or established or continued elsewhere by the authority of the Governor-General in Council:

(21) 'civil offence' means an offence which if committed in British India would be triable by a criminal court: and

XLV of 1860. (22) expressions occurring in the Indian Penal Code and used in these Articles shall have the meanings respectively assigned to them by that Code."

Substitution of new clause for clause (*f*) of Part I.

5. For Part I, clause (*f*), of the said Articles the following shall be substituted, namely:—

"(*f*).—*Saving of certain Regulations.*

"Nothing in these Articles shall affect any regulations by which the respective officers and powers of cantonment magistrates and officers in charge of the police in cantonments are defined and controlled."

Substitution of new title for Title I of Part II.

6. For Part II, Title I, of the said Articles the following shall be substituted, namely:

"TITLE I.—ENROLMENT, ATTESTATION, DISMISSAL AND DISCHARGE.

Enrolment and attestation.

"*Article 1.*—(*1*) The Governor-General in Council may, by notification, declare what persons or classes of persons shall be enrolled only, or be both enrolled and attested, respectively.

Mode of enrolment.

(*2*) A person shall be deemed to be enrolled under these Articles when his name has, with his consent, been entered in the prescribed manner on the list of a corps or department of Her Majesty's Indian Forces.

Mode of attestation.

(*3*) Subject to the provisions of this article with respect to recruits, every person to be attested under these Articles shall be taken before the prescribed civil or military officer, and that officer shall read and explain to him, or cause to be read and explained to him in his presence, the questions set forth in the prescribed form of attestation, and such other matters (if any) as may be prescribed; and, after having cautioned him that if he makes a false answer to any question set forth in the attestation form he will be liable to be punished as provided by these Articles, shall record the answer to each question, and shall, if he is satisfied that the person fully understands the questions, and that the answer has been correctly recorded opposite each question, and if he perceives no impediment, administer to the person an affirmation or oath in the prescribed form.

(*4*) The form of affirmation or oath prescribed under this Article shall contain a promise that the person to be attested will be faithful to Her Majesty, Her heirs and successors, and that he will serve in Her Majesty's Indian Forces and go wherever he is ordered by land or sea, and that he will obey all commands of any officer set over him, even to the peril of his life.

(*5*) When a recruit is reported fit for duty, an affirmation or oath in the same form shall be administered to him in the prescribed manner by the commanding officer in front of the corps or such portion thereof or such members of the department as shall be present.

(*6*) After administering the affirmation or oath, the officer shall authenticate the attestation paper by his signature, and the person shall then be deemed to have been attested.

Treatment of enrolment and attestation as of same effect in certain cases.

(*7*) Subject to any rules which may be prescribed, the Commander-in-Chief in India, or the general officer of the Command, may direct that any persons to whom these Articles apply as attested persons shall, for the purposes of these Articles, be deemed to be enrolled, and that any persons to whom these Articles apply as enrolled persons shall, for the purposes of these Articles, be deemed to be attested.

Rank and subordination.

"*Article 2.*—(*1*) Subject to the provisions of the Army Act, the Governor-General in Council may, by notification, direct that persons of any class subject to these Articles shall, for any of the purposes of these Articles, be deemed to be Native officers, warrant officers or non-commissioned officers; and, 44 & 45 Vict. c. 58.

(*2*) Subject as aforesaid, any prescribed authority may issue an order giving a like direction with respect to any such person.

(*3*) Any notification or order issued under this article may be cancelled by the authority issuing the same; and,

(*4*) Subject as aforesaid, any person of the said classes with respect to whom no such notification or order is in force shall, so far as may be, be deemed for all the purposes of these Articles to be of a rank inferior to that of a non-commissioned officer.

(*5*) Should any question arise as to the rank of any other person subject to these Articles, or as to whether any such person is above or below a specified rank, the decision of the Governor-General in Council thereon shall be conclusive.

(*6*) Every person subject to these Articles shall, for the purposes thereof, be deemed to be under the commanding officer of the corps or department (if any) to which he is attached, and, if not attached to any corps or department, under any officer who may for the time being be named as his commanding officer by the general or other officer commanding the force with which such person may for the time being be serving, or of any other prescribed officer, or, if no such officer is named or prescribed, under the said general or other officer commanding;

Provided that a general or other officer commanding shall not place any person under an officer of official rank inferior to *that of such person* if there is present at the place where such person is any officer of higher rank under whom he can be placed.

Dismissal and discharge of commissioned officers.

"*Article 3.*—(*1*) Every *Native* officer shall be liable to dismissal from the service by the sentence of a general court-martial and to dismissal or discharge by order of the Governor-General in Council, or of the Commander-in-Chief in India, or of the general officer of the Command to which he belongs.

(*2*) A *Native* officer dismissed under these articles shall forfeit all claim to pension.

Dismissal and discharge of other persons.

"*Article 4.*—(*1*) Every person subject to these Articles, other than a *Native* officer, shall be liable to—

(*a*) dismissal from the service by the sentence of any court-martial empowered to try him, and

(*b*) dismissal or discharge from the service, by order of the Governor-General in Council, or of the Commander-in-Chief in India, or of the general officer of the Command to which he belongs, or of the officer commanding the division or district in which he is serving, or, if he belongs to a force not attached to a command, by order of the officer commanding such force.

(*2*) Every person so dismissed shall forfeit all claim to pension.

Attested person dismissed or discharged and re-enlisting or making false answer at his attestation.

"*Article 5.*—(*1*) Every attested person of or below the rank of non-commissioned officer who has been dismissed or discharged from the service, and who subsequently re-enters the service without at the time stating the fact of his dismissal or discharge, or showing his certificate of dismissal or discharge, may be dismissed the service by the officer commanding the corps or department with which he is serving; and

(*2*) Every attested person of or below the rank of non-commissioned officer who is discovered to have made a wilfully false answer to any question set forth in the attestation paper which has been put to him by, or by direction of, the officer before whom he appears for the purpose of being attested, shall, on conviction by court-martial, be liable to suffer imprisonment (with hard labour and with or without solitary confinement) or such less punishment as is in these Articles mentioned.

Certificate to person dismissed or discharged.

"*Article 6.*—Every attested person who is dismissed or discharged from the service shall be furnished by his commanding officer with a certificate, in the English language and in the mother-tongue of such person (when his mother-tongue is not English), setting forth—

(*a*) the authority dismissing or discharging him;

(*b*) the cause of his dismissal or discharge; and

(*c*) the full period of his service in the army."

Repeal of portion of article 7.

7. In article 7, sentence 1, of the said Articles, the words "in any regiment, corps, detachment or guard" are hereby repealed.

Substitution of new sentence for third sentence of same article.

8. For the third sentence of the last-mentioned article the following shall be substituted, namely:

"or who, knowing or having reason to believe in the existence of any mutiny or sedition, or of any intention to mutiny or create sedition, or of any conspiracy against the State."

Amendment of article 8.

9. In article 8 of the said Articles, for the words "under any circumstances in which the superior officer is distinguishable as such in any manner" the words "knowing or having reason to believe him to be such" shall be substituted.

Substitution of new articles for articles 10 and 11.

10. For articles 10 and 11 of the said Articles the following shall be substituted, namely:

"*Desertion.*

"*Article 10.*—Who deserts or attempts to desert the service;—or

"*Re-enlistment without having been discharged.*

"*Article 11.*—Who, without having first obtained a regular discharge from the corps or department to which he belongs, enlists or enrols himself in any other corps or department;—or"

Amendment of article 24.

11. For the last paragraph of article 24 of the said Articles the following shall be substituted, namely:

"Whenever any person is convicted of an offence specified in article 7 and punishable with death under this article, all his property, moveable and immoveable, shall be forfeited to the Government."

Substitution of new articles for articles 25 and 26.

12. For articles 25 and 26 of the said Articles the following shall be substituted, namely:

"*Unbecoming behaviour.*

"*Article 25.*—Any officer, medical subordinate or warrant officer who behaves in a manner unbecoming his position and character;—and any person subject to these articles—

"*Intoxication on duty.*

"*Article 26.*—Who is in a state of intoxication when on or after having been warned for any duty, or on parade, or on the line of march;—or"

Substitution of new article for article 31.

13. For article 31 of the said Articles the following shall be substituted, namely:

"*Failure to rejoin.*

"*Article 31.*—Who, being on leave of absence and having received information from proper authority that his corps or department has been ordered on service, fails, without sufficient cause, to rejoin without delay;—or"

Substitution of new article for article 39.

14. For article 39 of the said Articles the following shall be substituted, namely:

"*Impeding Provost-marshal.*

"*Article 39.*—Who impedes a provost-marshal or an assistant provost-marshal, or any officer or non-commissioned officer or other person legally exercising authority under or on behalf of a provost-marshal, or, when called on, refuses to assist, in the execution of his duty, the provost-marshal, assistant provost-marshal, or any such officer, non-commissioned officer or other person;—or"

Amendment of article 40.

15. In article 40 of the said Articles the words "enrolled or" shall be inserted between the word "person" and the word "attested."

Substitution of new article for article 47.

16. For article 47 of the said Articles the following shall be substituted, namely:

"*Making away with regimental necessaries.*

Article 47.—Who—

(*a*) designedly or through neglect kills, injures or loses his horse or ill-treats any animal used in the public service;—or

(*b*) dishonestly or fraudulently removes, conceals or delivers to any person, or

designedly or through neglect injures or loses his arms, clothes, tools, musical or surgical instruments, equipments, ammunition, accoutrements or regimental necessaries, or any such articles entrusted to him or belonging to any other person;—or

(*c*) sells, pawns, destroys or defaces any medal or decoration granted to him by order of Her Majesty or of the Governor-General in Council for service in the field or for general good conduct;—or"

Substitution of new article for article 57.

17. For article 57 of the said Articles the following shall be substituted, namely:

"*Punishment for offences mentioned in articles 54, 55 and 56.*

"*Article 57.*—Shall, if convicted by a general court-martial, be sentenced to be dismissed the service and to forfeit any arrears of pay and allowances due to him at the time of dismissal, and shall be punishable also with imprisonment (with or without hard labour, and with or without solitary confinement) for a term which may extend to two years: and shall, if convicted by a district court-martial, be liable to any or all of the penalties which such court is competent to inflict."

Amendment of article 65.

18. In article 65 of the said Articles the word "other" shall be omitted.

Substitution of new article for article 66.

19. For article 66 of the said Articles the following shall be substituted, namely:

"*Penalties for offences specified in articles 58 to 65.*

"*Article 66.*—Shall, on conviction by a general or district court-martial, be liable to any or all of the punishments, other than death or transportation, which the court-martial is competent to award."

Amendment of article 69.

20. In article 69 of the said Articles, for the words "such punishments as" *to the end*, the words "any or all of the punishments, other than death or transportation, which *the Court-martial is competent to award*" shall be substituted.

Substitution of new article for article 71.

21. For article 71 of the said Articles the following shall be substituted, namely:

"*Abetment.*

"*Article 71.*—Every person who abets, within the meaning of the Indian Penal Code, any offence punishable under these Articles may be punished with the punishment hereinbefore provided in these Articles for such offence."

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Substitution of new article for article 72.

22. For article 72 of the said Articles the following shall be substituted, namely:

"*Article 72.*—For the purposes of these Articles, there shall be five kinds of courts-martial, that is to say—

Courts-martial and the kinds thereof.

(1) General courts-martial ..	Hereinafter called ordinary courts-martial.
(2) District courts-martial ..	
(3) Regimental courts-martial ..	
(4) Summary general courts-martial" ..	Hereinafter called extraordinary courts-martial.
(5) Summary courts-martial ..	

Substitution of new articles for articles 73 and 74.

23. *For articles 73 and 74 of the said Articles the following shall be substituted, namely:*

"*Ordinary Courts-martial.*

Power to convene ordinary courts-martial.

"*Article 73.*—(*1*) The following authorities shall have power to convene general or district courts-martial, namely:

(*a*) the Commander-in-Chief in India,

(*b*) the general officer of the Command,

(*c*) any officer empowered in that behalf by warrant of the Commander-in-Chief in India or the general officer of the Command.

(*2*) The power of convening general or district courts-martial may be granted under clause (1), sub-clause (*c*), subject to such restrictions, reservations, exceptions and conditions as the Commander-in-Chief in India or the general officer of the Command granting the power may think fit.

(*3*) Any warrant under this article for convening general or district courts-martial, or either of them, may be addressed to an officer by name, or by designation of his office, or partly in one way and partly in the other, and may or may not, according to the terms thereof and the mode in which it is addressed, be limited to an officer named or be extended to any person for the time being performing the duties of such officer, or to the successors in command of such officer.

Composition of general courts-martial.

"*Article 74.*—A general court-martial shall, if held in British India, consist of not less than seven officers, unless that number, due regard being had to the public service, is not available, in which case the court may consist of not less than five officers."

Repeal of articles 75, 77, 78 and 79.

24. Articles 75, 77, 78 and 79 of the said Articles are hereby repealed.

Amendment of article 76.

25. In article 76 of the said Articles, for the words "reduction to the ranks" the words "reduction to a lower grade or to the ranks" shall be substituted.

Substitution of new articles for articles 80 and 81.

26. For articles 80 and 81 of the said Articles the following shall be substituted, namely:

Composition of district court-martial.

"*Article 80.*—A district court-martial shall consist of not less than five officers, unless that number, due regard being had to the public service, is not available, in which case the court may consist of not less than three officers.

"*Article 81.*—A district court-martial may, when necessary, be composed wholly of officers of the corps or department to which the accused belongs."

Amendment of article 82.

27. In article 82 of the said Articles the words "or garrison" and the words "other than mutiny" shall be omitted.

Further amendment of same article.

28. In the last-mentioned article, for the words "one year" the words "two years" and for the words "reduction to the ranks" the words "reduction to a lower grade or to the ranks" shall be respectively substituted.

Insertion of new article after article 82.

29. After article 82 of the said Articles the following article shall be inserted, namely:

Convening order to state if larger number of officers is not available.

"*Article 82A.*—Whenever a general or district court-martial is ordered to be composed of the smaller number of officers specified in article 74 or 80, the order convening the court shall expressly state that the larger number of officers is not, due regard being had to the public service, available; and that statement shall be conclusive evidence of the fact so stated."

Substitution of new articles for articles 84 and 85.

30. For articles 84 and 85 of the said Articles the following shall be substituted, namely:

Composition of regimental court-martial.

"*Article 84.*—A regimental court-martial shall consist of not less than three officers.

Powers of such court.

"*Article 85.*—A regimental court-martial shall have power to try all persons subject to these Articles and not above the rank of non-commissioned officer—

(*a*) for any offence triable by a court-martial under these Articles, except an offence punishable under articles 7 to 23 (both inclusive), articles 54 to 65 (both inclusive), or articles 171 to 173 (both inclusive), and,

(*b*) with the previous sanction of the prescribed authority, for any of the offences so excepted.

Powers as to sentences of such courts.

"*Article 85A.*—A regimental court-martial shall have power to pass any sentence which might have been passed by a district court-martial for the like offence other than suspension from rank, pay and allowances:

Provided that no sentence of imprisonment for a term exceeding six months, nor any of the additional punishments specified in article 135; shall be passed by a regimental court-martial."

Substitution of new articles for articles 86 to 89.

31. For articles 86 to 89 (*both inclusive*) of the said Articles the following shall be substituted, namely:

Native and British officers when to be nominated.

"*Article 86.*—(*1*) The officers composing a court-martial convened under the foregoing provisions shall, except as hereinafter provided, be Native officers.

(*2*) The Governor-General in Council, or the Commander-in-Chief in India, or the general officer of the Command, or any officer *empowered in that behalf by warrant of the* Commander-in-Chief in India or the general officer of the Command, may direct that any court-martial convened under these Articles shall be composed of British instead of Native officers.

(*3*) Any person subject to these Articles, who is under orders for trial by any court-martial, may claim to be tried by British officers.

(*4*) In all cases the right of making such a claim shall, before the court is convened, be explained to the person under orders for trial by the commanding officer, or some officer deputed by him in this behalf, and, when such a claim is made, the court shall be constituted accordingly.

(*5*) A court-martial convened for the trial of any person subject to these Articles, and serving with any British corps or detachment, may be composed of British officers if, in the opinion of the officer convening the court (such opinion to be expressed in the order convening the court and to be conclusive), Native officers are not available with due regard to the public service for service on the court.

Judge advocate and appointment of superintending officer for Native court-martial.

"*Article 87.*—(*1*) Every general court-martial shall be attended by a judge advocate.

(*2*) If no officer of the judge advocate general's department is available, the officer convening the court shall appoint a fit person to act as judge advocate at the trial.

(*3*) No person under orders for trial or under trial by any court-martial may, without the leave of the court, object to any person acting or professing to act as judge advocate.

(*4*) A British officer of not less than four years' service, hereinafter called the superintending officer, shall be appointed to superintend the proceedings of every court-martial composed of Native officers which is not attended by a judge advocate.

President.

"*Article 88.*—(*1*) At every court-martial the senior officer shall sit as president without special appointment as such.

(*2*) In case of the death or unavoidable absence of the president, the next senior officer shall take the place of the president, without special appointment as such, and the trial shall proceed if the court is still composed of not less than the smallest number of officers of which it is required by these Articles to consist.

Finding and sentence invalid without confirmation.

"*Article 89.*—No finding or sentence of a general, district or regimental court-martial shall be valid, except so far as it may be confirmed as provided by these Articles.

By whom findings and sentences may be confirmed or otherwise disposed of.

"*Article 89A.*—(*1*) The following authorities shall have power to confirm the findings and sentences of general and district courts-martial:

(*a*) the Commander-in-Chief in India;

(*b*) the general officer of the Command, as regards troops under his command wherever stationed;

(*c*) the officer commanding a force not attached to a Command;

(*d*) any officer empowered in that behalf by warrant of the Commander-in-Chief in India or the general officer of the Command:

Provided that, except on active service or beyond the limits of India, no warrant issued under this article shall be deemed to empower an officer to confirm any finding or sentence in the case of an officer, medical subordinate or warrant officer, or a sentence of death, transportation or imprisonment for a term exceeding seven years, in any case whatever.

(*2*) The provisions of article 73, clauses (*2*) and (*3*), shall, with the necessary modifications, apply to warrants issued under this article.

(*3*) The officer who convenes a regimental court-martial or the officer having authority to convene such court-martial, at the date of the submission of the finding and sentence thereof, shall have power to confirm the same.

Power of confirming officer to mitigate, remit or commute sentence.

"*Article 89B.*—Subject to such restrictions as may be contained in any warrant issued under the last preceding article, the confirming officer may, when confirming the sentence of a court-martial, mitigate or remit the punishment thereby awarded, or commute that punishment for any less punishment or punishments to which the offender might have been sentenced by the court-martial:

Provided that a sentence of transportation shall not be commuted to a sentence of imprisonment for a term exceeding the term of transportation awarded by the court."

Substitution of new articles for articles 90 to 97.

32. For articles 90 to 97 (*both inclusive*) of the said Articles the following shall be substituted, namely:.

"Extraordinary Courts-Martial.

Convening of summary general courts-martial.

"Article 90.—The following authorities shall have power to convene a summary general court-martial, and such a court-martial may be convened—

(*a*) in any place, whether within or beyond British India, by an officer empowered in this behalf by an order of the Governor-General in Council or of the Commander-in-Chief in India or of the general officer of the Command;

(*b*) by an officer commanding any detached portion of Her Majesty's troops upon active service when, in his opinion, it is not practicable, with due regard to discipline and the exigencies of the service, that an offence should be tried by an ordinary general court-martial.

Composition of summary general courts-martial.

"Article 91.—(*1*) A summary general court-martial shall consist of not less than three officers, who may be either British or Native, or both British and Native officers, as the officer convening the court thinks fit.

(*2*) Such court may be convened and the proceedings thereof be recorded in accordance with the form in the *second* appendix to these Articles *with such variations as the circumstances of each case may require:*

Provided that the convening officer may, in respect of any such trial by such court, specially order the evidence, together with the prisoner's statement in defence, to be fully recorded in writing.

Powers of a summary general court-martial.

"Article 92.—A summary general court-martial shall have all the powers of a general court-martial, and, subject to any instructions contained in the order convening the court, its sentence shall be valid, and may be carried out forthwith *in case* it does not exceed that which a district court-martial is empowered to pass, and in any other case when confirmed by the authority convening the court.

Convening and constitution of, and persons triable by, a summary court-martial.

"Article 93.—(*1*) A summary court-martial may be held—

(*a*) by the commanding officer, being a combatant officer, of any corps or department of Her Majesty's Indian forces, or of any detachment of those forces;

(*b*) by the commanding officer of any British corps or detachment to which Native combatant details subject to these Articles are attached.

(*2*) At every summary court-martial the officer holding the trial shall alone constitute the court, but the proceedings shall be attended throughout by two other officers, British or Native, who shall not, as such, be affirmed or sworn.

(*3*) The proceedings shall be recorded in the English language, and, when closed, shall be signed by the officer holding the trial, and by the officers attending thereat. . . .

(*4*) A summary court-martial may try any person subject to these Articles and under the command of the officer holding the court, except an officer, medical subordinate or warrant officer.

(*5*) Any member of an army hospital corps may be tried by summary court-martial by any officer authorised in this behalf by the officer commanding the division, district, brigade or station to which the alleged offender belongs.

Offences triable by a summary court-martial.

"Article 94.—A summary court-martial may try any offence punishable under any of these Articles:

Provided that when there is no grave reason for immediate action, and reference can, without detriment to discipline, be made to superior authority, a summary court-martial shall not try without such reference any of the following offences, namely:

(*a*) any offence punishable under any of the articles 7 to 23 (both inclusive), or articles 54 to 65, (both inclusive), or article 171;

(*b*) any offence against the officer holding the court.

Powers of a summary court-martial.

"Article 95.—(*1*) A summary court-martial held by the commanding officer of a corps or department may pass any sentence which can be passed under these Articles, except a sentence of death or transportation, or of imprisonment for a term exceeding one year.

(*2*) A summary court-martial held by any other officer may pass any sentence which can be passed under these Articles, except a sentence of death or transportation, or of imprisonment for a term exceeding six months.

Finding and sentence of a summary court-martial.

"Article 96.—The finding and sentence of a summary court-martial shall not require to be confirmed, but may be carried out at once:

Provided that, if the officer holding the trial is of less than five years' service, he shall not, except on active service, carry into effect any sentence until it has received the approval of a superior military officer commanding not less than a corps.

Transmission of proceedings of summary courts-martial.

"Article 97.—The proceedings of every summary court-martial shall, without delay, be forwarded to the officer commanding the district, or the division or brigade, within which the trial was held, or to the prescribed officer: and such officer or the Commander-in-Chief in India or the general officer of the Command, or, when the court is held in a force not attached to a Command, the officer commanding the force, may, for reasons based on the merits of the case, but not on any merely technical grounds, set aside the proceedings."

Substitution of new article for article 100.

33. For article 100 of the said Articles the following shall be substituted, namely:

Arrest or confinement of accused.

"Article 100.—(*1*) Whenever any person subject to these articles is accused of any offence which his commanding or other superior officer considers should be tried by court-martial, such officer shall order the accused to be placed in military custody until he can be tried by a court-martial or is discharged by proper authority.

(*2*) No such person shall be detained in military custody longer than is necessary for the purposes of justice."

Repeal of Article 101.

34. Article 101 of the said Articles is hereby repealed.

Substitution of new article for article 102.

35. For article 102 of the said Articles the following shall be substituted, namely:

Interpreter.

"Article 102.—(*1*) An interpreter shall be appointed to every court-martial.

(*2*) If no duly qualified interpreter is available at the station or place where the court-martial sits, the officer appointing the court, or the officer commanding in the district or place within or at which the trial is to be held, shall appoint any competent person to perform the duty of interpreter.

(*3*) When no other qualified or competent person is available, the superintending officer, or, in the case of an European court, the president, shall perform the duty of interpreter.

(*4*) In the case of a trial by a summary court-martial, the officer holding the trial, or one of the officers in attendance thereat, may perform the duty of interpreter if no other competent interpreter is available.

(*5*) No interpreter shall, as such, have a vote upon any matter."

Substitution of new articles for article 103.

36. For article 103 of the said Articles the following shall be substiuted, namely:

Dissolution of courts.

"Article 103.—(*1*) When a court-martial after the commencement of the trial is reduced below the smallest number of officers of which it is by these Articles required to consist, it shall be deemed to be dissolved.

(*2*) If, on account of the illness of the prisoner before the finding, it is impossible to continue the trial, a court-martial shall be dissolved.

(*3*) Where a court-martial is dissolved under this article, the prisoner may be tried again

Power to clear court.

"Article 103A.—The president of a court-martial may, on any deliberation among the members, cause the court to be cleared of all other persons.

Power to view place.

"Article 103B.—The court may, when it thinks fit, view any place."

Amendment of article 104.

37. In article 104 of the said Articles the words "general court-martial appointed under an Order in Council, or of any other" *and the words and figures "under Article 96 or 97"* shall be omitted.

Amendment of article 107.

38. In article 107 of the said Articles, for the words "courts martial, other than courts-martial appointed under an Order in Council, or summary" the word "ordinary" shall be substituted.

Insertion of new article after article 108.

39. After article 108 of the said Articles the following article shall be inserted, namely:

Affirmation or oath of interpreter.

"Article 108A.—At a summary court-martial the interpreter shall make affirmation or oath down to the words 'published by authority' only."

Repeal of article 114.

40. Article 114 of the said Articles is hereby repealed.

Substitution of new article for article 116.

41. For article 116 of the said Articles the following shall be substituted, namely:

Conviction of one offence permissible on charge of another.

"Article 116.—(*1*) A prisoner charged before a court-martial with desertion may be found guilty of attempting to desert or of being absent without leave.

(*2*) A prisoner charged before a court-martial with attempting to desert may be found guilty of desertion or of being absent without leave.

(*3*) A prisoner charged before a court-martial with any one of the following offences, that is to say, theft, dishonest misappropriation or conversion, criminal breach of trust, or dishonestly receiving or retaining stolen property, may be found guilty of any other of those offences.

(*4*) A prisoner charged before a court-martial with any other offence under these Articles may, on failure of proof of an offence having been committed under circumstances involving a more severe punishment, be found guilty of the same offence as having been committed under circumstances involving a less severe punishment."

Substitution of new article for article 117.

42. For article 117 of the said Articles the following shall be substituted, namely:

Evidence of previous convictions and general character.

"Article 117.—(*1*) When any person subject to these Articles has been convicted by a court-martial of any military offence, such court-martial shall enquire into, and receive and record evidence of, any previous convictions of such person, either by a court-martial or by a criminal court, and shall further enquire into and record the general character of such person.

(*2*) Evidence received under this article may be either oral, or in the shape of entries in, or certified extracts from, court-martial books or other official records; and it shall not be necessary to prove the signature to such certified extracts, nor shall it be necessary to give notice before trial to the person tried that evidence as to his previous convictions or character will be received.

(*3*) At a summary court-martial the commanding officer holding the trial may, if he thinks fit, record any previous convictions against the offender and his general character, as of his own knowledge, instead of requiring them to be proved under the foregoing provisions of this article.

General rule as to evidence.

"Article 117A.—Subject to the provisions of the last foregoing article, the Indian Evidence Act, 1872, subject to such modifications thereof and to such additional rules of evidence as the Governor-General in Council may, by notification, direct, shall apply to all proceedings before a court-martial." I of 1872.

Substitution of new articles for articles 119 and 120.

43. For articles 119 and 120 of the said Articles the following shall be substituted, namely:

Majority requisite to sentence of death.

"Article 119.—No sentence of death shall be passed by any court-martial without the concurrence of two-thirds at the least of the members of the court.

Revision of finding or sentence.

"Article 120.—(*1*) The finding or sentence of any court-martial may be once revised by order of the officer authorized to dispose of the proceedings, and, on such revision, the court, if so directed by him, may take additional evidence.

(*2*) The court, on revision, shall consist of the same officers as were present when the original decision was passed, unless any of those officers shall be unavoidably absent.

(*3*) In case of such unavoidable absence the cause thereof shall be duly certified in the proceedings, and the court shall proceed with the revision, provided it still consists of the smallest number of officers of which such court is by these Articles required to consist."

Substitution of new articles for articles 122 to 124.

44. For articles 122 to 124 (*both inclusive*) of the said Articles the following shall be substituted, namely:

Summoning witnesses and production of documents.

"Article 122.—(*1*) The judge advocate in the case of a general court-martial, and the officer ordering the trial in the case of any other court-martial, may, by summons under his hand, require the attendance

before the court, at a time and place to be mentioned in the summons, of any person either to give evidence or to produce any document or other thing.

(2) In the case of a witness amenable to military authority, the summons shall be sent to the officer actually commanding the corps, department or detachment to which he belongs, and such officer shall serve it upon him accordingly.

(3) In the case of any other witness, the summons shall be sent to the magistrate within whose jurisdiction he may be or reside, and such magistrate shall give effect to the summons as if the witness were required in the court of such magistrate.

(4) When a witness is required to produce any particular document or other thing in his possession or power, the summons shall describe it with convenient certainty.

I of 1872. (5) Nothing in this section shall be deemed to affect the Indian Evidence Act, 1872, sections 123 and 124, or to apply to any letter, post-card, telegram or other document in the custody of the postal or telegraph authorities.

(6) If any document in such custody is, in the opinion of any district magistrate, chief presidency magistrate, high court or court of session, wanted for the purposes of any court martial, such magistrate or court may require the postal or telegraph authorities, as the case may be, to deliver such document to such person as such magistrate or court may direct.

(7) If any such document is, in the opinion of any other magistrate or of any commissioner of police or district superintendent of police, wanted for any such purpose, he may require the postal or telegraph department, as the case may be, to cause search to be made for and to detain such document pending the orders of any such district magistrate, chief presidency magistrate or court.

Contempts of court.

"*Article 123.*—(1) Any witness duly summoned, and any person who commits any contempt of court in the presence of a court-martial, or any offence described in Articles 56, 57 or 68, shall, if subject to these Articles, be proceeded against as the court may direct.

(2) If any such witness or person is not so subject, the president of the court-martial may certify the offence under his hand to the court of any magistrate within the local limits of whose jurisdiction it was committed, and the magistrate may thereupon take cognizance of the case, and, after hearing anything which the accused may desire to say, dispose of it as if the offence had been committed in a proceeding in the court of such magistrate.

Privileges of persons attending courts-martial.

"*Article 124.*—(1) No president or member of a court-martial, no judge advocate or superintending officer, no party to any proceeding before a court-martial or his legal practitioner or agent, and no witness acting in obedience to a summons to attend a court-martial, shall, while proceeding to, attending on or returning from, a court-martial, be liable to arrest under civil or revenue process.

(2) If any such person is arrested under any such process, he may be discharged by order of the court-martial."

Repeal of articles 125 to 129.

45. Articles 125 to 129 (*both inclusive*) of the said Articles are hereby repealed.

Amendment of article 130.

46. In article 130, clause (*d*), sentence I, of the said Articles, for the words "one year" the words "two years" shall be substituted.

Substitution of new article for article 131.

47. For article 131 of the said Articles the following shall be substituted, namely:

Dismissal.

"*Article 131.*—Dismissal from the service may accompany any other sentence passed by a court-martial."

Insertion of words in article 132.

48. In article 132 of the said Articles, after the word "reduced" the words "to a lower grade or" shall be inserted.

Substitution of new articles for articles 133 to 137.

49. For articles 133 to 137 (*both inclusive*) of the said Articles the following shall be substituted, namely:

Solitary confinement.

"*Article 133.*—In executing a sentence of solitary confinement, such confinement shall in no case exceed fourteen days at a time, with intervals between the periods of solitary confinement of not less duration than such periods; and, when the imprisonment awarded shall exceed three months, the solitary confinement shall not exceed seven days in any one month of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such period.

Reduction of non-commissioned officers to ranks.

"*Article 134.*—A non-commissioned officer sentenced by court-martial to any of the punishments specified in the second paragraph of article 132 shall be deemed to be reduced to the ranks.

Forfeiture of pay and pension.

"*Article 135.*—On a conviction of any offence, a general, summary general or district court-martial may, in addition to any other punishment which it is empowered to award, sentence the offender to forfeit all advantage as to additional pay and claim to pension on discharge which might otherwise have accrued from the length or nature of his former service, or to forfeit all such advantage absolutely, whether it has accrued from former service or may accrue from future service, or to forfeit service for the purpose of promotion, increased pay or pension or any other prescribed purpose, or to forfeit any military decoration or reward.

Stoppage of good-conduct pay on conviction.

"*Article 136.*—Whenever a person subject to these Articles is convicted by a court-martial, his good-conduct pay shall, subject to any rules or orders which may from time to time be made with the previous sanction of the Governor-General in Council, cease.

Forfeiture of arrears of pay.

"*Article 137.*—On a conviction for any offence if the offender is sentenced to dismissal from the service, or if his sentence involves such dismissal, he *may* further be sentenced to forfeit, *if* the court *shall so* direct,—

(*a*) all or any arrears of pay and allowances or other public money due to him at the time of his dismissal, or

(*b*) such portion thereof as may be required to make good any proved loss or damage arising out of his offence."

Amendment of article 138.

50. The first paragraph of article 138 of the said Articles, and the word "and" at the beginning of the second paragraph of the same article, are hereby repealed.

Amendment of article 139.

51. In article 139 of the said Articles, for the words "in the case of an officer, two-thirds, or, in the case of any other person, one-half of his" the words "one-half of the offender's" shall be substituted.

Repeal of articles 142 to *149*.

52. Articles 142 to *149* (*both inclusive*) of the said Articles are hereby repealed.

Amendment of articles *150 and* 151.

53. In articles *150 and* 151 of the said Articles, *after the words "the offender shall" the words "as soon as may be convenient" shall be inserted, and* for the words "the nearest jail" the words "a jail" shall be substituted.

Addition to article 151.

54. To the last-named article the following proviso shall be added, namely:

"Provided that, in the case of a sentence of such imprisonment for a period not exceeding three months, the confirming or superior authority or, in the case of a summary court-martial, the commanding officer holding the trial may direct that the sentence shall be undergone in military custody."

Amendment of article 152.

55. To article 152 of the said Articles the words "Subject to the control of the Commander-in-Chief in India" shall be prefixed; and for the words "the Commander-in-Chief of a Presidency" the following words shall be substituted, namely: "the general officer of the Command."

Further amendment of same article.

56. To the second paragraph of the last-mentioned article the words "Subject as aforesaid," shall be prefixed.

Insertion of new words in article 155.

57. In article 155 of the said Articles, after the words "from the date of such sentence" the words "or, if an appeal be preferred against such sentence and fail, from the date of the disposal of such appeal," shall be inserted.

Addition to same article.

58. To the last-mentioned article the following shall be added, namely:

"Provided that on active service any such person may, by order of the officer empowered under these Articles to confirm or otherwise dispose of the proceedings of the trial, be retained to serve in the ranks, and his service therein shall be reckoned as part of his term of transportation or imprisonment."

Repeal of articles 156 to 159.

59. Articles 156 to 159 (*both inclusive*) of the said Articles are hereby repealed.

Substitution of new article for article 160.

60. For article 160 of the said Articles the following shall be substituted, namely:

Pardons and remissions.

"*Article 160.*—When any person subject to these Articles has been convicted by a court-martial of any offence,—

(*a*) the Governor-General in Council or,

(*b*) when the person has been convicted of any offence other than a civil offence, the Commander-in-Chief in India on the general officer of the Command,

may—

(*1*) pardon the person;

(*2*) remit wholly or in part any punishment awarded to him;

(*3*) order the restoration to him of any service or other advantage forfeited under his sentence, or

(*4*) re-admit him to the service when he has been dismissed therefrom:

Provided that the general officer of the Command shall not exercise the powers conferred by this section in respect of any person, unless—

(*1*) the person was under his authority when sentenced; and

(*2*) the person is still in the service, or, if the person has been dismissed from the service, the corps or department from which he was dismissed has since continued under the authority of that officer.

Amendment of article 161.

61. In article 161 of the said Articles the words "or to the Government of Fort St. George, or to the Government of Bombay," shall be repealed; and for the words "Commander-in-Chief of any Presidency or of the officer commanding any force not attached to a Presidency" the following words shall be substituted, namely:—"Commander-in-Chief in India or the general officer of the Command, or of the officer commanding any force not attached to a Command."

Addition of new article after article 161.

62. After article 161 of the said Articles the following shall be inserted, namely:

"*Preservation of Proceedings.*

Preservation of proceedings of courts-martial.

"*Article 161A.*—(1) The proceedings of all general courts-martial shall be preserved by the judge advocate general for not less than seven years, and the proceedings of summary general courts-martial and district courts-martial for not less than three years, from the date of the confirmation of the finding and sentence.

(2) The proceedings of regimental and summary courts-martial shall be preserved for three years with the records of the corps or department to which the prisoner belonged.

(3) Every person tried by a court-martial shall be entitled, on demand at any time after the confirmation of the finding and sentence where such confirmation is required, and before the proceedings are destroyed, to obtain from the officer or person having the custody of the proceedings a copy thereof, including the proceedings upon revision, if any, upon payment for the same at the prescribed rate."

Substitution of new article for article 162.

63. For article 162 of the said Articles the following shall be substituted, namely:

Enquiry on absence of person subject to Articles.

"*Article 162.*—(1) When any person subject to these Articles has been absent without due authority from his duty for a period of sixty days, a court of enquiry shall, as soon as practicable, be assembled, and, upon affirmation or oath administered in the prescribed manner, shall enquire respecting the absence of the person, and the deficiency, if any, of property of the Government entrusted to his care, or of his arms, ammunition, equipments, instruments, clothing or necessaries; and, if satisfied of the fact of such absence without due authority or other sufficient cause, the Court shall declare such absence and the period thereof, and the said deficiency, if any; and the commanding officer of the corps or department to which the person belongs shall enter in the court-martial book of the corps or department a record of the declaration.

(2) If the person declared absent does not afterwards surrender, or is not apprehended, the record shall have the legal effect of a conviction of desertion.

(3) If the person declared absent surrenders or is apprehended, the record or a copy thereof, purporting to bear the signature of the officer having the custody of the court-martial book, shall, on the trial of the person for desertion, be presumptive evidence of the facts therein recorded; and, on proof of the identity of the prisoner with the person therein mentioned, he may be found

guilty of desertion and of the deficiency, if any, therein recorded."

Amendment of article 163.

64. For the last paragraph of article 163 of the said Articles the following shall be substituted, namely:

"Such recommendation, duly confirmed by the Commander-in-Chief in India, or by the general officer of the Command, or the officer commanding any force not attached to a Command to which he belongs, or by any general officer under whose command the person is serving, shall entitle him to receive such arrears and reckon service accordingly."

Substitution of new article for article 164.

65. For article 164 of the said Articles the following shall be substituted, namely:

Reduction to lower grade or ranks.

"*Article 164.*—The Commander-in-Chief in India, the general officer of the Command, the officer commanding any force not attached to a command, and the officer commanding any district or division or brigade, shall respectively have power to reduce to a lower grade or to the ranks any non-commissioned officer under his command."

Amendment of article 165.

66. In article 165 of the said Articles *for* the words "No such minor punishment shall be awarded by a court-martial," *to the end of the article, the following shall be substituted, namely*:—

"*Unless otherwise specially provided by the said Commander-in-Chief, no Native officer, medical subordinate or warrant officer shall be liable to any such minor punishment.*

"*Good-conduct pay shall not necessarily be forfeited on the infliction of a minor punishment, but forfeiture thereof may be awarded as a substantive punishment, by order of the Commanding officer, as may from time to time be prescribed in the General Orders of the Commander-in-Chief in India.*

"*Forfeiture of good-conduct pay may be awarded in addition to any other minor punishment.*"

Amendment of article 166.

67. In article 166 of the said Articles, the words "the Governor of Fort St. George in Council, the Governor of Bombay in Council, or any other Local Government" shall be omitted.

Amendment of article 168.

68. In article 168 of the said Articles, for the words "the Commander-in Chief of the Presidency" the words "the Commander-in-Chief in India or the general officer of the Command" shall be substituted.

Amendment of article 169.

69. In the second paragraph of article 169 of the said Articles, for the words "warrant officer" the words "non-commissioned officer" shall be substituted.

Repeal of part of article 170.

70. The second and third paragraphs of article 170 of the said Articles are hereby repealed.

Substitution of new articles for articles 171 to 175.

71. For articles 171 to 175 (*both inclusive*) of the said Articles the following shall be substituted, namely:

"*Civil Offences.*

Military jurisdiction with respect to civil offences.

"*Article 171.*—Every person subject to these Articles who at any place beyond British India commits any civil offence shall be deemed to be guilty of an offence against military law, and if charged therewith under this article shall, subject to the provisions of these Articles, be liable to be tried for the same by court-martial at any place, whether within or beyond British India, and on conviction to be punished as follows, that is to say:

(*a*) if the offence is one which would be punishable under the law of British India with death or with transportation, or with imprisonment for a term exceeding three years, he shall be liable to suffer any punishment assigned for the offence by the law of British India; and

(*b*) in other cases, he shall be liable to suffer any punishment assigned for the offence by the law of British India or such punishment as might be awarded to him in pursuance of these Articles in respect of an act to the prejudice of good order and military discipline.

Extension of article 171 to certain civil offences.

"*Article 172.*—The Governor-General in Council may, by notification, extend the last foregoing article to civil offences or any class of those offences committed by a person subject to these Articles when on active service in British India, and may cancel any such notification.

Certain offences when triable by military law.

"*Article 173.*—Every person subject to these Articles who, whether within or beyond British India, commits or attempts to commit or abets the commission of any of the following offences against any person subject to military law, that is to say, murder, culpable homicide or any offence punishable under any of the sections 323 to 335 (both inclusive) or section 506 of the Indian Penal Code, shall be deemed to be guilty of an offence against military law, and if charged under this Article with any such offence shall, subject to the provisions of these Articles, be liable to be tried by court-martial at any place whether within or without British India, and on conviction shall be liable to suffer any punishment assigned for the offence by the said Code. XLV of 1

Jurisdiction over certain offences.

"*Article 174.*—When under any of the foregoing Articles a criminal court and a court-martial have each jurisdiction in respect of an offence, it shall be in the discretion of the prescribed military authority to decide before which court the proceedings shall be instituted, and, if that authority decides that they shall be instituted before a court-martial, to direct that the accused person shall be detained in military custody.

Power of criminal court to require delivery of offender.

"*Article 175.*—(*1*) When a criminal court having jurisdiction is of opinon that proceedings ought to be instituted before itself in respect of any alleged offence, it may, by written notice, require the convening authority or the prescribed military authority at his option either to deliver over the offender to the nearest magistrate to be proceeded against according to law or to postpone proceedings pending a reference to the Governor-General in Council.

(*2*) In every such case the said authority shall either deliver over the offender in compliance with the requisition or shall forthwith refer the question as to the court before which the proceedings are to be instituted for the determination of the Governor-General in Council, whose order upon such reference shall be final."

Substitution of new articles for articles 176 to 179.

72. For articles 176 to 179 (*both inclusive*) of the said Articles the following shall be substituted, namely:

"Title VI.—Property of Deceased Persons and Deserters.

Property of deceased persons, deserters and lunatics.

"*Article 176.*—The following rules are enacted respecting the disposal of the property of every person who belongs to a class subject to these Articles who dies, is killed in the field or deserts:—

(*1*) The commanding officer shall secure all the moveable property that is on the spot, and cause an inventory thereof to be made, and draw any pay and allowances due to the deceased or deserter.

(*2*) In the case of a deceased person who has left in a Government Savings Bank (including any Post Office Savings Bank, however named) a deposit not exceeding one thousand rupees, the commanding officer may, if he thinks fit, require the secretary or other proper officer of the bank to pay the deposit to him forthwith notwithstanding anything in any departmental rules; and, after the payment thereof in accordance with such requisition, no person shall have any right in respect of the deposit except as hereinafter provided.

(*3*) In the case of a deceased person whose representative is on the spot and has given security for the payment of the regimental debts (if any) of the deceased, the commanding officer shall deliver over the property and the amount of the deposit (if any) received under clause (*2*) of this article to that representative.

(*4*) In the case of a deceased person whose estate is not dealt with under clause (*3*) of this article, and in the case of any deserter, the commanding officer shall cause the property to be sold by public auction, and shall pay the regimental debts and other debts in camp or quarters (if any), and in the case of a deceased person the expenses of his funeral ceremonies, from the proceeds of the sale and the amount of the deposit (if any) received under clause (*2*) of this article.

(*5*) The surplus, if any, shall in the case of a deceased person be paid to his representative, if any, or in the event of no claim to such surplus being established within twelve months after the death, then the same shall be remitted to the prescribed officer.

(6) In the case of the sale of the effects of a deserter, the amount remaining in the hands of the commanding officer shall be forthwith remitted to the prescribed officer.

Disposal of certain property without production of probate, &c.

"*Article 177.*—Property deliverable and money payable to the representative of a deceased person under the last foregoing article may, if the total value or amount thereof does not exceed one thousand rupees, and if the prescribed officer thinks fit, be delivered or paid to any person appearing to him to be entitled to receive it or to administer the estate of the deceased, without requiring the production of any probate, letters of administration, certificate or other such conclusive evidence of title; and such delivery or payment shall be a full discharge to those ordering or making the same and to the Secretary of State for India in Council from all further liability in respect of the property or money; but nothing in this article shall affect the rights of any executor or administrator or other representative, or of any creditor, of a deceased person against any person to whom such delivery or payment has been made.

Meaning of desertion in article 176.

"*Article 178.*—A person shall be deemed to have deserted within the meaning of article 176 who has been convicted of desertion, or who has been illegally absent from duty for a period of sixty days and has not subsequently surrendered or been apprehended.

Application of article 178 to lunatics.

"*Article 179.*—The provisions of the last mentioned article shall, so far as they can be made applicable, apply in the case of a person subject to these articles becoming insane, such allowance being made for his support as is authorised by the Military Lunatics Act, 1877." X of 1877.

Substitution of new Part for Part III.

73. For Part III of the said Articles the following shall be substituted, namely:—

"Part III.—Miscellaneous.

Prohibition of second trial.

"*Article 180.*—When any person subject to these Articles has been acquitted or convicted of an offence by a court-martial or by a criminal court, or has been summarily dealt with for an offence under article 165 or 166, he shall not be liable to be again tried for the same offence by a court-martial or dealt with summarily in respect of it under either of the said Articles.

Exemption from arrest for debt.

"*Article 181.*—(*1*) No person subject to these Articles shall, so long as he belongs to Her Majesty's Indian Forces, be liable to be arrested for debt under any process issued by, or by the authority of, any civil or revenue court or revenue-officer.

(*2*) The judge of any such court may examine into any complaint made by such person or his superior officer of the arrest of such person contrary to the provisions of this article, and may by warrant under his hand discharge the person, and award reasonable costs to the complainant, who may recover those costs in like manner as he might have recovered costs awarded to him by a decree against the person obtaining the process.

(*3*) For the recovery of such costs no fee whatever shall be payable to the court by the complainant.

Property exempted from attachment.

"*Article 182.*—Neither the arms, clothes, equipment, accoutrements or necessaries of any person subject to these Articles, nor any animal used by him for the discharge of his duty, shall be seized; nor shall the pay and allowances of any such person or any part thereof be attached, by direction of any civil or revenue court or any revenue-officer, in satisfaction of any decree or order enforceable against him.

Application of the last two foregoing articles to reservists.

"*Article 183.*—Every person belonging to the Indian Reserve Forces shall, *when called out for or engaged upon or returning from training or service*, as an officer or soldier, be entitled to all the privileges accorded by the two last foregoing articles to a person subject to these Articles.

Priority of hearing by courts of cases in which Native officers and soldiers are concerned.

"*Article 184.*—(*1*) On the presentation to any court by or on behalf of any officer or soldier subject to these Articles of a certificate, from the proper military authority, of leave of absence having been granted to or applied for by him for the purpose of prosecuting or defending any suit or other proceeding in such court, the court shall, on the application of such officer or soldier, arrange, so far as may be possible, for the hearing and final disposal of such suit or other proceeding within the period of the leave so granted or applied for.

(*2*) The certificate from the proper military authority must state the first and last day of the leave or intended leave, and set forth a description

of the case with respect to which the leave was granted or applied for.

(3) No fee whatever shall be payable to the court in respect of the presentation of any such certificate, or in respect of any application by or on behalf of any such officer or soldier for priority for the hearing of his case.

(4) Where the court is unable to arrange for the hearing and final disposal of the suit or other proceeding within the period of such leave or intended leave as aforesaid, it shall record its reasons for having been unable to do so, and shall cause a copy thereof to be furnished to such officer or soldier on his application, without any payment whatever by him in respect either of the application for such copy or of the copy itself.

(5) If in any case a question arises as to the proper military authority qualified to grant such certificate as aforesaid, such question shall be at once referred by the court to the nearest officer commanding a corps, whose decision shall be final.

Capture of deserters.

"*Article 185.*—(1) Whenever any person subject to these Articles deserts, the commanding officer of the corps, department or detachment to which he belongs shall give written information of the desertion to such civil, political or police authorities as, in his opinion, may be able to afford assistance towards the capture of the deserter; and such authorities shall thereupon take steps for the apprehension of the said deserter in like manner as if he were a person for whose capture a warrant had been issued by a magistrate, and shall deliver the deserter, when apprehended, to military custody.

(2) Such authorities shall also, by such means as appear to them best adapted for the purpose, prevent persons reasonably believed to be subject to these Articles from travelling through the areas subject to their jurisdiction, unless on duty, or furnished with a certificate of leave or discharge.

(3) Any police-officer may arrest, without warrant, any person reasonably believed to be *subject to these Articles and to be* travelling without authority, and shall bring him without delay before the nearest magistrate, or the nearest military commanding officer when no magistrate is readily accessible, to be dealt with according to law.

Apprehension of military offenders.

"*Article 186.*—Whenever any person subject to these Articles, who is accused of any military offence, is within the jurisdiction of any civil, political or police officer, such officer shall aid in the apprehension and delivery to military custody of such person upon receipt of a written application to that effect signed by his commanding officer.

Presumption as to signatures.

"*Article 187.*—In any proceeding under these Articles, any application, certificate, warrant, reply or other document purporting to be signed by an officer in the civil or military service of the Government shall, on production, be presumed to have been duly signed by the person and in the character by whom and in which it purports to have been signed, until the contrary is shown.

Portions of the forces under an Army Command.

"*Article 188.*—(1) The Governor-General in Council may direct that for the purposes of these Articles—

(*a*) any portion of Her Majesty's Indian Forces belonging to a Command shall, when serving beyond the ordinary limits of the command, continue subject to the authority of the general officer of the Command; or

(*b*) any portion of those forces not belonging to a Command shall be attached to a Command, and shall be subject to the authority of the general officer of the Command.

(2) Except as may be directed under clause (1) of this article, any portion of the said forces shall, when serving in a Command, be for the purposes of these articles subject to the authority of the general officer of that Command.

Saving of authority of Commander-in-Chief in India.

"*Article 189.*—Nothing in these Articles shall be deemed to affect the authority conferred on the Commander-in-Chief in India by any Act of Parliament or by Royal Warrant or Commission.

Power to make rules.

"*Article 190.*—(1) The Governor-General in Council may, by notification, make rules consistent with these Articles to regulate the procedure of courts-martial and officers, military, civil or political, having any jurisdiction or authority under these Articles, and for the purpose of carrying these Articles into execution, so far as relates to the investigation, trial and punishment of offences triable under them.

(2) Rules under this article may provide among other matters for the following:—

(*a*) the assembly and procedure of courts of enquiry;

(*b*) the convening and constituting of courts-martial;

(*c*) the adjournment, dissolution and sittings of courts-martial;

(*d*) the procedure to be observed in trials by courts-martial;

(*e*) the confirmation and revision of the findings and sentences of courts-martial;

(*f*) the carrying into effect sentences of courts-martial;

(*g*) the forms of orders to be made under the provisions of these Articles relating to courts-martial, transportation or imprisonment.

(3) The Governor-General in Council may by any such rule confer on any court-martial or officer any power (other than a power to try an accused person or pass a sentence) conferred on a court of original jurisdiction by the Code of Criminal Procedure, 1882. XI of 1877.

Powers to apply Articles to certain forces under the Government of India.

"*Article 191.*—(1) The Governor-General in Council may, by notification, apply all or any of the provisions of *these* Articles to any force *raised and maintained in India under the authority of the Governor-General in Council*, and may cancel or modify any such notification.

(2) While any of the provisions of *these* Articles apply to any such force, the Governor-General in Council may, by notification, direct by what authority any jurisdiction, powers or duties incident to the operation of those provisions shall be exercised or performed in respect to that force."

Addition of Second Appendix to Articles.

74. *After the Appendix to the said Articles the Second Appendix set out in the Schedule to this Act shall be added.*

MADRAS RECORD OFFICE

THE SCHEDULE.

(*See section* 74.)

THE SECOND APPENDIX.

(*See article* 91.)

FORM FOR ASSEMBLY AND PROCEEDINGS OF SUMMARY GENERAL COURT-MARTIAL.

Proceedings.

* State the place.

* At , this day of 18 .

A.—Order convening the Court.

WHEREAS it appears to me that the persons named in the annexed schedule, and being subject to military law, have committed the offences in the said schedule mentioned, and I, the undersigned, an officer now in command of
on active service, am of opinion that it is not practicable, having due regard to the public service, to convene an ordinary Court-Martial to try such offences († or to delay the trial for reference to a superior qualified officer), I hereby convene a Summary General Court-Martial to try the said persons, and to consist of—

† Omit, except where convening officer is not a Commanding Officer and is below rank of Field Officer.

PRESIDENT:

Rank.	Name.	Regiment.

MEMBERS:

Rank.	Name.	Regiment.

B.—Certificate of President as to proceedings.

I certify that the above Court assembled on the day of and duly tried the persons named in the said schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that schedule.

Signed this day of 18 .

C——————D——————,

President of the Court-Martial.

C.—Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the above schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences; and I am of opinion, with reference to the sentences of summary punishment mentioned in the schedule, that imprisonment cannot, with due regard to the public service, be carried into execution (* and I am of opinion that it is not practicable, having due regard to the public service, to delay the cases for confirmation by any superior qualified authority).

* Omit, except where under rules it is ordinarily the duty of the confirming officer to reserve the case.

Signed this day of 18 .

E——————F——————,

Field (or General) Officer in the Force (or Commanding).

D.—Confirmation of reserved sentences.

I have dealt with the reserved findings and sentences in the manner stated in the last column of the schedule, and, subject to what I have there stated, I hereby confirm the said reserved findings and sentences.

Signed this day of 18 .

G——————H——————,

General (Field) Officer in the Force.

E.—Confirmation of sentence of death or penal servitude.

Subject to what I have stated in the last column of the schedule, I hereby confirm the (finding and) sentence of death in the case of and of transportation in the case of († and in the case of the above sentences of death I am of opinion that by reason of ‡ it is not practicable, having due regard to the public service, to delay the case for confirmation by any qualified officer superior to myself).

† Omit, where confirmed by Officer in chief command.

‡ State, according to the circumstances, the nature of the country, or the great distance, or the operations of the enemy.

Signed this day of 18 .

J——————K——————,

General (Field) Officer in Chief Command of the Forces.

SCHEDULE.

Date 18 *No.*

Name of alleged offender.*	Offence charged.	Plea.	Finding and, if convicted, sentence.†	How dealt with by confirming officer.
1	2	3	4	5
Ram Bux (Bunniah)	Offence against person of inhabitant of country.	Guilty ..	Guilty. H.L. imprisonment for ——	Confirmed. I remit —— E ——— F ———
262, Sepoy Jhunda Singh, 167th Regiment.	Breaking into house in search of plunder	Not guilty.	Guilty. Two months' H.L. imprisonment.	Not confirmed. E ——— F ———
564, Sowar Hossain Khan, 16th Regiment.	Drunk on post ..	Not guilty.	Guilty. Death. Recommended to mercy.	Reserved, or confirmed, but commuted to H.L. imprisonment for —— E ——— F ——— Confirmed, but commuted to —— years' transportation. J ——— K ———
Person accompanying force (name unknown), white jacket and trousers, scar on right cheek.	Impeding provost marshal.	Not guilty.	Not guilty.	
Sepoy in uniform of 67th Regiment (name unknown).	Offence against property of inhabitant of country.	Not guilty.	Guilty. H.L. imprisonment for ——	Reserved. E ——— F ——— Confirmed. G ——— H ———

P.Q. — *Convening Officer.* C.D. — *President.*

* If the name of the person charged is unknown, he may be described as unknown, with such addition as will identify him.

† Recommendation to mercy to be inserted in this column.

J. M. MACPHERSON,
Deputy Secretary to the Government of India.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

The following Preliminary Report of the Select Committee on the Bill to amend certain sections of the Code of Civil Procedure and to repeal certain sections of the Punjab Laws Act, 1872, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 18th October 1894 :—

We, the undersigned, Members of the Select Committee to which the Bill to amend certain sections of the Code of Civil Procedure and to repeal certain sections of the Punjab Laws Act, 1872, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our preliminary Report, with the Bill as amended by us annexed thereto.

From Chief Commissioner, Burma, No. 435-L.-15, dated 17th August 1894 [Paper No. 1].
From Agent to Governor-General in Baluchistan, No. 921-Z., dated 22nd August 1894 [Paper No. 2].
From Chief Commissioner, Coorg, No. 1571-100-94, dated 27th August 1894 [Paper No. 3].
From Chief Commissioner, Ajmere-Merwara, No. 32-C., dated 23rd September 1894 [Paper No. 4].
From Government, Madras, No. 2252, dated 15th September 1894, and enclosures [Papers No. 5].
From Resident, Hyderabad, No. 310, dated 24th September 1894, and enclosures [Papers No. 6].
From High Court, Calcutta, No. 2026, dated 11th September 1894, and enclosure [Papers No. 7].
From Government, Punjab, No. 973-S., dated 2nd October 1894, and enclosures [Papers No. 8].
From Government, North-Western Provinces and Oudh, No. 940, dated 26th September 1894, and enclosures [Papers No. 9].
From Government, Bengal, No. 1589-J.D., dated 1st October 1894, and enclosures [Papers No. 10].
From Chief Commissioner, Central Provinces, No. C.-247, dated 5th October 1894, and enclosure [Papers No. 11].
From Chief Commissioner, Assam, No. 111-L.L.-6251-J., dated 2nd October 1894, and enclosures [Papers No. 12].
From Government, Bombay, No. 6768, dated 6th October 1894, and enclosures [Papers No. 13].

2. We have, in deference to a request from the Government of Bombay, made an addition to section 1 of the Bill with the object of enabling barristers who intend to practise in Sind to get enrolled as advocates of the High Court of Bombay and thus to obtain the privilege conferred on advocates of Chartered High Courts by the last paragraph of section 39 of the Code, but we have refrained from suggesting any other alterations in the Bill, as we consider that it should be reserved for consideration by a more numerous Committee than ourselves.

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

In English.

Gazette.	Date.
Gazette of India	14th July 1894.
Fort Saint George Gazette	31st July 1894.
Bombay Government Gazette	19th July 1894.
Calcutta Gazette	25th July 1894.
North-Western Provinces and Oudh Government Gazette ..	21st July 1894.
Punjab Government Gazette	19th July 1894.
Central Provinces Gazette	21st July 1894.
Burma Gazette	4th August 1894.
Assam Gazette	28th July 1894.
Coorg District Gazette	1st August 1894.
Sind Official Gazette	9th August 1894.

In the Vernaculars.

Province.	Language.	Date.
Madras	Telugu	28th August 1894.
	Hindustani	28th August 1894.
	Kanarese	28th August 1894.
	Malayalam	28th August 1894.
	Tamil	4th September 1894.
Bombay	Marathi	23rd August 1894.
	Gujarathi	23rd August 1894.
	Kanarese	23rd August 1894.
Bengal	Bengali	7th August 1894.
	Uriya	16th August 1894.
	Hindi	28th August 1894.
North-Western Provinces and Oudh.	Urdu	25th August 1894.
Punjab	Urdu	23rd August 1894.
Central Provinces	Hindi	12th September 1894.
Burma	Burmese	11th August 1894.
Assam	Bengali	18th August 1894.
Sind	Sindhi	9th August 1894.

4. We recommend that the Bill be recommitted to an enlarged Select Committee when the Council re-assembles at Calcutta, and that in the meantime the Bill as altered, with this Report, be published in English in the *Gazette of India*, the *Bombay Government Gazette* and the *Sind Official Gazette*.

ALEX. EDW. MILLER.
A. P. MACDONNELL.
BEDI KHEM SINGH.

The 16th October 1894.

No. II.

A Bill to amend certain sections of the Code of Civil Procedure and to repeal certain sections of the Punjab Laws Act, 1872.

XIV of 1882. IV of 1872.

WHEREAS it is expedient to amend certain sections of the Code of Civil Procedure and to repeal certain sections of the Punjab Laws Act, 1872; It is hereby enacted as follows:—

Amendments of section 39, Act XIV, 1882.

1. (*1*) In the third paragraph of section 39 of the said Code, between the words "of any High Court established by Royal Charter" and the words "shall be required," the words "or of the Chief Court of the Punjab" shall be inserted.

(*2*) *To the said section the following Explanation shall be added, namely:*

"*Explanation.—For the purposes of the enrolment of advocates the High Court of Bombay shall be at liberty to treat the Sadr Court of Sind as within the local limits of its jurisdiction.*"

Amendment of section 180, Act XIV, 1882.

2. For the first and second paragraphs of section 180 of the said Code the following shall be substituted, namely:

"The other party shall then state his case and produce his evidence (if any), and may then address the Court generally on the whole case.

"The party beginning may then reply generally on the whole case."

Addition to section 260, Act XIV, 1882.

3. After the first paragraph of section 260 of the said Code the following shall be added, namely:

"Provided that no decree for restitution of conjugal rights shall be enforced by imprisonment of the defendant, unless the Court shall, for sufficient reasons to be stated in writing on the face of the order, think fit so to direct."

Substitution of new section for section 548, Act XIV, 1882.

4. For section 548 of the said Code the following shall be substituted, namely:

[See s. 58.]

"548. When a memorandum of appeal is admitted, the appellant shall present as many copies thereof on plain paper as there are respondents.

Registry of memorandum of appeal.

"The chief ministerial or other proper officer of the Appellate Court shall sign such memorandum of appeal and copies, if on examination he finds them to be correct, and shall endorse thereon the date of presentation, and shall thereupon register the appeal in a book to be kept for the purpose.

"Such book shall be called the Register of Appeals."

Addition to section 553, Act X, 1882.

5. At the end of section 553 of the said Code the following shall be added, namely:

[See s. 65.]

"Every notice under this section served on any respondent or his pleader shall be accompanied by one of the copies of the memorandum of appeal mentioned in section 548."

IV of 1872.

Repeal of sections 17 and 18 of Punjab Laws Act.

6. Sections 17 and 18 of the Punjab Laws Act, 1872, as amended by Act XII of 1878, are hereby repealed.

J. M. MACPHERSON,
Dy. Secy. to the Government of India.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

The following Report of the Select Committee on the Bill to provide for the Imposition and Levy of certain Duties on Cotton Goods was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 27th December 1894:—

WE, the undersigned, Members of the Select Committee to which the Bill to provide for the Imposition and Levy of certain Duties on Cotton Goods was referred, have considered the Bill and the papers noted in the list appended, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

2. We have revised the definition of Collector in section 2, with the object of showing on the face of the Bill that the Customs Collectors at the larger ports only are to perform the functions of the Collector under the Bill, and that elsewhere they may be discharged by the Collector of the district or by such officer as the Local Government may appoint.

3. We have so altered the first proviso to section 5 as to make it clear that it is the intention to exempt from duty all yarns which would, by mercantile usage, be reckoned as of the number of 20 or less, even though they may slightly exceed that number, that is, may weigh slightly less than the weight theoretically attributable to that number.

4. We have appended to sub-section (2) of section 6 a Schedule specifying the same tariff values for yarns dutiable under this Bill as those which are proposed for like yarns when imported by sea by the Bill to amend the Indian Tariff Act, 1894, which is now before the Legislative Council.

5. We have added a sub-section to section 7 under which the first returns of yarns produced will not be required of millowners until the 15th February.

6. With the view of meeting, as far as possible, an objection taken to section 18 by the Bombay Millowners Association, we have altered the section so as to permit of yarns shipped for export being shown in the return for any month not later than that in which the yarn is shipped.

7. We have added an explanation to section 19, the effect of which will be to enable the drawback on yarn, which has only been bleached or dyed or converted into sewing thread, being recovered under this section.

8. In deference to representations made to us, we have extended the periods within which, under section 21, drawback on export of cotton fabrics, may be claimed to twelve months from the date of the manufacture of such fabrics, and to twelve months from the date on which the yarns in respect of which drawback is applied for have paid duty.

9. We have inserted an additional number in section 25 taken from the Bombay Salt Act, 1890, imposing a penalty on officers guilty of abusing their powers under the Bill.

10. We have inserted two new sections (section 31), imposing on millowners the duty of keeping such records and accounts as they may be required to do by rule, and (section 35), applying the provisions of section 10 of the Tariff Act, which prescribe rules as to payment of duty in the case of contracts for sale made before duty has been imposed, to duties imposed under this Bill.

11. We have added a sub-section to section 36 with the object of subjecting goods which may be imported in contravention of a notification issued under the section to the penalties imposed by section 19 A of the Sea Customs Act in the case of goods whose importation is prohibited under that Act.

12. The other alterations we have made in the Bill as introduced do not appear to us to be of sufficient importance to call for notice.

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

In English.

Gazette.	Date.
Gazette of India	17th December 1894.

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

J. WESTLAND.
ALEX. EDW. MILLER.
C. B. PRITCHARD.
FAZULBHOY VISRAM.
G. M. CHITNAVIS.
H. F. CLOGSTOUN.
P. PLAYFAIR.

The 26th December 1894.

We regret we must dissent from the Report in so far as it relates to section 5, which fixes the limit of exemption from Excise Duty upon yarns at the count of 20 instead of 24, as proposed by us in the Select Committee.

FAZULBHOY VISRAM.
G. M. CHITNAVIS.
P. PLAYFAIR.

The 26th December 1894.

LIST OF PAPERS.

Office Memorandum from Government of India, Finance and Commerce Department, No. 6196, dated 18th December 1894; telegram from the Hon'ble J. Westland, to Chairman, Millowners Association, Bombay, dated 17th December 1894; telegram from Secretary, Millowners Association, Bombay, to Hon'ble J. Westland, dated 17th December 1894; from John Marshall, Esq., Secretary, Millowners Association, Bombay, to Government of India, Finance and Commerce Department, dated 10th September 1894, and appendices [Papers No. 1].

Telegram from Chairman, Chamber of Commerce, Madras, dated 18th December 1894 [Paper No. 2].

Telegram from Honorary Secretaries, Bombay Presidency Association, dated 19th December 1894 [Paper No. 3].

Telegram from E. D. Sassoon & Co., Bombay, dated 20th December 1894 [Paper No. 4].

Telegram from Secretary, Bombay Chamber of Commerce, to Government of India, Finance Department, dated 19th December 1894 [Paper No. 5].

Telegram from Revenue Secretary to Chief Commissioner, Burma, to Government of India, Finance and Commerce Department, No. 267, dated 19th December 1894 [Paper No. 6].

Resolution by Government of India, Finance and Commerce Department, No. 6248- S. R., dated 21st December 1894; from S. E. J. Clarke, Esq., Secretary, Bengal Chamber of Commerce, to Government of India, Finance and Commerce Department, No. 1256—94, dated 19th December 1894 [Papers No. 7].

Resolution by Government of India, Finance and Commerce Department, No. 6253- S. R., dated 21st December 1894; telegram from Mr. Forest, Merchant, Bombay, to the Hon'ble J. Westland, dated 20th December 1894 [Papers No. 8].

Resolution by Government of India, Finance and Commerce Department, No. 6260- S. R., dated 22nd December 1894; telegram from Government, Madras, Revenue Department, to Government of India, Finance and Commerce Department, dated 21st December 1894 [Papers No. 9].

Telegram from Ahmedabad Millowners Association, Ahmedabad, dated 22nd December 1894 [Paper No. 10].

From S. E. J. Clarke, Esq., Secretary, Bengal Chamber of Commerce, No. 1276—94, dated 22nd December 1894; from ditto, to Government of India, Finance and Commerce Department, No. 1272—94, dated 22nd December 1894; telegram from Upper India Chamber of Commerce, Cawnpore, to Bengal Chamber of Commerce, dated 20th December 1894; telegram from ditto, to ditto, dated 21st December 1894; telegram from Secretary, Chamber of Commerce, Bombay, to ditto, dated 19th December 1894; telegram from Secretary, Rangoon Chamber of Commerce, to ditto, dated 19th December 1894; telegram from Chairman, Madras Chamber of Commerce, to ditto, dated 18th December 1894; from W. Parsons, Esq., Assistant Secretary, Import Trade Association, Calcutta, to ditto, dated 19th December 1894; from Messrs. Robinson, Morrison & Co., Calcutta, to ditto, dated 18th December 1894 [Papers No. 11].

From Secretary, British Indian Association, dated 23rd December 1894 [Paper No. 12].

From Finance and Commerce Department, No. 6301—S. R., dated 24th December 1894; from Government of Bombay, to Government of India, Finance and Commerce Department, No. 10525, dated 20th December 1894; from Collector of Land Revenue, Customs and Opium, Bombay, to Government, Bombay, dated 19th December 1894; from Government, North-Western Provinces and Oudh, to Government of India, Finance and Commerce Department, No. 318—XIII—374-A., dated 22nd December 1894 [Papers No. 13].

Telegram from Secretary to Government, North-Western Provinces and Oudh, Finance Department, to Government of India, Finance and Commerce Department, dated 22nd December 1894; endorsement by Stephen Jacob, Esq., Officiating Secretary to Government of India, Finance and Commerce Department, No. 6274, dated 24th December 1894 [Papers No. 14].

J. M. MACPHERSON,
Offg. Secretary to the Government of India.

(Republished by order of the Right Honorable the Governor in Council.)

E. GIBSON,
Acting Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

The following Report of the Select Committee on the Bill to amend the Indian Tariff Act, 1894, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 27th December 1894:—

WE, the undersigned Members of the Select Committee to which the Bill to amend the Indian Tariff Act, 1894, was referred, have considered the Bill and the papers noted in the list appended, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

Schedule IV, No. 8.—In consequence of representations received by us, we have simplified the classification of sugar contained in this number.

No. 11.—In accordance with a suggestion from Madras, we have exempted unmanufactured tobacco from duty.

No. 13.—We have exempted from duty water-lifts, sugar-mills and oil-presses as well as all machines ordinarily used in processes of husbandry or for the preparation for use or for sale of the products of husbandry which the Governor-General in Council may by notification exempt.

No. 14.—We have carefully examined the definition of machinery and made certain additions with the view of rendering it more complete and comprehensive as well as more readily intelligible.

No. 15.—We have made one or two additions to the articles chargeable with one per cent. duty under the heads of iron and steel.

No. 44.—We have made the duty in the case of coloured twists and yarns and of piece-goods payable *ad valorem* instead of on a tariff valuation as in the Bill as introduced, and we have combined mule and water twists under the same head.

No. 46.—Owing to our having inserted this new number, which relates to earth, common clay and sand (declared to be free), we have had to alter the subsequent numbering to the end of the Schedule.

No. 93.—We have amended the proviso to this number so as to provide for the exemption from duty of the materials of such tramways as the Governor-General in Council may thinkfit, by notification, specifically to exempt.

No. 96.—A representation has been received by us from certain of the Inland Steam Navigation Companies concerning the duty which it was originally proposed to impose on inland ships and vessels under this number. We have now made such ships and vessels free from duty.

2. We have also received and considered a number of suggestions as to the classification of articles and the tariff valuations, to some of which we have given effect.

3. The publication ordered by the council has been made as follows:—

In English.

Gazette.	Date.
Gazette of India	17th December 1894.

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

J. WESTLAND.
ALEX. EDW. MILLER.
C. B. PRITCHARD.
FAZULBHOY VISRAM.
G. M. CHITNAVIS.
H. F. CLOGSTOUN.
P. PLAYFAIR.

The 26th December 1894.

LIST OF PAPERS.

From Messrs. Kilburn & Co., Managing Agents, India General Steam Navigation Company, Limited, Messrs. Macneill & Co., Agents, Rivers Steam Navigation Company, Limited, and Messrs. Hoare, Miller & Co., Managing Agents, Calcutta Steam Navigation Company, Limited, dated 18th December 1894 [Paper No. 1].

Telegram from Visram Ebrahim & Co., Bombay, to Government of India, Finance Department, dated 19th December 1894 [Paper No. 2].

Resolution by Government of India, Finance and Commerce Department, No. 6260—S.R., dated 22nd December 1894; telegram from Damodher Gokuldass, Chairman, Bombay Native Piecegoods Merchants Association, to Government of India, Finance and Commerce Department, dated 21st December 1894; telegram from Collector, Bombay, to ditto, dated 21st December 1894; telegram from Government, Madras, Revenue Department, to ditto, dated 21st December 1894; from Secretary to Government, Madras, Revenue Department, to ditto, No. 908, dated 2nd March 1894; from J. E. O'Conor, Esq., Assistant Secretary to Government of India, Finance and Commerce Department, to Government, Madras, Revenue Department, No. 1492—A., dated 26th March 1894; from E. Gibson, Esq., Secretary to Government, Madras, Revenue Department, to Government of India, Finance and Commerce Department, No. 4928, dated 14th December 1894; Proceedings of Board of Revenue, Madras, No. 5218, dated 3rd December 1894; from J. A. Boyson, Esq., Chairman, Chamber of Commerce, Madras, to Secretary, Board of Revenue, Madras, dated 26th November 1894 [Papers No. 3].

From S. E. J. Clarke, Esq., Secretary, Bengal Chamber of Commerce, No. 1276—94, dated 22nd December 1894; from ditto, to Government of India, Finance and Commerce Department, No. 1272-94, dated 22nd December 1894; telegram from Upper India Chamber of Commerce, Cawnpore, to Bengal Chamber of Commerce, dated 20th December 1894; telegram from ditto, to ditto, dated 21st December 1894; telegram from Secretary, Chamber of Commerce, Bombay, to ditto, dated 19th December 1894; telegram from Secretary, Rangoon Chamber of Commerce, to ditto, dated 19th December 1894; telegram from Chairman, Madras Chamber of Commerce, to ditto, dated 18th December 1894; from W. Parsons, Esq., Assistant Secretary, Import Trade Association, Calcutta, to ditto, No. 152—M., dated 19th December 1894; from Messrs. Robinson, Morrison & Co., Calcutta, to ditto, dated 18th December 1894 [Papers No. 4].

Telegram from Secretary, Chamber of Commerce, Karachi, dated 22nd December 1894 [Paper No. 5].

Telegram from Chamber of Commerce, Madras, dated 22nd December 1894 [Paper No. 6].

Telegram from Chairman, Madras Trades Association, dated 22nd December 1894 [Paper No. 7].

Telegram from Secretary to Government, North-Western Provinces and Oudh, to Government of India, Finance and Commerce Department, dated 22nd December 1894; endorsement by Stephen Jacob, Esq., Officiating Secretary to Government of India, Finance and Commerce Department, No. 6275, dated 24th December 1894 [Paper No. 8].

Telegram from David Sassoon & Co., Bombay, to Government of India, Finance and Commerce Department, dated 23rd December 1894; endorsement by Stephen Jacob, Esq., Officiating Secretary to, Government of India, Finance and Commerce Department, No. 6276, dated 24th December 1894 [Paper No. 9].

Telegram from Secretary, Chamber of Commerce, Bombay, dated 24th December 1894 [Paper No. 10].

Memorial of certain Inhabitants of Calcutta, dated No. 1, Armenian Street, dated 23rd December 1894 [Paper No. 11].

From E. Hickie, Esq., Secretary, Calcutta Trades Association, dated 24th December 1894 [Paper No. 12].

Telegram from Secretary, Rangoon Chamber of Commerce, dated 24th December 1894 [Paper No. 13].

From W. H. L. Impey, Esq., Secretary to Government, North-Western Provinces and Oudh, to Government of India, Finance and Commerce Department, No. 317 XIII—370-A., dated 22nd December 1894; endorsement by Officiating Secretary to Government of India, Finance and Commerce Department, No. 6313-S. R., dated 24th December 1894; from W. B. Wishart, Esq., Secretary, Upper India Chamber of Commerce, Cawnpore, to Government, North-Western Provinces and Oudh, dated 20th December 1894; from the Cawnpore Woollen Mills Company, Limited, to Upper India Chamber of Commerce, Cawnpore, dated 3rd August 1894; from ditto, to ditto, dated 23rd August 1894; from Messrs. Allen, Brothers & Co., Calcutta, to Manager, Cawnpore Woollen Mills Company, Limited, dated 21st August 1894; from Cawnpore Woollen Mills Company, Limited, to Messrs. Allen, Brothers & Co., Calcutta, dated 23rd August 1894; from the Cawnpore Cotton Mills Company, Limited, to Upper India Chamber of Commerce, dated 25th September 1894; from Upper India Couper Mill Company, Limited, Lucknow, to ditto, dated 27th September 1894; from Messrs. Mackinnon & Co., Mussoorie, to ditto, dated 2nd October 1894; from North-West Soap Company, Limited, Meerut, to ditto, dated 3rd October 1894; from Messrs. Cooper, Allen & Co., Government Boot and Army Equipment Factory, Cawnpore, to ditto, dated 4th October 1894; from the Elgin Mills Company, Cawnpore, to ditto, dated 12th December 1894; from the Muir Mills Company, Limited, to ditto, dated 12th December 1894; from the Cawnpore Cotton Mills Company, Limited, to ditto, dated 14th December 1894; from Messrs. Mackinnon & Co., Mussoorie, to ditto, dated 17th December 1894 [Papers No. 14].

J. M. MACPHERSON,
Offg. Secretary to the Government of India.

(Republished by order of the Right Honorable the Governor in Council.)

E. GIBSON,
Acting Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

FORT ST. GEORGE GAZETTE SUPPLEMENT. TUESDAY EVENING, JANUARY 22, 1895.

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

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 10th January 1895:—

No. 1 OF 1895.

A Bill to give power to Companies to make certain alterations in the Instruments under which they are constituted, and to amend the Indian Companies Act, 1882.

WHEREAS it is expedient to give to companies power to alter the provisions of the instruments under which they are constituted in certain cases; and whereas it is also expedient to amend section 65 of the Indian Companies Act, 1882; It is hereby enacted as follows:—

VI of 1882.

Short title and commencement.

1. (*1*) This Act may be called the Indian Companies (Memorandum of Association) Act, 1895; and

(*2*) It shall come into force at once.

Sections 3 to 10 to be read with Act VI of 1882.

2. Sections 3 to 10 (both inclusive) shall be read with and taken as part of the Indian Companies Act, 1882.

VI of 1882.

[53 & 54 Vict., c. 62, s. 3 (*2*).] [*Ib.*, s. 8 (*3*).]

Definitions.

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

(*1*) the expression "deed of settlement" includes any contract of copartnery or other instrument constituting or regulating a company and not being an Act of Parliament, a Royal Charter or Letters Patent; and

(*2*) the expression "the Court" means the High Court.

[*Ib.*, s. 1 (*1*).]

VI of 1882.

Power for company to alter objects or form of constitution subject to confirmation by Court.

4. Subject to the provisions of this Act, a company registered under the Indian Companies Act, 1882, may, by special resolution, alter the provisions of its memorandum of association or deed of settlement with respect to the objects of the company, so far as may be required for any of the purposes hereinafter specified, or alter the form of its constitution by substituting a memorandum and articles of association for a deed of settlement, either with or without any such alteration as aforesaid with respect to the objects of the company; but in no case shall any such alteration take effect until confirmed on petition by the Court.

Particulars as to which Court must be satisfied before confirmation.

5. Before confirming any such alteration the Court must be satisfied— [53 & 54 Vict., c. 62, s. 1 (2).]

(*a*) that sufficient notice has been given to every holder of debentures or debenture stock of the company, and every person or class of persons whose interests will, in the opinion of the Court, be affected by the alteration; and

(*b*) that, with respect to every creditor who in the opinion of the Court is entitled to object, and who signifies his objection in manner directed by the Court, either his consent to the alteration has been obtained or his debt or claim has been discharged or has determined, or has been secured to the satisfaction of the Court:

Provided that the Court may, in the case of any person or class of persons, for special reasons, dispense with the notice required by this section.

[*Ib.*, s. 1 (*3*).]

Power of Court when confirming to impose terms and make order as to costs.

6. An order confirming any such alteration may be made on such terms and subject to such conditions as to the Court may seem fit, and the Court may make such orders as to costs as it may deem proper.

[*Ib.*, s. 1 (*4*).]

Discretion conferred on Court.

7. The Court shall, in exercising its discretion under this Act, have regard to the rights and interests of the members of the company, or of any class of those members, as well as to the rights and interests of the creditors, and may, if it shall think fit, adjourn the proceedings in order that an arrangement may be made to the satisfaction of the Court for the purchase of the interests of dissentient members; and the Court may give such directions and make such orders as it may think expedient for the purpose of facilitating any such arrangement or carrying the same into effect:

Provided always that it shall not be lawful to expend any part of the capital of the company in any such purchase.

[53 & Vict., c. 62, s. 1 (5).]

Ground on which Court may confirm a proposed alteration.

8. The Court may confirm, either wholly or in part any such alteration as aforesaid with respect to the objects of the company if it appears that the alteration is required in order to enable the company—

(a) to carry on its business more economically or more efficiently; or

(b) to attain its main purpose by new or improved means; or

(c) to enlarge or change the local area of its operations; or

(d) to carry on some business or businesses which under existing circumstances may conveniently or advantageously be combined with the business of the company; or

(e) to restrict or abandon any of the objects specified in the memorandum of association or deed of settlement.

[Ib. s. 2, (1).]

Registration or order together with memorandum as altered or substituted memorandum and articles, and consequences thereof.

9. (1) Where a company has altered the provisions of its memorandum of association or deed of settlement with respect to the objects of the company, or has altered the form of its constitution by substituting a memorandum and articles of association for a deed of settlement, and such alteration has been confirmed by the Court, an office copy of the order confirming such alteration, together with a printed copy of the memorandum of association or deed of settlement so altered, or together with a printed copy of the substituted memorandum and articles of association (as the case may be), shall be delivered by the company to the Registrar of Joint Stock Companies within fifteen days from the date of the order, and the registrar shall register the same, and shall certify under his hand the registration thereof, and his certificate shall be conclusive evidence that all the requisitions of this Act with respect to such alteration and the confirmation thereof have been complied with.

(2) From the date of such registration (but subject to the provisions of this Act) the memorandum or deed of settlement so altered shall be the memorandum of association or deed of settlement of the company, or, as the case may be, such substituted memorandum and articles of association shall apply to the company in the same manner as if the company were a company registered under Part I of the Indian Companies Act, 1882, with such memorandum and articles of association, and the company's deed of settlement shall cease to apply to the company.

VI of 1882.

Effect of failure to register within three months.

10. No such alteration as aforesaid shall have any operation until registration thereof has been duly effected under the last foregoing section, and, if such registration shall not have been effected within three months next after the date of the order of the Court confirming the alteration, such alteration and order and all proceedings connected therewith shall at the expiration of such period of three months become and be absolutely null and void.

Amendment of section 65 of Act VI of 1882.

11. In section 65 of the Indian Companies Act, 1882, for the words "in such language or languages" the second time they occur the words "in the English language" shall be substituted. VI of 1882.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to apply the provisions of the Companies (Memorandum of Association) Act, 1890 (53 and 54 Vict., c. 62), to Indian companies. That Act confers upon a company registered under the Companies Acts power, within limits and subject to confirmation by the Court, to alter its objects as defined in its memorandum of association. It also allows of the substitution of a memorandum and articles of association for the deed of settlement in the case of companies which have been legally formed and incorporated in that way. At present a company registered under our Companies Act (VI of 1882) can only alter its memorandum of association to the very limited extent permitted by section 12 of that Act. To attain any extension or modification of its objects, however reasonable, a winding up and re-construction is the only course which it can adopt. Nor is there at present any provision in the Indian law corresponding to the second part of the Statute above mentioned.

2. As it seems desirable that Indian companies should be placed on an equality with English companies in both the above respects, the present Bill has been prepared. It simply reproduces the provisions of the Statute, the only change being that it substitutes, for the provision subjecting a company failing to register any document as required by the Statute to a penalty of ten pounds for every day of such default, a provision declaring that no such alteration as is provided for in the Bill shall have any operation until duly registered, and that, if such registration shall not have been effected within three months of the date of the order of the Court confirming the alteration, such alteration and order and all proceedings connected therewith shall become null and void.

3. The opportunity has been taken to provide by the Bill for an amendment in section 65 of the Act, which, as it at present stands, requires a company to have its name mentioned in the vernacular as well as in English in all documents published or signed by or on behalf of the company. The necessity for this procedure has now ceased, and accordingly section 11 of the Bill proposes to require a company's name to be mentioned in English only in such documents in future.

J. WESTLAND.

The 9th January 1895.

J. M. MACPHERSON,
Offg. Secy. to the Govt. of India, Legislative Dept.

(Republished by order of the Right Honorable the Governor in Council.)

E. GIBSON,
Ag. Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

FORT ST. GEORGE GAZETTE SUPPLEMENT.

TUESDAY EVENING, FEBRUARY 5, 1895.

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

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 24th January 1895:—

No. 2 OF 1895.

A Bill to confer on Presidency Magistrates and District Magistrates certain powers and authorities in relation to the surrender of fugitive criminals.

38 & 34 Vict., c. 52.

WHEREAS by the Extradition Act, 1870, it is, among other things, enacted that the said Act, when applied by Order in Council, shall, unless it is otherwise provided by such order, extend to every British possession, but with the following among other modifications, namely:—

No warrant of a Secretary of State shall be required, and all powers vested in, or under the said Act by, the Police Magistrate and the Secretary of State, or either of them, in relation to the surrender of a fugitive criminal, may be done by the Governor of the British possession alone;

And whereas by the said Act it is also enacted that, if by any law or ordinance made before or after the passing of the said Act by the Legislature of any British possession provision is made for carrying into effect within such possession the surrender of fugitive criminals who are in or are suspected of being in such possession, Her Majesty may, by the Order in Council applying the said Act in the case of any foreign State, or by any subsequent order either—

suspend the operation within any such British possession of the said Act or any part thereof, so far as it relates to such foreign State, and so long as such law or ordinance continues in force there, and no longer,

or direct that such law or ordinance, or any part thereof, shall have effect in such British possession, with or without modifications and alterations, as if it were part of the said Act;

36 & 37 Vict., c. 60.

And whereas the said Extradition Act, 1870, was amended by the Extradition Act, 1873, which enacted that that Act was to be construed as one with the said Act of 1870 and that the said two Acts might be cited together as the Extradition Acts, 1870 and 1873;

And whereas it is expedient to provide for the more convenient administration in British India of the said Extradition Acts, 1870 and 1873, by conferring on Presidency Magistrates and District Magistrates the like powers and authorities in relation to the surrender of fugitive criminals as are by the said Acts vested in Police Magistrates and Justices of the Peace in the United Kingdom;

It is hereby enacted as follows:—

Title and commencement.

1. (1) This Act may be called the Extradition (India) Act, 1895; and

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

Provided that no such date shall be appointed until after Her Majesty has been pleased by Order in Council to direct that this Act shall have effect in British India as if it were part of the Extradition Act, 1870, and such Order has been published in the *Gazette of India*. 38 & 34 Vict., c. 52.

Powers of Police Magistrates and Justices of Peace under Imperial Acts conferred on Presidency and District Magistrates.

2. All powers vested in, and acts authorized or required to be done by, a Police Magistrate or any Justice of the Peace in relation to the surrender of fugitive criminals in the United Kingdom under the Extradition Acts, 1870 and 1873, are hereby vested in, and may in British India be exercised and done by, any Presidency Magistrate or District Magistrate in relation to the surrender of fugitive criminals under the said Acts.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to confer on Presidency Magistrates and District Magistrates in British India the like functions in relation to the surrender of fugitive criminals as are by the Extradition Acts, 1870 and 1873 (33 and 34 Vict., c. 52, and 36 and 37 Vict., c. 60), vested in Police Magistrates and Justices of the Peace in the United Kingdom. By section 17 (2) of the former of these Acts, read with section 26, the Governor of any part of India is empowered to perform for his province the functions assigned to the Police

Magistrate under the Act, but as he is not authorised to delegate these functions and must therefore perform them personally, this provision does not meet the requirements of this country, where it is only calculated to give rise to grave public inconvenience. Under these circumstances it has been decided to follow the example of the Ceylon and other Colonial Legislatures by enacting a special law which, when so directed by Order in Council, will have effect in India as if it were part of the English Acts, providing for the performance of magisterial functions under these Acts in India by the Magistrates above specified. It may be added that this Bill is based on the provisions of the Extradition Ordinance, Ceylon, 1877, which it practically reproduces.

ALEX. EDW. MILLER.

The 23rd January 1895.

J. M. MACPHERSON,
Offg. Secy. to the Govt. of India,
Legislative Dept.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

FORT ST. GEORGE GAZETTE SUPPLEMENT.

TUESDAY EVENING, FEBRUARY 19, 1895.

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

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 7th February 1895:—

No. 4 OF 1895.

A Bill to provide for the payment by Railway Companies registered under the Indian Companies Act, 1882, of interest out of capital during construction.

WHEREAS it is expedient to provide for the payment by Railway Companies registered under the Indian Companies Act, 1882, of interest out of capital during construction; It is hereby enacted as follows:—

VI of 1882.

Title, extent and commencement.

1. (1) This Act may be called the Indian Railway Companies Act, 1895.

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

(3) It shall come into force at once.

Definitions.

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

IX of 1890. [57 & 58 Vict., c. 12, s. 2.]

(1) "railway" means a railway as defined in section 3, clause (4), of the Indian Railways Act, 1890:

VI of 1882.

(2) "the railway" means the railway in relation to the construction of which interest out of capital is permitted to be paid as hereinafter provided: and

(3) "Railway Company" means a Company registered under the Indian Companies Act, 1882, and formed for the purpose of making and working, or making or working, a railway in India, whether alone or in conjunction with other purposes.

[57 & 58 Vict., c. 12, s. 3.]

Payment of interest out of capital.

3. A Railway Company may pay interest on its paid up share capital out of capital, for the period, and subject to the conditions and restrictions, in this section mentioned, and may charge the same to capital as part of the cost of construction of the railway:—

(1) Such interest shall be paid only for such period as shall be determined by the Governor-General in Council; and such period shall in no case extend beyond the close of the half-year next after the half-year during which the railway shall be actually completed and opened for traffic.

(2) No such payment shall be made unless the same is authorised by the Company's memorandum of association or by a special resolution of the Company.

(3) No such payment, whether authorised by the Company's memorandum of association or by special resolution as aforesaid, shall be made without the previous sanction of the Governor-General in Council.

(4) The amount so paid out of capital by way of interest, in respect of any period, shall in no case exceed a sum which shall, together with the net earnings of the railway during such period, make up the rate of four per cent. per annum.

(5) No such payment of interest shall be made until such Railway Company has satisfied the Governor-General in Council that two-thirds at least of its share capital, in respect whereof interest is to be so paid, has been actually issued and accepted, and is held by shareholders who, or whose representatives, are legally liable for the same.

(6) No such interest shall accrue in favour of any shareholder for any time during which any call on any of his shares is in arrear.

(7) The payment of such interest shall not operate as a reduction of the amount paid up on the shares in respect of which it is paid.

[cf. 57 & 58 Vict., c. 12, s. 4.]

Provisions of section 3 applicable to additional share capital for extensions.

4. A railway in course of construction and intended to be made or worked by a Railway Company in addition to or by way of extension of any railway owned or worked by such Company shall be deemed to be the railway of such Company for the purposes of this Act, and all the provisions of the last preceding section shall apply to such railway and to the share capital issued for the purpose of its construction.

[cf. 57 & 58 Vict., c. 12, s. 5.]

Notice in prospectus and other documents.

5. When a Railway Company has power to pay interest under this Act, notice to that effect shall be given in every prospectus, advertisement or other docu-

ment inviting subscriptions for shares therein, and in every certificate of such shares.

[*Ib.*, s. 6.] 6. When any interest has been paid by a Railway Company under this Act, the annual or other accounts of such Company shall show the amount on which, and the rate at which, interest has been so paid.

Accounts.

[*Ib.*, s. 7.] 7. If by any memorandum of association, articles of association, or other document any power of borrowing money is conferred on a Railway Company, or on its Directors, with or without the sanction of any meeting, and if such power of borrowing is limited to an amount bearing any proportion to the capital of such Company, the amount of capital applied or to be applied in payment of interest under this Act shall, for the purpose of ascertaining the extent of such power of borrowing, be deducted from the capital of such Company.

Construction of borrowing powers.

STATEMENT OF OBJECTS AND REASONS.

The restriction against treating any part of the subscribed capital of a Company as income during the time when it is necessarily unproductive, which applies under English law to every Company registered under the English Joint Stock Companies Acts, would probably be held by the Courts in this country to apply to a Company domiciled in India and registered under the Indian Companies Act (VI of 1882). The restriction has been removed so far as Companies domiciled in England, but formed for the construction of railways in India, are concerned, by the Statute 57 and 58 Vict., c. 12, passed by Parliament in the middle of last year. The object of this Bill is to place Railway Companies domiciled in India and registered under the Indian Companies Act, 1882, in the same position in this respect as Companies registered in England.

ALEX. EDW. MILLER.

The 4th February 1895.

J. M. MACPHERSON,
Offg. Secy. to the Govt. of India,
Legislative Dept.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

FORT ST. GEORGE GAZETTE SUPPLEMENT.

TUESDAY EVENING, FEBRUARY 19, 1895.

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

The following Report of the Select Committee on the Bill to amend the Cantonments Act, 1889, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 31st January 1895 :—

We, the undersigned, Members of the Select Committee to which the Bill to amend the Cantonments Act, 1889, 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 High Court, Calcutta, No. 1727, dated 6th August 1894 [Paper No. 1].
From Chief Commissioner, Coorg, No. 1440-102-92, dated 18th August 1894 [Paper No. 2].
From Chief Commissioner, Assam, No. 81-L. L.-526-1J., dated 18th August 1894 [Paper No. 3].
From Agent to Governor-General in Baluchistan, No. 922-Z., dated 22nd August 1894 [Paper No. 4].
From Chief Commissioner, Ajmere-Merwara, No. 23-C., dated 27th August 1894 [Paper No. 5].
From Chief Commissioner, Burma, No. 246-5-C.-36, dated 7th September 1894, and enclosures [Papers No. 6].
From Resident, Hyderabad, No. 292, dated 10th September 1894, and enclosure [Papers No. 7].
From Chief Commissioner, Central Provinces, No. 6561, dated 20th September 1894 [Paper No. 8].
From Government, North-Western Provinces and Oudh, No. 1569, dated 1st October 1894, and enclosures [Paper No. 9].
From Government, Punjab, No. 940-S., dated 26th September 1894, and enclosures [Papers No. 10].
From Government, Madras, No. 2362, dated 28th September 1894, and enclosures [Papers No. 11].
From Government, Bengal, No. 484-T.-M., dated 22nd October 1894, and enclosures [Papers No. 12].
From Government, Bombay, No. 7712, dated 17th November 1894, and enclosures [Papers No. 13].
From President, Indian Medical Congress, dated 31st December 1894, and enclosure [Papers No. 14].
From President, European and Anglo-Indian Defence Association, No. 532, dated 16th January 1895 [Paper No. 15].
From President, Indian Medical Congress, dated 31st December 1894 [Paper No. 16].

2. In section 1 we have made the formal change of substituting "1895" for "1894."

3. In section 2 we have inserted the word "special" before "registration," so as to make it clear that it is not intended to interfere with the general registration of all inhabitants of a cantonment, in which prostitutes would necessarily be included with the others.

4. In the same section we have substituted the words "giving legal sanction to" for the word "sanctioning" with the object of making the expression more definite.

5. We have omitted section 3 altogether, as we are of opinion that the existing law sufficiently covers the points intended to be covered by that section.

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

In English.

Gazette.	Date.
Gazette of India	14th July 1894.
Fort St. George Gazette	31st July 1894.
Bombay Government Gazette	19th July 1894.
Calcutta Gazette	25th July 1894.
North-Western Provinces and Oudh Government Gazette ..	21st July 1894.
Punjab Government Gazette	19th July 1894.
Central Provinces Gazette	21st July 1894.
Burma Gazette	4th August 1894.
Assam Gazette	28th July 1894.
Coorg District Gazette	1st August 1894.

In the Vernaculars.

Province.	Language.	Date.
Bombay	Marathi	16th August 1894.
	Gujarathi	16th August 1894.
	Kanarese	16th August 1894.
Bengal	Bengali	31st July 1894.
	Hindi	7th August 1894
North-Western Provinces and Oudh.	Urdu	25th August 1894.
Punjab	Urdu	23rd August 1894.
Central Provinces ..	Hindi	12th September 1894.
Assam	Bengali	11th September 1894.

7. 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.

ALEX. EDW. MILLER.
C. A. ELLIOTT.
HENRY BRACKENBURY.
M. M. ROY.
G. H. P. EVANS.
F. W. R. FRYER.

The 30th January 1895.

No. II.

A Bill to amend the Cantonments Act, 1889.

XIII of 1889.

WHEREAS it is expedient to amend the Cantonments Act, 1889; It is hereby enacted as follows:

Title, extent and commencement.

1. (*1*) This Act may be called the Cantonments Act Amendment Act, 1895.

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

(*3*) It shall come into force at once.

XIII of 1889. Addition to section 26 of Act XIII of 1889.

2. To section 26 of the Cantonments Act, 1889, the following shall be added, namely:—

"Provided that no such rule shall contain any regulation enjoining or permitting any compulsory or periodical examination of any woman by medical officers or others for the purpose of ascertaining whether she is or is not suffering from any venereal disease, or is or is not fit for prostitution, or any regulation for the licensing or *special* registration of prostitutes, or *giving legal sanction to* the practice of prostitution, in any cantonment."

J. M. MACPHERSON,
Offg. Secy. to the Govt. of India, Legislative Dept.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

The following Report of the Select Committee on the Bill to amend sections 366 and 371 of the Code of Criminal Procedure, 1882, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 31st January 1895:—

We, the undersigned, Members of the Select Committee to which the Bill to amend sections 366 and 371 of the Code of Criminal Procedure, 1882, 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 Chief Commissioner, Coorg, No. 687-14-91, dated 17th April 1894 [Paper No. 1].
Memorandum by Mr. P. R. Desai, Pleader, District Court, Ratnagiri, dated 17th April 1894 [Paper No. 2].
From Chief Commissioner, Ajmere-Merwara, No. 452, dated 27th April 1894 [Paper No. 3].
From Chief Commissioner, Burma, No. 584L.-12, dated 21st April 1894, and enclosures [Papers No. 4].
From Chief Commissioner, Central Provinces, No. C-53, dated 30th April 1894, [Paper No. 5].
From Registrar, High Court, Calcutta, No. 1216, dated 30th April 1894 [Paper No. 6].
From Resident, Hyderabad, No. 130, dated 30th April 1894 [Papers No. 7].
Do. do. No. 136, dated 7th May 1894, and enclosures [Papers No. 7].
From Chief Commissioner, Assam, No. 58-L. L.-2555-J., dated 27th April 1894, and enclosures [Papers No. 8].
From Agent to Governor-General, Baluchistan, No. 3004, dated 10th May 1894 [Paper No. 9].
From Government, Punjab, No. 645, dated 12th May 1894 [Paper No. 10].
From Government, Bengal, No. 114-J. D., dated 11th May 1894, and enclosures [Papers No. 11].
From Government, North-Western Provinces and Oudh, No. 2269-VI-327-B., dated 14th May 1894, and enclosures [Papers No. 12].
From Government, Bombay, No. 3329, dated 15th May 1894, and enclosures [Papers No. 13].
From Government, Madras, No. 1091, dated 7th May 1894, and enclosures [Papers No. 14].
From Her Majesty's Secretary of State for India, No. 15, Legislative, dated 24th May 1894 [Paper No. 15].

2. We have inserted a proviso after clause (*b*) of the new section 366 proposed by the Bill as introduced requiring the Court to read out the whole judgment when requested to do so either by the prosecution or the defence, and we have omitted the third clause of the same section, which permitted a Court to delegate its functions in respect of the delivery of judgment. These alterations will meet the objection of the Calcutta High Court that the Bill as introduced deprived the parties of the opportunity which they at present have of pointing out errors in a judgment during its delivery and possibly getting it materially modified, while they will help to make it clear that there is no intention to relax in any way the provisions of the existing law which require the judgment to be written and signed at the time when sentence is pronounced.

3. We have restored the language of the existing section 366 in the second clause of the new section, now numbered sub-section (*2*), as we consider that the clause proposed by the Bill as introduced might possibly have operated in some cases to defeat the ends of justice.

4. We have made no other amendment in the Bill as introduced.

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

In English.

Gazette.	Date.
Gazette of India	24th March 1894.
Fort St. George Gazette	10th April 1894.
Bombay Government Gazette	29th March 1894.
Calcutta Gazette	26th March 1894.
North-Western Provinces and Oudh Government Gazette ..	31st March 1894.
Punjab Government Gazette	5th April 1894.
Central Provinces Gazette	7th April 1894.
Burma Gazette	7th April 1894.
Assam Gazette	7th April 1894.
Coorg District Gazette	1st May 1894.
Sind Official Gazette	19th April 1894.

In the Vernaculars.

Province.	Language.	Date.
Madras	Tamil	17th April 1894.
	Telugu	17th April 1894.
	Hindustani	17th April 1894.
	Kanarese	17th April 1894.
	Malayalam	17th April 1894.
Bombay	Marathi	20th April 1894.
	Gujarathi	20th April 1894.
	Kanarese	20th April 1894.
Bengal	Bengali	10th April 1894.
	Hindi	17th April 1894.
	Uriya	19th April 1894.
North-Western Provinces and Oudh.	Urdu	28th April 1894.
Burma	Burmese	14th April 1894.
Assam	Bengali	21st April 1894.
Coorg	Kanarese	1st May 1894.
Sind	Sindhi	19th April 1894.

6. 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.

ALEX. EDW. MILLER.
A. P. MACDONNELL.
PHEROZESHAH M. MEHTA.
M. M. ROY.

The 29th January 1895.

No. II.

A Bill to amend sections 366 and 371 of the Code of Criminal Procedure, 1882.

WHEREAS it is expedient to amend sections 366 and 371 of the Code of Criminal Procedure, 1882; X of 1882. It is hereby enacted as follows:—

Substitution of new section for section 366, Act X, 1882.

1. For section 366 of the said Code the following shall be substituted, namely:—

"366. (*1*) The judgment in every trial in any Criminal Court of original jurisdiction shall be pronounced, or the substance of such judgment shall be explained,—

Mode of delivering judgment.

(*a*) in open Court either immediately after the termination of the trial or at some subsequent time of which notice shall be given to the parties or their pleaders, and

(*b*) in the language of the Court, or in some other language which the accused or his pleader understands:

Provided that the whole judgment shall be read out by the presiding Judge, if he is requested so to do either by the prosecution or the defence.

(*2*) The accused shall, if in custody, be brought up, or, if not in custody *shall* be required by the Court to attend, to hear judgment delivered, *except where his personal attendance during the trial has been dispensed with and the sentence is one of fine only, in which case it may be delivered in the presence of his pleader.*

(*3*) No judgment delivered by any Criminal Court shall be deemed to be invalid by reason only of the absence of any party or his pleader on the day or from the place notified for the delivery thereof, or of any omission to serve, or defect in serving, on the parties or their pleaders, or any of them, the notice of such day and place.

(*4*) Nothing in this section shall be construed to limit in any way the extent of the provisions of section 537."

Amendment of section 371, Act X, 1882.

2. In section 371 of the said Code, for the words "The judgment shall be explained to the accused and on his application" the words "On the application of the accused" shall be substituted.

J. M. MACPHERSON,
Offg. Secy. to the Govt. of India, Legislative Dept.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

The following Report of the Select Committee on the Bill to amend the Indian Penal Code and Act VI of 1864 was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 31st January 1895:—

We, the undersigned, Members of the Select Committee to which the Bill to amend the Indian Penal Code and Act VI of 1864 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 Mr. Narayan Bhikaji Jogulekar, dated 9th April 1894 [Paper No. 1].
From Chief Commissioner, Coorg, No. 681-14-91, dated 17th April 1894 [Paper No. 2].
From Chief Commissioner, Assam, No. 56-L. L.-2508-J., dated 25th April 1894, and enclosures [Papers No. 3].
From High Court, Calcutta, No. 1269, dated 4th May 1894 [Paper No. 4].
From Chamber of Commerce, Bombay, dated 9th May 1894 [Paper No. 5].
From Chief Commissioner, Ajmere-Merwara, No. 517, dated 11th May 1894 [Paper No. 6].
From Agent to Governor-General in Baluchistan, No. 3003, dated 10th May 1894 [Paper No 7].
From Chief Commissioner, Burma, No. 130-L.-13, dated 7th May 1894, and enclosures [Papers No. 8].
From Government, Punjab, No. 23-S., dated 24th May 1894, and enclosure [Papers No. 9].
From Resident, Hyderabad, No. 151, dated 21st May 1894, and enclosures [Papers No. 10].
From Government, Bombay, No. 3572, dated 24th May 1894, and enclosures [Papers No. 11].
From Chief Commissioner, Central Provinces, No. C.-100, dated 24th May 1894, and enclosures [Papers No. 12].
From Government, Bengal, No. 495-J.-D., dated 26th May 1894, and enclosures [Papers No. 13].
From Government, North-Western Provinces and Oudh, No. 2399, dated 27th May 1894, and enclosures [Papers No. 14].
From Government, Madras, No. 1408, dated 9th June 1894, and enclosures [Papers No. 15].
From Government of India, Finance and Commerce Department, No. S. R.-3373, dated 5th July 1894, and enclosures [Papers No. 16].
From Government, Bombay, No. 4730, dated 6th July 1894, and enclosures [Papers No. 17].
From Her Majesty's Secretary of State for India, No. 23, Legislative, dated 12th July 1894 [Paper No. 18].
From High Court, Calcutta, No. 2704, dated 7th September 1894, and enclosure [Papers No 19].

2. We have omitted clause (*b*), the *Explanation*, and the last of the Illustrations in the new section 182 of the Penal Code, proposed by section 1 of the Bill as introduced, as we are of opinion that they are unnecessary. We think that the existing section of the Code with its two clauses transposed, as in the Bill as amended by us, will be sufficient for all practical purposes; but we have retained, with certain modifications, the third Illustration appended to the section of the Bill as introduced to show that the ruling of the Calcutta High Court reported at I.L.R. 14 Cal. 314 is not to be followed as law for the future.

3. We have altered the definition of "Government" in the new section 263A of the same Code, proposed by section 2 of the Bill as introduced, to make it clear that it includes Indian Native States.

4. We have amended the new section 294 of the same Code, proposed by section 3 of the Bill as introduced, so as to make obscene acts liable to punishment only when done *in* a public place. We do not think it would be right to subject similar acts when done *near* a public place to penalty.

5. We have made no alteration in the first part of the new section 477A of the same Code, proposed by section 4 of the Bill as introduced, which, as it stands, reproduces the language of the Statute 38 & 39 Vict., c. 24, but three of us (the Hon'bles Sir Antony MacDonnell, Dr. Lethbridge and Mr. P. M. Mehta) dissent and are of opinion that the word "abets" should be substituted for the expression "concurs in", in order to assimilate the scope of the section with that of the Code on the point of abetment. To the *Explanation* a few words have been added to make it plain that it is not necessary to indicate in any charge under the section the particular day on which the offence was committed.

6. In lieu of sub-section (*1*) of the new section which section 5 of the Bill as introduced added to Act VI of 1864, we have thought it best to reproduce sections 2, 3 and 4 of that Act in an amended form, with the offences there specified arranged in groups, so as to indicate without possibility of mistake the different offences which may be treated as if they were the same offences for the purposes of the Act.

7. We have transformed sub-section (2) of the same new section into an Explanation to section 5 of the same Act, substituting the word "decision" for "opinion" where it occurs for the second time.

8. Lastly, in accordance with the request contained in the Office Memorandum from Finance and Commerce Department, dated 5th July 1894 (Paper No. 16), we have, by our new section 7, added a section to the Indian Post-office Act, 1866, conferring the necessary powers on the Postal authorities to enable them to give effect in India to the provisions of Article XXXI of the Vienna Postal Convention of 1892, which prescribes the procedure to be followed by the country of destination on receipt of a postal article bearing a counterfeit or previously used stamp from a country whose laws do not permit of its interception before despatch.

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

In English.

Gazette.	Date.
Gazette of India	24th March 1894.
Fort St. George Gazette	10th April 1894.
Bombay Government Gazette	29th March 1894.
Calcutta Gazette	28th March 1894.
North-Western Provinces and Oudh Government Gazette	31st March 1894.
Punjab Government Gazette	5th April 1894.
Central Provinces Gazette	7th April 1894.
Burma Gazette	7th April 1894.
Assam Gazette	7th April 1894.
Coorg District Gazette	1st May 1894.
Sind Official Gazette	19th April 1894.

In the Vernaculars.

Province.	Language.	Date.
Madras	Tamil	24th April 1894.
	Telugu	24th April 1894.
	Hindustani	24th April 1894.
	Kanarese	24th April 1894.
	Malayalam	24th April 1894.
Bombay	Marathi	3rd May 1894.
	Gujarathi	3rd May 1894.
	Kanarese	3rd May 1894.
Bengal	Bengali	10th April 1894.
	Hindi	17th April 1894.
	Uriyâ	19th April 1894.
North-Western Provinces and Oudh	Urdu	28th April 1894.
Burma	Burmese	14th April 1894.
Assam	Bengali	21st April 1894.
Coorg	Kanarese	1st May 1894.
Sindh	Sindhi	19th April 1894.

10. 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.

ALEX. EDW. MILLER.
J. WESTLAND.
A. P. MACDONNELL.
A. S. LETHBRIDGE.
PHEROZESHAH M. MEHTA.
PRATAP NARAIN SINGH.

The 30th January 1895.

I was unfortunately prevented from being present at the meeting of the Select Committee owing to an accident. I, however, agree to the recommendations that have been made by the Select Committee in the body of their Report. In paragraph 5 I am inclined to agree with what the Hon'bles Sir A. P. MacDonnell, Dr. Lethbridge and Mr. Mehta say.

G. M. CHITNAVIS.

No. II.

A Bill to amend the Indian Penal Code, Act VI of 1864 and the Indian Post-office Act, 1866.

XLV of 1860. XIV of 1866.

WHEREAS it is expedient to amend the Indian Penal Code, Act VI of 1864 *and the Indian Post-office Act, 1866*; It is hereby enacted as follows :—

Indian Penal Code.

XLV of 1860. Substitution of new section for section 182, Act XLV, 1860.

1. For section 182 of the Indian Penal Code the following shall be substituted, namely :—

False information, with intent to cause public servant to use his lawful power to the injury of another person.

"182. Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause or knowing it to be likely that he will thereby cause, such public servant—

(*a*) to do or omit anything which *such public servant* ought not to do or omit if the true state of facts respecting which such information is given were known by him, or

(*b*) to use the lawful power of such public servant to the injury or annoyance of any person,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Illustrations.

"(*a*) *A* informs a Magistrate that *Z*, a police-officer subordinate to such Magistrate, has been guilty of neglect of duty or misconduct, knowing such information to be false, and knowing it to be likely that the information will cause the Magistrate to dismiss *Z*. *A* has committed the offence defined in this section.

"(*b*) *A* falsely informs a public servant that *Z* has contraband salt in a secret place knowing such information to be false, and knowing that it is likely that the consequence of the information will be a search of *Z*'s premises, attended with annoyance to *Z*. *A* has committed the offence defined in this section.

"(*c*) *A* falsely informs a policeman that he has been assaulted and robbed in the neighbourhood of a particular village. *He* does not mention the name of any person as one of his assailants, *but knows it to be likely that in* consequence of this information the Police *will* make enquiries and institute searches in the village to the annoyance of the villagers or some of them. *A* has committed an offence under this section."

Addition of section to Chapter XII, Act XLV, 1860.

2. To Chapter XII of the said Code the following shall be added, namely :—

Prohibition of fictitious stamps.

"263A. (*1*) Whoever—

(*a*) makes, knowingly utters, deals in or sells any fictitious stamp, or knowingly uses for any postal purpose any fictitious stamp, or

(*b*) has in his possession, without lawful excuse, any fictitious stamp, or

(*c*) makes or, without lawful excuse, has in his possession any die, plate, instrument or materials for making any fictitious stamp,

shall be punished with fine which may extend to two hundred rupees.

"(*2*) Any such stamp, die, plate, instrument or materials in the possession of any person for making any fictitious stamp may be seized and shall be forfeited.

"(*3*) In this section—

(*a*) 'fictitious stamp' means any stamp falsely purporting to be issued by Government for the purpose of denoting a rate of postage, or any facsimile or imitation or representation, whether on paper or otherwise, of any stamp issued by Government for that purpose : and

(*b*) 'Government' shall, notwithstanding anything in section 17, be deemed to include the person or persons authorised by law to administer executive government, in any part of India, *and* also in any part of Her Majesty's dominions or in any foreign country."

[The amendment has reference to an unreported case which occurred in the Madras Presidency.]

Substitution of new section for section 294, Act XLV, 1860.

3. For section 294 of the said Code the following shall be substituted, namely :—

Obscene acts and songs.

"294. Whoever, to the annoyance of others,

(*a*) does any obscene act *in any public place*, or

(*b*) sings, recites or utters any obscene song, ballad or words, *in or near any public place*,

shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both."

[38 & 39 Vict., c. 24.]

Addition of new section after section 477, Act XLV, 1860.

4. After section 477 of the said Code the following shall be added, namely :—

Falsification of accounts.

"477A. Whoever, being a clerk, officer or servant, or employed or acting in the capacity of a clerk, officer or servant, wilfully, and with intent to defraud, destroys, alters, mutilates or falsifies any book, paper, writing, valuable security or account which belongs to or is in the possession of his employer, or has been received by him for or on behalf of his employer, or wilfully, and with intent to defraud, makes or concurs in making any false entry in, or omits or alters or concurs in omitting or altering any material particular from or in, any such book, paper, writing, valuable security or account, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

"*Explanation.*—It shall be sufficient in any charge under this section to allege a general intent to defraud without naming any particular person intended to be defrauded or specifying any particular sum of money intended to be the subject of the fraud, *or any particular day on which the offence was committed.*"

Act VI of 1864.

Substitution of new sections for 2, 3 and 4, Act VI, 1864.

5. *For* sections *2, 3 and 4* of Act VI of 1864 (*an Act to authorise the punishment of whipping in certain cases*), the following shall be *substituted*, namely :—

Offences punishable with whipping in lieu of other punishment prescribed by Penal Code.

"*2. Whoever commits any of the following offences may be punished with whipping in lieu of any punishment to which he may for such offence be liable under the Indian Penal Code, that is to say—* XLV of 1860.

Group A.

(*1*) *theft, as defined in section 378 of the said Code;*

(*2*) *theft in a building, tent or vessel, as defined in section 380 of the said Code;*

(*3*) *theft by a clerk or servant, as defined in section 381 of the said Code;*

(*4*) *theft after preparation for causing death or hurt, as defined in section 382 of the said Code;*

Group B.

(*5*) *extortion by threat, as defined in section 388 of the said Code;*

(*6*) *putting a person in fear of accusation in order to commit extortion, as defined in section 389 of the said Code;*

Group C.

(*7*) *dishonestly receiving stolen property, as defined in section 411 of the said Code;*

(*8*) *dishonestly receiving property stolen in the commission of a dacoity, as defined in section 412 of the said Code;*

Group D.

(*9*) *lurking house-trespass, or house-breaking, as defined in sections 443 and 445 of the said Code, in order to the committing of any offence punishable with whipping under this section;*

(*10*) *lurking house trespass by night or house-breaking by night, as defined in sections 444 and 446 of the said Code, in order to the committing of any offence punishable with whipping under this section.*

On second conviction of offence mentioned in section 2, whipping may be added to other punishment.

"*3. Whoever, having been previously convicted of any one of the offences specified in the last preceding section, shall again be convicted of the same offence or of any offence included in the same Group of offences, may be punished with whipping in lieu of or*

in addition to any other punishment to which he may for such offence be liable under the Indian Penal Code.

XLV of 1860.

"4. *Whoever, having been previously convicted of any one of the following offences, shall be again convicted of the same offence, or of any offence included in the same Group of offences, may be punished with whipping in addition to any other punishment to which he may be liable under the Indian Penal Code, that is to say—*

Offences punishable, in case of second conviction, with whipping in addition to other punishment.

XLV of 1860.

Group A.

(1) *giving or fabricating false evidence in such manner as to be punishable under section 193 of the Indian Penal Code;*

(2) *giving or fabricating false evidence with intent to procure conviction of a capital offence, as defined in section 194 of the said Code;*

(3) *giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation or imprisonment, as defined in section 195 of the said Code:*

Group B.

(4) *falsely charging any person with having committed an unnatural offence, as defined in sections 211 and 377 of the Code:*

Group C.

(5) *assaulting or using criminal force to any woman with intent to outrage her modesty, as defined in section 354 of the said Code;*

(6) *rape as defined in section 375 of the said Code;*

(7) *unnatural offences, as defined in section 377 of the said Code:*

Group D.

(8) *robbery or dacoity, as defined in sections 390 and 391 of the said Code;*

(9) *attempting to commit robbery, as defined in section 393 of the said Code;*

(10) *voluntarily causing hurt in committing robbery, as defined in section 394 of the said Code:*

Group E.

(11) *habitually receiving or dealing in stolen property, as defined in section 413 of the said Code:*

Group F.

(12) *forgery, as defined in section 463 of the said Code;*

(13) *forgery of a document, as defined in section 466 of the said Code;*

(14) *forgery of a document, as defined in section 467 of the said Code;*

(15) *forgery for the purpose of cheating, as defined in section 468 of the said Code;*

(16) *forgery for the purpose of harming the reputation of any person, as defined in section 469 of the said Code:*

Group G.

(17) *lurking house-trespass, or house-breaking, as defined in sections 443 and 445 of the said Code, in order to the committing of any offence punishable with whipping under this section;*

(18) *lurking house-trespass by night, or house-breaking by night, as defined in sections 444 and 446 of the said Code, in order to the committing of any offence punishable with whipping under this section."*

Addition of explanation to section 5, Act VI of 1864.

6. *To section 5 of the same Act the following Explanation shall be added, namely:—*

"*Explanation.*—In *this* section the expression 'juvenile offender' means an offender who in the opinion of the Court is under sixteen years of age, the *decision* of the Court on such matter being final and conclusive."

[8 Bom. Ca., 9.

Indian Post-office Act, 1866.

Addition of new section after section 65, Act XIV of 1866.

XIV

7. *After section 65 of the Indian Post-office Act, 1866, the following section shall be added, namely:—*

Powers of Post-office in case of articles bearing fictitious or previously used stamps.

"66. (1) *When a letter or other article is received by post from any place beyond the limits of British India—*

(a) *bearing a fictitious postage-stamp, that is to say, any facsimile or imitation or representation of any postage stamp, or*

(b) *purporting to be prepaid with any postage-stamp which has been previously used to prepay any other letter or article,*

the officer in charge of the post-office at which such letter or article is received shall send a notice to the addressee of such letter or article inviting him to attend, either in person or by agent, within a specified time at such post-office to receive delivery of such letter or article.

(2) *If the addressee or his agent shall attend at the post-office within the time specified in such notice, and shall consent to make known to the officer in charge of such office the name and address of the sender of such letter or article and to redeliver to such officer the portion of such letter or article which bears the address and the fictitious or previously used postage-stamp, or, if such letter or article is inseparable from such stamp, the entire letter or article, the same shall be delivered to the addressee or his agent.*

(3) *If the addressee or his agent shall fail to attend at the post-office within the time specified in such notice, or, having attended within such time, shall refuse to make known the name and address of the sender of the letter or article or to redeliver the article or portion thereof as required by sub-section (2), the same shall not be delivered to him, but shall be forwarded by the officer in charge of such post-office to the office of the Postmaster-General of the Presidency, who shall dispose of it in such manner as may be directed by the Governor-General in Council.*

(4) *For the purposes of this section 'postage-stamp' shall include any impressed, embossed or affixed stamp for denoting any rate or duty of postage of any part of Her Majesty's dominions or of any foreign country."*

J. M. MACPHERSON,
Offg. Secy. to the Govt. of India,
Legislative Dept.

(Republished by order of the Right Honorable the Governor in Council).

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

FORT ST. GEORGE GAZETTE SUPPLEMENT.

TUESDAY EVENING MARCH 12, 1895.

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

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 21st February 1895:—

No. 6 OF 1895.

A Bill to amend the Indian Ports Act, 1889.

X of 1889.

WHEREAS it is expedient to amend the Indian Ports Act, 1889; It is hereby enacted as follows:—

1. (*1*) In section 6, clause (*o*), of the said Act, the word "and" shall be omitted, and after clause (*p*) of the same section the following shall be added, namely:—

Amendment of section 6, Act X, 1889.

"and.

(*q*) for securing the protection from heat of the officers and crew of vessels in any such port by requiring the owner or master of any such vessel—

(i) to provide double awnings and curtains for screening the quarters occupied by the officers and crew from the sun's rays;

(ii) to erect windsails so far as the existing port-holes or apertures in the deck admit of their being used for ventilating the quarters of the officers and crew;

(iii) when the deck is made of iron and not wood-sheathed, to cover the deck of the vessel with wooden planks;

(iv) when the quarters used by the crew and the galley are separated by a thin iron bulkhead only, to furnish a screen of some suitable non-conducting material between such quarters and the galley."

STATEMENT OF OBJECTS AND REASONS.

The want of suitable arrangements for the ventilation and protection from the heat of the sun of the forecastle and officers' quarters in certain vessels, mainly cargo vessels, visiting Indian ports was brought to the notice of Government in 1892, and the Board of Trade was addressed on the subject through the Secretary of State. The Board expressed their readiness to alter their regulations so as to remedy deficiencies of the kind indicated, but they pointed out at the same time that, without legislation, of which there seemed to be no immediate prospect, to give retrospective effect to such alterations, they would be confined in their application to vessels inspected by their surveyors on initial registration or re-registration under section 9, sub-sections (*4*) and (*7*), of the Merchant Shipping Act of 1867 [see now the Merchant Shipping Act, 1894, Sixth Schedule, regulations (3) and (5)]. It was accordingly suggested that, pending legislation in England, the Indian Ports Act, 1889, should be amended so as to provide for the framing of rules requiring the necessary arrangements to be made on board ships while in Indian ports. The object of this Bill is to give effect to that suggestion.

J. WESTLAND.

The 15th February 1895.

J. M. MACPHERSON,
Offg. Secy. to the Govt. of India,
Legislative Dept.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

The following further Report of the Select Committee on the Bill to amend certain sections of the Code of Civil Procedure and to repeal certain sections of the Punjab Laws Act, 1872, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 21st February 1895 :—

We, the undersigned, Members of the Select Committee to which the Bill to amend certain sections of the Code of Civil Procedure and to repeal certain sections of the Punjab Laws Act, 1872, was referred, have considered the Bill No. (II) as amended on the 16th October 1894, the papers mentioned in the preliminary Report of that date, and the papers noted in the margin, and have now the honour to submit this our further Report, with the Bill as amended by us annexed thereto.

From Government, Punjab, No. 1313, dated 20th December 1894, and enclosures [Papers No. 14].
Memorandum by Babu Yogis Chandra Shastri [Paper No. 15].
From Government, Bengal, No. 119-J., dated 8th January 1895, and enclosures [Papers No. 16].
From Mr. Harilal Desaibhai Desai, Bombay, dated 31st October 1894 [Paper No. 1, relating to Bill No. II].
} Relating to the Bill as introduced.

2. We have omitted section 3 of the Bill as introduced, because in our opinion the country is not yet ripe for the change in the existing law which it proposed to make.

3. In deference to the strong objections which have been taken by the Calcutta High Court to the amendments which sections 4 and 5 of the Bill as introduced proposed to make in sections 548 and 553 of the Code, we have also omitted these sections.

4. In connection with section 6 of the Bill as introduced, which repeals sections 17 and 18 of the Punjab Laws Act, 1872, our attention has been drawn to the similar provisions in sections 14 and 15 of the Oudh Laws Act, 1876 ; but, though we are of opinion that the provisions of the Oudh Act are in the same position as those of the Punjab Act, we have refrained from repealing them, because the Local Government has not recommended this course, and we do not consider it desirable to postpone our Report for the purpose of making a reference on the point to the Local Government.

5. We have substituted a new section for section 51 of the Punjab Laws Act, 1872, providing for the re-publication from time to time only of rules and orders issued by the Local Government and Chief Court. The section at present requires an annual re-publication, a requirement with which it has been found practically impossible to comply.

6. 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.

ALEX. EDW: MILLER.
A. P. MACDONNELL.
SAHI BEDI KHEM SINGH.
LAKSHMISHWAR SINGH.
JAHAN KADER MEERZA MD. WAHED ALI.
M. M. ROY.
G. H. P. EVANS.

The 20th February 1895.

No. III.

A Bill to amend certain sections of the Code of Civil Procedure and the Punjab Laws Act, 1872.

WHEREAS it is expedient to amend certain sections of the Code of Civil Procedure and the Punjab Laws Act, 1872; It is hereby enacted as follows:— XIV of 1882. IV of 1872.

Code of Civil Procedure.

Amendment of section 39, Act XIV, 1882.

1. (*1*) In the third paragraph of section 39 of the said Code, between the words "of any High Court established by Royal Charter" and the words "shall be required," the words "or of the Chief Court of the Punjab" shall be inserted.

(*2*) *To the said section the following Explanation shall be added, namely*:—

"*Explanation.—For the purposes of the enrolment of advocates the High Court of Bombay shall be at liberty to treat the Sadr Court of Sind as within the local limits of its jurisdiction.*"

Amendment of section 180, Act XIV, 1882.

2. For the first and second paragraphs of section 180 of the said Code the following shall be substituted, namely:—

"The other party shall then state his case and produce his evidence (if any), and may then address the Court generally on the whole case.

"The party beginning may then reply generally on the whole case."

Punjab Laws Act, 1872.

IV of 1872.

Repeal of sections 17 and 18 of Act *IV, 1872.*

3. Sections 17 and 18 of the Punjab Laws Act, 1872, as amended by Act XII of 1878, are hereby repealed.

Substitution of new section for section 51, Act IV, 1872.

4. *For section 51 of the same Act the following section shall be substituted, namely*:—

Republication of rules and orders.

"*51. All rules which the Local Government is empowered to issue under this Act, and all circulars issued by the Chief Court, shall be republished from time to time by the Local Government, with the previous sanction of the Governor-General in Council; and, upon such republication, shall be arranged in the order of their subject-matter; and all such alterations or amendments as may have been made since the last preceding publication thereof, or may have become necessary or advisable, shall be embodied therewith; and upon such republication all such rules and circulars previously issued shall be repealed.*"

J. M. MACPHERSON,
Offg. Secy. to the Govt. of India,
Legislative Dept.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

FORT ST. GEORGE GAZETTE SUPPLEMENT.

TUESDAY EVENING, MARCH 19, 1895.

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

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 7th March 1895:—

No. 7 OF 1895.

A Bill to regulate the award of interest in suits for simple money-debts and mortgage-debts.

WHEREAS it is expedient to regulate the award of interest in suits for simple money-debts and mortgage-debts; It is hereby enacted as follows:—

Prohibition of award of interest exceeding in amount the principal.

No Civil Court shall, in any suit for a simple money-debt or a mortgage-debt instituted after the commencement of this Act, decree or award interest exceeding in amount the original principal, or, where there has been payment in reduction of the principal, exceeding in amount the reduced principal.

Explanation.—The word "interest" means the amount of interest due or payable at the date of the suit, exclusive of payments previously made.

STATEMENT OF OBJECTS AND REASONS.

At present there is an anomaly of practice in our Courts in the matter of awarding interest and there is no limit to the amount up to which interest may be awarded. In a recent case decided by the Calcutta High Court compound interest at 33 per cent. amounted in ten years to 17½ times the principal, or, in other words, the interest was on an average 175 per cent. of the principal per annum. The High Court held that the defendant was bound by "the bargain which he had entered into," and stated in its judgment that the rate of interest was not higher than had been allowed in other cases.

The object of this Bill is to remove the existing anomaly of practice and to place a limit upon the award of interest.

MOHINY MOHUN ROY.

The 4th March 1895.

J. M. MACPHERSON,
Offg. Secy. to the Govt. of India,
Legislative Dept.

(Republished by order of the Right Honorable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 22.

The following Preliminary Report of the Select Committee on the Bill to consolidate and amend certain Indian enactments relating to Merchant Shipping and the carriage of passengers by sea was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 21st March 1895:—

LEGISLATIVE DEPARTMENT.

WE, the undersigned, Members of the Select Committee to which the Bill to consolidate and amend certain Indian enactments relating to Merchant Shipping and the carriage of passengers by sea was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our preliminary Report, with the Bill as amended by us annexed thereto.

2. The whole Bill has been cross-referenced to the Merchant Shipping Act, 1894, and we have introduced into the Bill all changes necessitated by the substitution of that Act for the numerous other Shipping Acts which it repealed.

From Government of India, Legislative Department, to Governments of Madras, Bombay and Bengal, and Chief Commissioner, Burma, Nos. 96 to 99, dated 10th January, 1893, and enclosures [Papers No. 1].

Office memorandum from Government of India, Revenue and Agricultural Department, No. 288—6, dated 6th February, 1893 [Paper No. 2].

Office memorandum from Government of India, Home Department, No. 31, dated 27th February, 1893 [Paper No. 3].

From Chief Commissioner, Burma, No. 917—4-S.-11, dated 29th June, 1893 [Paper No. 4].

From Government, Madras, No. 216, dated 26th June, 1893, and enclosures [Papers No. 5].

From High Court, Calcutta, No. 2043, dated 30th August, 1893 [Paper No. 6].

From Government, Bombay, No. 4613, dated 28th December, 1893, and enclosures [Papers No. 7].

From Government, Bengal, No. 36, dated 5th January, 1894, and enclosure [Papers No. 8].

From Secretary of State for India, Revenue No. 5, dated 18th January, 1894, and enclosure [Papers No. 9].

From Government, Bengal, No. 797, dated 18th April, 1894, and enclosures [Papers No. 10].

From Government, Bombay, No. 165, dated 27th July, 1894, and enclosures [Papers No. 11].

From Government, Bengal, No. 50-T., dated 13th September, 1894, and enclosures [Papers No. 12].

From the Hon'ble P. Playfair, dated 26th November, 1894, and enclosures [Papers No. 13].

Resolution by Government of India, Finance and Commerce Department, No. 5981-S.R., dated 5th December, 1894, and enclosures [Papers No. 14].

Office memorandum from Government of India, Finance and Commerce Department, No. 6183-S. R., dated 19th December, 1894, and enclosures [Papers No. 15].

From Shipowners' Association, Liverpool, dated 13th December, 1894 [Paper No. 16].

Telegram from Chamber of Commerce, Bombay, dated 9th January, 1895 [Paper No. 17].

Office memorandum from Government of India, Finance and Commerce Department, No. 126-S. R., dated 9th January, 1895, and enclosures [Papers No. 18].

From Clyde Steamship Owners' Association, Glasgow, dated 27th December, 1894 [Paper No. 19].

From Chamber of Shipping of the United Kingdom, London dated 27th December, 1894 [Paper No. 20].

Office memorandum from Government of India, Finance and Commerce Department, No. S. R.—274, dated 16th January, 1895, and enclosures [Papers No. 21].

From Glasgow Shipowners' Association, dated 28th December, 1894 [Paper No. 22].

From Shipowners' Association, Liverpool, dated 1st January, 1895 [Paper No. 23].

From Chamber of Shipping of the United Kingdom, London, dated 4th January, 1895; from ditto, dated 9th January, 1895 [Papers No 24].

Memorial of Serangs and Lascars, Bombay, dated 18th January, 1895 [Paper No. 25].

Office memorandum by Government of India, Finance and Commerce Department, No. S. R.—671, dated 6th February, 1895, and enclosures [Papers No. 26].

From Bengal Chamber of Commerce, No. 148—95, dated 5th February, 1895, and annexures [Papers No 27].

From ditto, No 154—95, dated 5th February, 1895 [Paper No. 28].

From Government, Bombay, No. 588, dated 12th February, 1895, and enclosures [Papers No. 29].

From Government, Bengal, No. 434 Marine, dated 20th February, 1895, and enclosures [Papers No. 30].

Office memorandum from Government of India, Home Department, No. 71, dated 25th February, 1895, and enclosure [Papers No. 31].

Resolution by Government of India, Finance and Commerce Department, No 975-S. R., dated 23rd February, 1895, and enclosure [Papers No. 32].

From Bengal Chamber of Commerce, No. 314—95, dated 5th March, 1895 [Paper No. 33].

3. We have closely compared the provisions of the Bill with those of the Merchant Shipping Act, 1894, in view to bringing the former measure into accord with the latter in all cases where it seemed clear that no sufficient reasons for a difference in the law existed.

4. We have also carefully compared the wording of the two measures and have altered the wording of the Bill so as to bring it into conformity with the wording of the Merchant Shipping Act, 1894, in all cases in which the intention of the two measures is the same and in which it seemed possible that the retention of a different wording in the Bill, however it might otherwise be justified, might lead to a reasonable supposition that a difference in the two laws was intended.

5. We have omitted section 17 of the Bill, which rendered liable to port-dues the space occupied by deck cargo in home-trade ships, and have recast, but without materially modifying, the provisions of the whole of Part II.

6. *Section 25.*—We have provided for the grant of certificates of competency to masters of "Asiatic ships," the meaning of which term we have defined in the explanation annexed to this section. We do not contemplate that the examination to which masters of Asiatic ships should be subjected should do much more than ensure their knowledge of the rules of the road at sea, the reading of signals, etc.

7. In section 26 we have provided for the grant of local certificates of service to engineers in Her Majesty's navy or in the Royal Indian Marine as well as to sub-lieutenants and officers of a higher grade in those services.

We have further provided for the grant of a local certificate of service as master or mate of a home-trade ship not exceeding three hundred tons to any master or mate who before the passing of this Act served as master or mate respectively of a home-trade ship of one hundred tons and upwards. It appears to us that it would be a hardship to require suddenly that none but certificated officers should henceforth be allowed on home-trade ships of between one hundred and three hundred tons burthen which do not under the existing law require certificated officers unless they are passenger boats carrying, if a steamer sixty, and if a sailing vessel thirty, Native passengers.

8. *Section 31* (5).—We have so far modified section 31 (5) as to require that masters of Asiatic ships shall possess either local certificates of service or local certificates of competency.

9. In section 32 we have empowered the Government of Bombay to extend the definition of home-trade ships so as to include British steam-ships proceeding from Aden to any foreign port on the coast of Arabia or Africa not being more than six hundred miles distant from Aden.

10. *Section 33* (1).—We have omitted the proviso to section 33 (1), which empowered Local Governments to exempt foreign steam-ships from the requirements in regard to certificated officers imposed on British ships. It has been pointed out to us that this power is not given in the English Act and that its exercise might be injurious to the interests of the country.

11. *Sections 37 and 38.*—We have omitted the offence of stranding a ship in section 37 and in section 38 from the list of offences for which, if caused by his wrongful act or default, the certificate of a master, mate or engineer may be suspended or cancelled by a Court or by a Local Government. The offence in question is not one for which under the English law a certificate can be suspended or cancelled unless it results in the loss or abandonment of, or serious damage to, the ship or in loss of life, or is the result of incompetency. In all such cases it will still remain punishable under the Bill as we propose to amend it, and we do not think that the Indian law should in this matter differ from the English law.

12. We have recast and considerably modified sections 50 and 51. In section 50 (*g*) we have inserted the words "short allowance of provisions" among the punishments for which regulations may, with the approval of the Governor General in Council, be made and inserted in the agreement with the crew. This modification will bring the clause into accord with the English law on the subject and with the existing Indian law, while it will still be possible for the Governor General in Council in any case or in any particular cases to prohibit the entry in any agreement of a penalty of the nature referred to.

To section 50 (*h*) we have, at the instance of the Resident at Aden and of the Government of Bombay, added a proviso to prevent lascars or other Native seamen not shipped at Aden or ordinarily resident at that port from being discharged there, a course

which would be likely to result in much inconvenience both to the seamen concerned and to the State. We have added a further proviso to the effect that a statutory Native of India of European race or extraction shall not, except with his own express consent, be deemed to be a Native seaman within the meaning of this section.

We have made an important alteration in the existing law in order to permit of the agreement with the crew being signed either by the master or by the owner's agent, instead of requiring, as under the existing law in England and in India, that it shall in all cases be signed by the master.

13. *Section 55.*—We have modified section 55 (1), consequent on the alteration made in section 51, so as to make the master punishable when he carries a seaman to sea without a lawful agreement having been made with him either by the master himself or by the owner's agent.

14. *Section 59.*—We have struck out the words "or elsewhere" in section 59, which bound the master to report to the Superintendent of a Mercantile Marine Office any change in his crew occurring before his final departure no matter whether the crew was engaged in India or elsewhere. Under the section as it stands report will be necessary only when change occurs in a crew engaged in India.

15. *Section 62.*—We have inserted the words "otherwise than in accordance with the terms thereof" after the word "discharged" in the fifth line of this section to bring the section into harmony with the English law and with justice.

16. *Section 67.*—In sub-section (4) of this section and in all other sections of the Bill where an equivalent expression was used we have substituted the words "the ship may be detained" or words to that effect for the words "the Local Government may detain the ship" or equivalent words. It is quite unnecessary, as has been pointed out, that an order of a Local Government should be required in any ordinary case of breach of rule.

To section 67 (5) we have prefixed the words "In the case of a voyage terminating in British India" to show clearly that the sub-section applies only to such cases.

17. *Section 68.*—In section 68 (1) (*a*) we have included engine-drivers among the class of officers whose certificates are to be periodically produced to a Superintendent of a Mercantile Marine Office.

18. *Section 70.*—This section of the Bill permits of advances being made to the seaman himself only. We have altered the section so as to admit of a stipulation to be made in an agreement for a payment in advance to be made either to, or *on behalf of*, a seaman. This brings the section into accord with the existing English law, from which there seem to be no reasonable grounds why it should differ.

For sub-section (2), which the modification described above practically cancels, we have substituted clause (*b*) of section 140 of the English Act. Further slight consequential amendments have been made in sub-sections (3) and (4).

19. *Sections 71 and 72.*—We have limited, as in the English Act, the granting by a seaman of allotments of his wages to the case of "near relatives," for which expression we have in section 72 adopted the definition given in section 141 (4) of the English Act.

20. *Section 79.*—The section, as it originally stood in the Bill, provided for the wages of discharged seamen being paid to them in the presence of a Superintendent of a Mercantile Marine Office. We have slightly modified the section so as to admit of wages being paid either as above or *through* a Superintendent of a Mercantile Marine Office.

21. *Section 85.*—For this important section, which determines the period within which a seaman's wages are to be paid, we have adopted the provisions of the English Act in preference to those of the Bill. The English law makes the whole amount of the wages due within two days (exclusive of any Sunday, fast day in Scotland, or Bank holiday) after the time when the seaman lawfully leaves the ship at the end of his engagement, an advance of pay being claimable on the day the seaman lawfully leaves the ship. The English law is in tolerably close accord with the existing Indian law, which makes the wages payable within three days after the cargo has been delivered or within five days of the seaman's discharge, whichever first happens. No sufficient reasons have been adduced for the change of practice proposed in the Bill, which makes wages payable within one week after the delivery of the cargo has commenced.

22. *Section 91.*—We have omitted this section and also sections 114, 117, 119 and 126, which made the provisions of Chapters IX, XII, XIII, XIV and XV applicable to Native seamen engaged at any port in British India to serve in a foreign ship. We find that there are no equivalent provisions in the English Act, and the proposed change in procedure could hardly be made without the consent of foreign Powers, which consent it would be difficult to obtain.

23. *Section 100* (1) (*a*).—We have omitted the words "in British India" in clause (*a*) of this sub-section in view to making the section applicable to a British ship registered in British India, which has not been heard of for twelve months or upwards since leaving a port of departure, whether situated in British India or out of British India.

24. *Section 106.*—We have altered section 106, a new provision in Indian law, to bring it into more exact conformity with section 206 of the English Act, with which it corresponds. We have provided, as in the English Act that no fee shall be levied for an inspection under the section, and we have further provided that no provisions which have been certified under section 206 of the Merchant Shipping Act, 1894, for use in any voyage shall be again inspected under this section in the course of the same voyage.

25. *Section 107.*—At the suggestion of the Government of Bombay we have made it compulsory on an officer to whom a complaint is made to examine the provisions and water complained of. The modification made in the section brings it into accord with the English law.

26. *Section 110.*—We have modified section 110 (*1*) (*a*) to provide for the case of a reduction of provisions being imposed as a punishment in accordance with section 50 (*g*). We have added a new sub-section empowering the Court or Magistrate trying the case to require an inspection and report by a Superintendent of a Mercantile Marine Office or other duly empowered officer.

27. *Section 113.*—The papers relating to the provision of space for Native crews have been considered by the Select Committee. They find that the proposal to increase the space has met with a strong opposition, and in view of this fact, and of the observations made during the discussion in Council and of the importance of the interests involved, they do not consider it wise, in discussing a measure that is mainly one of consolidation, to propose any amendment of the existing law on the subject.

28. *Section 114.*—We have omitted this tsection from the Bill. It is generally conceded that, if it is found necessary to reduce he size of lascars' chests, the desired end can best be obtained by providing for it in the agreement which a master enters into with his crew.

29. *Section 115.*—We have modified section 115 to admit of any other officer appointed for the purpose by the Local Government performing, in lieu of the Superintendent or Deputy Superintendent of a Mercantile Marine Office, the duties of inspecting medicines, medical stores, etc.

30. *Section 116* (*1*).—We have slightly modified the wording of clause (*a*) of this sub-section to make the intention clearer.

31. *Section 120.*—We have modified this section to bring it more closely into accord with sections 163 and 212 of the English Act, on which it is based, and we have added a new sub-section, No. (*4*), equivalent to section 163 (*2*) of the English Act, to render it clear that nothing in section 120 is intended to affect the provisions of the Bill with respect to allotment-notes.

32. *Section 130.*—We have modified the wording of the section to make it agree more closely with the English Act, and we have inserted in the section the provisions of the existing Indian law, under which the offences of desertion, neglect or failure to join the ship or absence without leave are punishable with imprisonment.

The English Act provides that elsewhere than in England these offences shall be punishable with imprisonment, and we think that the offence of desertion in India may involve such serious consequences that the penalty against it should not be reduced.

33. We have omitted section 134 (*4*) from the Bill as amended. The provision in question, which allows any seaman or apprentice of a British ship to absent himself from his ship or his duty by giving forty-eight hours' notice to the owner or the master, is by the English Act declared applicable to the United Kingdom only. A similar provision incorporated in Indian law would render nugatory the various measures which it has been found necessary to pass from time to time to prevent European seamen being left stranded in this country.

34. *Section 143.*—We have added a new clause 143 (*1*) (*a*) providing that a seaman or apprentice may be sent on board ship in lieu of being kept in prison if he has been imprisoned (without any limit of time) on the ground of his having neglected or refused to join or to proceed to sea in any ship, or has deserted or absented himself from the ship without leave or has committed any other breach of discipline. This is the existing Indian law, and the omission of the provision in the Bill was apparently due to oversight.

35. *Section 152.*—We have modified this section to admit of the wages due to a seaman or apprentice left behind in British India on the ground of unfitness or inability to proceed to sea to be paid to the Superintendent of a Mercantile Marine Office instead of to the seaman or apprentice himself.

36. *Section 174.*—The Bill exempts all native craft not square-rigged from the provisions of Chapter XXI in regard to life-saving appliances. We consider that the Bill goes too far, and we have limited the exemption to the case of native craft of not more than two hundred tons burthen and not carrying passengers.

37. *Section 176.*—In respect of the power to make rules with regard to the life-saving appliances that shall be required for each ship or class of ships we have specially provided in section 343 that draft rules shall first be published and shall not be taken into consideration for six months after date of publication.

We have made a similar provision in respect to the rules which a Local Government is empowered by section 204 of the Bill to make in view to regulating the making of surveys under Chapter XXIII. We think that the importance of the matters dealt with under the two sections referred to justifies the demand for ample time for consideration of the rules which has been pressed upon us by interested bodies.

38. *Section 183A.*—We have provided, as in the English Act, for the levy of a fee for the inspection of ships with regard to lights and fog-signals. No fee, however, will be levied where the lights and signals are found to be in order unless the visit is made on the application of the owner.

39. *Section 183B.*—We have empowered the Governor General in Council to exempt from the provisions of Chapter XXII of the Bill any classes of native craft which do not use lights or fog-signals.

40. *Section 204.*—Power of Local Government to make rules to regulate the making of surveys. See remark against section 176.

41. *Section 205.*—We have modified section 205 of the Bill, which exempts certain ships from the provisions of Chapter XXIV in regard to "unsafe ships," "load-lines," etc. We have restricted the exception proposed in the Bill of all home-trade ships of less than one hundred and fifty tons register to the case of *sailing ships*. In the case of *steam-ships*, we have limited the exemption to the case of home-trade steam-ships of less than eighty tons register. On the other hand, we have exempted all ships employed solely in fishing.

42. *Section 206.*—We have added a sub-section providing that for the purpose of determining whether any ship is so loaded as to submerge the centre of the disc in perfectly smooth salt water the ship may, if the owner or master so desires, be taken into a wet basin or dock. The costs of such a proceeding would, under section 225, be borne by Government if the disc were found not to be submerged.

43. *Section 247.*—We have omitted from clause (*b*) of the proviso to this section the amending words inserted in the Bill which unduly limit the powers of a Local Government to exempt officers who have not passed the survey test prescribed in section 246 from practising as surveyors in any port in which any surveyor who has passed the test is exercising the profession of a ship surveyor. The main object of the proviso as it stands in the existing law was, as was stated by the Hon'ble Mr. Stokes in proposing it, to admit of an expert-surveyor being sent to this country in certain cases from England for the special purpose of surveying and directing repairs. This object of the proviso would be defeated by the introduction of the amending words proposed in the Bill.

44. *Section 253.*—In cases where the amount of salvage claimed exceeds one thousand rupees we have provided that an appeal shall be allowed against the decision of a Magistrate.

45. *Section 260.*—We have modified section 260 (*2*) with the view of providing that the Magistrate who is a member of a Court of Investigation appointed by the Local Government shall be a Magistrate of the first class, that another member shall be some person of nautical skill and knowledge, and that the other or others (if any) shall be persons of nautical, engineering, mercantile or other special skill or knowledge.

46. *Sections 262 and 263.*—We have modified these sections in view to securing that a master, mate or engineer charged with incompetency, etc., shall have reasonable time for the preparation of his defence.

47. *Section 277.*—We have slightly modified the first line of the section to make the meaning clearer.

We have also added a clause exempting from the operation of this Part of the Bill any ships to which the provisions of the Inland Steam-vessels Act, 1884, are applicable.

48. *Section 279.*—We have added words to the definition of "native passenger" to show that passengers of the first and second class are excluded from the definition, which is intended to refer only to passengers of the lowest class or steerage passengers.

We have modified clause (*a*) to show that a voyage *from* Aden to any other port in British India is a long voyage as well as a voyage in the contrary direction.

We have slightly modified clauses (*d*) and (*e*) to make the intention clearer.

49. *Section 280.*—We have omitted the last four lines of section 280 (*1*) after the words "seasons of foul weather." We have carefully defined the terms "long voyage," "short voyage," "shelter-port voyage" and "excursion voyage," and we think it unnecessary to vest the Governor General in Council with further power to declare what shall be deemed to be a long voyage, a short voyage, a shelter-port voyage or an excursion voyage.

50. *Section 282.*—We have reduced the time of notice of sailing to be given in the case of all voyages other than long voyages from twenty-four hours before the time of sailing to six hours before that time.

51. *Section 284* (*1*).—We have provided that Certificate B shall be required to be held by a master in the case of short voyages as well as in the case of long voyages, for which latter case only the Bill provides. The Bill does not propose to exempt ships proceeding on short voyages from the necessity of holding a certificate that food, fuel, water, etc., necessary for the passengers are carried (*vide* section 303 of the Bill), and this is the chief matter dealt with in Certificate B. The existing law requires that Certificate B shall be held in the case of *all* voyages.

In sub-section (*2*) (*c*) (*iii*) we have added words to show that railings and netting protected by curtains will be treated as equivalent to substantial bulwarks.

52. *Section 288.*—We have modified the section in view to requiring the surveyor to report that the ship, besides fulfilling the other requirements of the section, is properly lighted. We have slightly altered sub-section (*3*) to make the meaning clearer.

53. *Section 291.*—We have added words to the fourth clause to exempt from the necessity of carrying a medical officer any ship carrying more than four hundred Native passengers and trading between ports in the territories administered by the Government of Bombay and other ports not in those territories in cases where these latter ports are situated on the west coast of India. The requirements of the Bill in this matter appear to us to be unnecessarily stringent.

54. *Section 294.*—We have added two new sub-sections: the first (sub-section (*2*) providing that the upper deck, excluding the portion set apart for the first and second class passengers and the airing space for the crew and any space which may be reserved as a hospital for the use of such passengers, shall be reserved for the use of the native passengers in the proportion which the number of native passengers on board bears to the total number which the ship is calculated to carry, and the second (sub-section (*3*)) providing that the height between decks shall in no case be less than six feet. The intention of the Bill was to provide for these objects, both of which were included in the recommendations of the Hon'ble Dr. Lethbridge's Committee on native passenger ships, by rules under section 324. It has seemed to us preferable to make provision for them in the body of the Act.

55. *Section 296.*—We have inserted a new section 296A requiring the master to give immediate notice of any alteration in a ship which has the effect of altering the number of passengers which a ship can carry, and we have made failure to furnish the information punishable under a new section 316A.

56. *Section 297A.*—We have inserted between section 297 and section 301 of the Bill a number of new provisions dealing specially with pilgrim ships proceeding to and from the Hedjaz. These special provisions give effect to the terms of the convention agreed to at the International Sanitary Conference convened by the French Government at Paris early in 1894, in so far as the terms of the convention have been accepted by the Government of India.

In the sections of the Bill referred to the words "pilgrim ship" and "pilgrim" are defined; and, while under the existing law no steam-ship carrying pilgrims comes under the Native Passenger Ships Act unless it carries sixty pilgrims of the lowest class, the Bill as amended will apply to all pilgrim ships which carry not less than one pilgrim for every one hundred tons of gross tonnage.

57. *Section 297A.*—The notice of sailing, which for ordinary native passenger ships on a long voyage is under section 282 (*2*) one day, is extended by section 297A in the case of pilgrim ships to three days.

58. Section 300 of the Bill, which gives power to the Local Government to direct that no native passenger shall be received on board a ship carrying passengers to the Red Sea until the passenger has been medically inspected, has been largely modified. It now renders medicial examination compulsory prior to being received on board ship in the case of all pilgrims, and the inspecting officer is required to prohibit the embarkation of a pilgrim suffering from cholera, choleraic indisposition or any form of suspicious diarrhœa or any dangerously infectious or contagious disease, or who has recently been in attendance upon or otherwise in contact with any person so suffering.

A new sub-section (*4*) is added which provides that all articles which have been contaminated by persons suffering from cholera or choleraic indisposition or any dangerously infectious or contagious disease, or are suspected of having been so contaminated, shall, before being taken on board a pilgrim ship, be disinfected under the supervision of a medical officer appointed by the Local Government for the purpose, in such manner as the Local Government shall direct.

59. A new section 300A provides that the master of every pilgrim ship shall be required to pay the whole amount of the sanitary taxes at the ports visited.

60. *Section 301.*—The provisions of section 301 of the Bill, which are based on the report of the native Passenger Ships Commission already referred to prescribe the space to be allotted to native passengers on short, shelter-port and excursion voyages in

sailing ships and steam-ships, respectively, and in seasons of fair weather and foul weather, respectively. We have recast the section and have introduced into it two provisos of the nature of those referred to in paragraph 54 above reserving the upper deck or portions thereof for the use of native passengers, and providing for the proper height of the roof of decks.

We have also provided that the deck on which any native passenger is carried during a short voyage or a shelter-port voyage in a season of foul weather shall have solid bulwarks.

61. *Section 302.*—To the words "substantial bulwarks" in the sixth line we have added the words "or rails and netting protected by curtains" as in section 284.

62. *Section 303.*—We have provided that clauses (*c*) and (*d*), which required the master to carry food, fuel, pure water, etc., for the use of the passengers, and to certify at each port that he has complied with this rule, shall be limited to the cases of short voyages, and shall not apply to the case of shelter-port and excursion voyages.

63. *Section 315.*—We have reduced the penalty in sub-section (*2*) of this section from two hundred to one hundred rupees.

64. *Section 317* (*2*).—We have added a sub-section providing under the terms of the Paris Convention that the whole of any fine imposed on the master of a pilgrim ship under this section shall be paid to the complainant pilgrim or pilgrims who have suffered by the neglect.

65. *Section 343.*—We have somewhat modified section 343 as explained in the remarks against sections 176 and 204 above.

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

In English.

Gazette.	*Date.*
Gazette of India	22nd October, 1892.
Fort Saint George Gazette	20th December, 1892.
Bombay Government Gazette	8th December, 1892.
Calcutta Gazette	30th November, 1892.
Burma Gazette	17th December, 1892.

In the Vernaculars.

Province.	*Language.*	*Date.*
Madras	Malayalam	26th September, 1893.
	Kanarese	3rd October, 1893.
	Telugu	14th November, 1893.
	Tamil	21st November, 1893.
Bombay	Maráthi	18th January, 1894.
	Gujaráthi	15th February, 1894.

67. As the amendments and alterations which we have found it necessary to make in the Bill are very numerous and are in some instances of considerable importance, we recommend that the Bill as amended be republished for general information.

H. F. CLOGSTOUN.
ALEX. EDW. MILLER.
J. WESTLAND.
A. S. LETHBRIDGE.
PHEROZESHAH M. MEHTA.
P. PLAYFAIR.
C. C. STEVENS.

The 20th March, 1895.

No. II.

THE INDIAN MERCHANT SHIPPING BILL, 1895.

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No. II.

A Bill to Consolidate and amend certain Indian enactments relating to Merchant Shipping and the carriage of passengers by sea.

[Bill of 1867, preamble.] WHEREAS it is expedient to consolidate and amend certain Indian enactments relating to Merchant Shipping and the carriage of passengers by sea;

It is hereby enacted as follows:—

PART I.

CHAPTER I.

PRELIMINARY.

Title and commencement.

1. (*1*) This Act may be called the Indian Merchant Shipping Act, 1895; and

(*2*) Except as provided in section 6 *and section 272B*, it shall come into force on the first day of .

Repeal.

2. (*1*) On and from the first day of the enactments mentioned in Part A of Schedule I shall be repealed to the extent specified in the third column thereof.

[Act IX of 1879, s. 2; Act V of 1883, s. 2; Act VI of 1884, s. 3 (*2*); Act X of 1887, s. 4 (*2*); Bill of 1867, s. 2; Bill of 1882, s. 2.]

(*2*) But all offices established or constituted, officers appointed, persons nominated or authorised, powers conferred, ports and places appointed, directions given, rules, declarations and exemptions made, bonds executed, forms sanctioned, fees or scales fixed, investigations held, certificates granted, suspended or cancelled, agreements made, proceedings commenced and other things duly done under any enactment repealed by sub-section (*1*) or under any enactment repealed by any enactment repealed by sub-section (*1*), shall, so far as may be practicable, be deemed to have been respectively established, constituted, appointed, nominated, authorised, conferred, given, made, executed, sanctioned, fixed, held, granted, suspended or cancelled, commenced and done under this Act.

[Act VI of 1884, s. 3 (3).]

(*3*) For the purposes of sub-section (*2*), certificates of *competency or service as engineer in the Sea Service or second engineer in the Sea Service respectively* granted under *the Burma Steamer Survey Act or Bombay Act IV of 1873 or Bengal Act I of 1868* shall be deemed to be certificates *as first class and second class engineer respectively*, and to have been granted under the provisions of *Chapter IV of* this Act.

[Act X of 1887, s. 4 (3); and cf. Act XIII of 1888, s. 2 (3).]

(*4*) Any enactment or document referring to any enactment repealed by sub-section (*1*), or to any enactment repealed by any enactment repealed by sub-section (*1*), shall, so far as may be practicable, be construed to refer to this Act or the corresponding portion thereof.

Definitions.

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

(*1*) "ship" includes a steam-ship:

[Act VII of 1884, s. 3.]

(*2*) "steam-ship" means every description of vessel used in navigation and propelled wholly or in part by the agency of steam:

[Act I of 1859, s. 118 (am. by Act VI of 1891, s. 5); Bill of 1867, s. 3; Bill of 1882, s. 3.] Cf. *1894*, s. 742.

(*3*) "home-trade ship" means a ship employed in trading between any ports in British India, or between any port in British India and any port or place on the continent of India or in the Straits Settlements or in the Island of Ceylon:

[Act I of 1859, s. 118 (am. by Act VI of 1891, s. 5); Bill of 1867, s. 3; Bill of 1882, s. 3.] Cf. *1894*, s. 742.

(*4*) "foreign-going ship" means a ship employed in trading between any port in British India and any port or place not being either in British India or on the continent of India or in the Straits Settlements or in the Island of Ceylon:

(*5*) "seaman" means every person (except masters, pilots, harbour-masters and apprentices *duly indentured*) employed or engaged in any capacity on board any ship:

[Act I of 1859, s. 118; Act XIII of 1876, s. 2; Bill of 1867, s. 3; Bill of 1882, s. 3.] Cf. *1894*, s. 742.

(*6*) "Board of Trade certificate" means a certificate, either of competency or service, as master, mate or engineer, as the case may be, granted by the Board of Trade under the Merchant Shipping Act, 1894, *or any Act repealed by that* Act:

57 & 58 Vict., c. 60.

(*7*) "Colonial certificate" means a certificate of competency as master, mate or engineer, as the case may be, granted—

(*a*) in British India, under Chapter IV of this Act, or

(*b*) in any other British Possession, under the authority of the Legislature of that Possession,

and which has been declared by Order in Council under the Merchant Shipping

38 & 33 Vict., c. 11. 57 & 58 Vict., c. 60.

(Colonial) Act, 1869, *or the Merchant Shipping Act, 1894*, to be of the same force as if it had been granted under the Merchant Shipping Acts *therein respectively mentioned:*

(*8*) "local certificate" means—

(*i*) a certificate, either of competency or service, as master or mate, as the case may be, or

(*ii*) a certificate of competency as engineer or engine-driver, as the case may be,

granted by a Local Government under Chapter IV of this Act, *not being a colonial certificate as hereinbefore defined:*

VIII of 1878. Act IX of 1879, s. 3.] Cf. *1894*, s. 742.

(*9*) "Customs-collector" means a Customs-collector appointed under the Sea Customs Act, 1878, and includes, for the purposes of Chapter XXXV, any person appointed by the Local Government by name or by virtue of his office to discharge the functions of a Customs-collector under that chapter at any port:

Act VII of 1884, s. 3.] Cf. *1894*, s. 747.

(*10*) "passenger" includes any person carried in a ship other than the master and crew and the owner, his family and servants: and

Act VII of 1880, s. 4; Act VII of 1884, s. 3.] Cf. *1894*, s. 743.

(*11*) "prescribed" means prescribed by a rule made under this Act.

Provisions as to steam-ships to apply to ships propelled by electricity, etc.

4. The provisions of *this Act applying* to steam-ships shall apply to ships propelled by electricity or other mechanical power, with such modifications as the Governor General in Council may, by notification in the Gazette of India, direct for purposes of adaptation.

Exemption of public ships.

5. (*1*) Nothing in this *Act* except Chapter XVIII shall apply to any ship belonging to, or in the service of, Her Majesty or the Government of India, *or to any ship of war belonging to any foreign Prince or State.*

(*2*) Nothing in *this Act*, except Chapters *VII, VIII and* XVIII, shall apply to any ship belonging to any foreign Prince or State when employed mainly on the public service of the Prince or State.

PART II.

CHAPTER II.

MEASUREMENT AND REGISTRY OF BRITISH SHIPS.

Whereas certain classes of British ships are now registered in British India under *certain* Acts passed by the Governor General of India in Council;

And whereas certain *other* classes of ships *are now and* have *for many years* been registered in British India under the *Merchant Shipping* Act, *1854*, as amended for the time being by subsequent Acts; 17 & 18 Vict., c. 104.

And whereas it is enacted in section 547 of the said Merchant Shipping Act, 1854, that "the legislative authority of any British Possession shall have power, by any Act or Ordinance, confirmed by Her Majesty in Council, to repeal wholly, or in part, any provisions of this Act relating to ships registered in such Possession; but no such Act or Ordinance shall take effect until such approval has been proclaimed in such Possession, or until such time thereafter as may be fixed by such Act or Ordinance for the purpose;"

And whereas it is expedient that certain provisions of the said Merchant Shipping Acts should be repealed *so far as relates to* British ships *registered* in British India, and that other provisions should be enacted in place thereof;

It is hereby enacted as follows:—

Commencement.

6. This Chapter shall come into force *on the day on which* Her Majesty's approval *thereof is* published in the Gazette of India.

Repeal.

7. (*1*) On and from the commencement of this chapter, the enactments mentioned in Part B of Schedule I shall be repealed to the extent specified in the third column thereof.

(*2*) Any enactment or document referring to any enactment repealed by sub-section (*1*) shall, so far as may be practicable, be construed to refer to the Merchant Shipping Act, 1894, as amended by this chapter. 57 & 58 Vict., c. 60.

Meaning of "native coasting-ship."

8. In this chapter, "native coasting ship" means a sailing ship not square-rigged, which is owned by one or more Indian subjects of Her Majesty and is a coasting-vessel within the meaning of the Sea Customs Act, 1878. *VIII of 1878.*

9. (*1*) Any British ship registered under Act XIX of 1838 or Act X of 1841 may, within a period of twelve months after the commencement of this chapter,

Re-registration of ships registered under Indian Acts.

Cf. 1873, s. 3, last proviso.

or, if the ship is not within a port of registry in British India at any time before the expiration of the said period, then within one month after her next return to a port of registry in British India,

57& 58 Vict., c. 60.

be re-registered under the Merchant Shipping Act, 1894, as amended by this chapter.

(*2*) No fee shall be payable for the measurement of the tonnage of any ship for the purposes of re-registration under sub-section (*1*).

(*3*) If any ship registered under Act XIX of 1838 or Act X of 1841 is not re-registered as provided by sub-section (*1*), she shall cease to be recognised as a British ship:

Provided that this sub-section shall not apply in the case of any ship referred to in section 10.

10. (*1*) Notwithstanding anything in section 2 of the Merchant Shipping Act, 1894, it shall not be obligatory on any person to register under that Act any British ship which is for the time being registered under Bombay Act I of 1863 (*an Act for the registry of vessels and levy of pilotage fees on the river Indus*) or any other British ship which plies solely on inland water.

57& 58 Vict., c. 60.

Registration of inland ships not to be required.

Cf. Act VI of 1884, s. 5, clause (3) (am. by Act III of 1890, s. (1) and clause (4), and s. 65.

(*2*) The expression "inland water" means any canal, river, lake or navigable water in British India.

(*3*) The Local Government may, by notification in the official Gazette, define how much of any tidal water shall be deemed to be inland water for the purposes of this section.

11. (*1*) So far as regards any ship the tonnage of which is measured, ascertained and marked in accordance with rules made under sub-section (*2*), the rules and orders on the same subjects prescribed by or under the Merchant Shipping Act, 1894, *or under any other Act repealed by that Act*, are hereby repealed.

Measurement and marking of tonnage of native coasting-ships.

57& 58 Vict., c. 60.

[Act XI of 1850, s. 3.]

(*2*) The Local Government may make rules to provide for measuring and ascertaining, whether for the purpose of registry or otherwise, the tonnage of native coasting-ships, and for marking the tonnage on such ships; and it shall be optional to the owner of any such ship to have her tonnage measured, ascertained and marked in accordance either with rules made under this sub-section or with the rules and orders referred to in sub-section (*1*).

(*3*) Rules made under sub-section (*2*) may provide, among other matters, that if any alteration be made in a native coasting-ship after she has been registered in pursuance of the said rules the certificate of registry shall be cancelled and the ship re-measured in accordance with the said rules.

(*4*) The word "alteration" in sub-section (*3*) means any change, whether temporary or permanent, either in the structure of a native coasting-ship or in the use to which any part of a native coasting-ship is put, by which the capacity of the ship for carrying cargo is, either directly or indirectly, increased.

12. (*1*) Clauses (*d*) *and* (*e*) of section *4* of the Merchant Shipping Act, 1894, are hereby repealed.

[S. 15 in Bill as introduced.] 57 & 58 Vict., c. 60.

Registrars.

(*2*) The following persons *shall be Registrars of* British ships in British India, *namely*:—

[Act X of 1841, s. 3 (am. by Act VII of 1891, s. 2).]

(*a*) at the ports of Calcutta, Madras, Bombay, Karachi, Aden and Rangoon, the Port Officer or any other person appointed by the Local Government in this behalf by notification in the official Gazette, and

(*b*) at any other port which has been approved under section *80* of the Merchant Shipping Act, 1894, for the registry of ships, any person appointed by the Local Government in this behalf by a like notification.

57 & 58 Vict., c. 60.

13. (*1*) The references to the Board of Trade in the following *portions of the Merchant Shipping Act, 1894*, namely:—

[S. 12 in Bill as introduced.] 57 & 58 Vict., c. 60.

Substitution of Local Government for Board of Trade.

sections 7, 47, 77 (2), 78, 80, 85, 86, 724 (4) and clause 5 of Rule 1 of the Second Schedule,

[Act X of 1841, s. 3 (am. by Act VII of 1891, s. 3).]

shall, in their application to British India, be read and construed as if the Local Government were therein named instead of the Board of Trade.

(*2*) *The reference to the Governor of a British Possession in section 89 aforesaid shall be read and construed as if the Local Government were therein named instead of the Board of Trade.*

(*3*) *The following portions of the Merchant Shipping Act, 1894, namely, sections 64 (1) and 77 (2), so far as they relate to fees, and sections 83 and 210 (3), and clauses 2 to 8, both inclusive, of the sixth schedule, are hereby repealed.*

(*4*) The fees payable in British India in respect of the matters mentioned in Schedule III shall be such sums, not exceeding those specified in that Schedule, as the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, appoint.

[S. 16 in Bill as introduced.] 57 & 58 Vict., c. 60.

14. Sections *31 to 46* (both inclusive) of the Merchant Shipping Act, 1894, are hereby repealed so far as regards native coasting-ships.

Transfers, transmissions and mortgages of native coasting-ships.

[S. 13 in Bill as introduced.]

15. (*1*) No place in any British ship registered in British India which is occupied by seamen or apprentices engaged under this Act and appropriated to their use shall authorise a deduction from register tonnage, unless there *be* in the ship one or more properly constructed privy or privies for the use of the crew; such privy or privies to be of such number and of such construction as may be approved by a surveyor appointed under section *727 of the Merchant Shipping* Act, *1894*.

Deduction from register tonnage on account of crew space.

57 & 58 Vict., c. 60.

(*2*) *Every place so occupied and appropriated* as aforesaid shall, whenever the ship is registered or re-registered in British India, be inspected by a surveyor appointed as aforesaid, who shall, if satisfied that the same is in all respects such as is required by section 113 of this Act, give to the Registrar a certificate to that effect, and, *if such certificate is obtained, but not otherwise*, such space shall be deducted from the register tonnage.

(*3*) No such deduction shall be authorised unless there is permanently cut in a beam, and cut in or painted on or over the doorway or hatchway of *every* place *so occupied and appropriated*, the number of men which it is constructed to accommodate, with the words "Certified to accommodate seamen."

(*4*) Upon any complaint concerning any place *so occupied and appropriated* as aforesaid, any surveyor appointed as aforesaid may inspect the same, and, if he finds that any of the provisions of section 113 of this Act with respect thereto are not complied with, he shall report the fact to the Registrar at the port where the ship is registered, and thereupon the register tonnage shall be altered, and the deduction aforesaid disallowed, unless and until it is certified by the same surveyor, or by some other surveyor appointed as aforesaid, that the provisions of the said section in respect of such place are fully complied with.

14. *Fees.* [*Omitted.*]

17. *Space occupied by deck cargo to be liable to dues.* [*Omitted.*]

PART III.

MASTERS, SEAMEN AND APPRENTICES.

Whereas *it is enacted in* section 288 of the Merchant Shipping Act, 1854, that if the Governor General of India in Council *should* by any Acts, Ordinances, or other appropriate legal means, apply or adapt any of the provisions in the Third Part of *that* Act contained to any British ships registered at, trading with or being at any place within *his* jurisdiction, and to the owners, masters, mates and crews thereof, such provisions, when so applied and adapted as aforesaid, and as long as they remain in force, *should* in respect of the ships and persons to which the same are applied, be enforced, and penalties and punishments for the breach thereof *should* be recovered and inflicted, throughout Her Majesty's dominions, in the same manner as if such provisions had been so adapted and applied, and such penalties and punishments had been expressly imposed *by that Act*;

[Act I of 1859, preamble; Bill of 1882, preamble.] 17 & 18 Vict., c. 104.

And whereas the *said* Merchant Shipping Act, *1854, and the other Acts amending the same have been repealed by the Merchant Shipping Act, 1894, and the above recited provision of the first mentioned Act has been re-enacted in substance by section 264 of the last mentioned Act*;

17 & 18 Vict., c. 104.

57 & 58 Vict., c. 60.

And whereas by Act I of 1859 (*an Act for the amendment of the law relating to Merchant Seamen*) and later Acts passed by the Governor General of India in Council, certain *of the* provisions *aforesaid have been applied or adapted to British ships, and certain other provisions enacted* with respect to foreign ships and the owners, masters, mates and crews thereof, *respectively*, and it is expedient that the said provisions should be re-enacted with the amendments hereinafter appearing;

It is hereby enacted as follows:—

CHAPTER III.

MERCANTILE MARINE OFFICES.

18. (*1*) A Mercantile Marine Office shall be established at such ports as the Governor General in Council may deem necessary.

[Act I of 1859, ss. 2, 3; Bill of 1867, ss. 100, 101; Bill of 1882, ss. 5, 6.]

Mercantile Marine Offices and establishments.

(*2*) For every such office there shall be a Superintendent, with such Deputy Superintendents, clerks and servants (if any) as the Local Government may consider necessary.

Cf. 1894, s. 240(3), 247(2).

(*3*) Superintendents and Deputy Superintendents of Mercantile Marine Offices shall be appointed by the Local Government.

(*4*) Every act done by or before a Deputy Superintendent shall have the same effect as if done by or before a Superintendent.

[Act I of 1859, s. 8; Bill of 1867, s. 106; Bill of 1882, s. 11.] Cf. 1894, *s.* 246(*3*).

Power to direct that business of Mercantile Marine Office be transacted at Custom-house or elsewhere.

19. The Local Government may direct that, at any port at which no separate Mercantile Marine Office is established, the whole or any part of the business of the Mercantile Marine Office shall be conducted at the Custom-house, or at the office of the Port Officer, or at such other office as the Local Government shall direct, and thereupon the same shall be there conducted accordingly;

and in respect of such business such Custom-house or office as aforesaid shall for all purposes be deemed to be a Mercantile Marine Office, and the officer to whom such business is committed shall for all purposes be deemed to be a Superintendent of a Mercantile Marine Office within the meaning of this Act.

[Bill of 1867, s. 107.] Cf. 1894, s.

Power to dispense with superintendence of Superintendent of Mercantile Marine Office.

20. The Local Government may, by special order in any particular case, dispense with the transaction before a Superintendent of a Mercantile Marine Office or in a Mercantile Marine Office of any matters required by this Act to be so transacted; and thereupon *those* matters, if otherwise duly transacted, *shall* be as valid as if *they were* transacted before a Superintendent of, or in, a Mercantile Marine Office.

[Act I of 1859, s. 4; Bill of 1867, s. 102; Bill of 1882, s. 7. Cf. 1894, *ss.* 105, 247(*1*).

Business of Superintendents of Mercantile Marine Offices.

21. It shall be the general business of Superintendents of Mercantile Marine Offices—

(*a*) to superintend and facilitate the engagement of seamen for, and the discharge of seamen from, British ships, in manner hereinafter mentioned,

(*b*) to provide means for securing the presence on board at the proper times of men who are so engaged,

(*c*) to give to all persons desirous of apprenticing boys to the sea-service, and duly authorised so to do by Act XIX of 1850 (*concerning the binding of apprentices*), and also to owners and masters of British ships requiring apprentices, such assistance as may be in their power for facilitating the making of such apprenticeships, and

(*d*) to perform such other duties relating to seamen and British or foreign ships as are for the time being committed to them by or under this Act or the Merchant Shipping Act, *1894*. 57 & 58 Vict., c. 60.

[Act I of 1859, ss. 5, 6, 25, 116; Bill of 1867, ss. 103, 104, 129; Bill of 1882, ss. 8, 32, 38.]

Fees to be paid upon engagements and discharges of seamen.

22. (*1*) Such fees, not exceeding those specified in Table A in Schedule *IV*, as may be fixed by the Local Government with the previous sanction of the Governor General in Council and published in the local official Gazette shall be payable—

(*a*) by owners or masters of British ships, upon all engagements and discharges of seamen effected before a Superintendent of a Mercantile Marine Office, and

(*b*) by masters of foreign ships, upon all engagements and discharges before a Superintendent of a Mercantile Marine Office of seamen who have been engaged under section 63.

(*2*) Scales of the fees payble for the time being shall be conspicuously placed in the Mercantile Marine Offices; and all Superintendents, Deputy Superintendents, clerks and servants may refuse to proceed with any engagement unless the fees payable thereon are first paid.

(*3*) Any owner or master who has paid the fees fixed under sub-section (*1*) in respect of any engagement or discharge of seamen may, for the purpose of in part reimbursing himself, deduct, in respect of each such engagement or discharge, from the wages of all seamen so engaged or discharged, and retain any sums not exceeding the sums specified in that behalf in Table B in Schedule *IV*:

Provided as follows:—

(*i*) if the Local Government has in any case fixed, under sub-section (*1*), fees lower than those specified in the said Table A, the sums which may be deducted and retained by owners or masters shall not exceed such sums as may be fixed in this behalf by the Local Government with the previous sanction of the Governor General in Council and published in the local official Gazette;

(*ii*) the sums so fixed shall bear as nearly as may be the same proportion to the sums specified in the said Table B as the fees fixed under sub-section (*1*) bear to the fees specified in the said Table A;

(*iii*) if in any case the sums which an owner or master is authorised by this sub-section to deduct exceed the amount of the fees payable by him, such excess shall be paid by him to the Superintendent in addition to such fees.

(*4*) For the purpose of determining the fees to be paid upon the engagement and discharge of seamen engaged under a running agreement

made under Chapter VII, the crew shall be considered to be engaged when the agreement is first signed, and to be discharged on the termination of the agreement; and all intermediate engagements and discharges shall be considered to be engagements and discharges of single seamen.

(*5*) In sub-section (*4*) "termination" means, when an agreement has been renewed under section 61, the termination of the period for which the agreement has been renewed.

(*6*) The Local Government, with the previous sanction of the Governor General in Council, may, if it thinks fit, at any time abolish or suspend, by notification in the local official Gazette, the fees payable under sub-section (*1*) upon engagements and discharges; and in the event of such abolition, or during such suspension, no deduction shall be made under sub-section (*3*) from the wages of any person engaged or discharged.

Act I of 1859, s. 7; Bill of 1867, s. 105; Bill of 1882, s. 10.] Cf. 1894, *s.* 150.

Penalty on Superintendent, etc., taking other remuneration.

23. Any Superintendent or Deputy Superintendent, or any clerk or servant in a Mercantile Marine Office, who demands or receives any remuneration whatever, either directly or indirectly, for hiring or supplying any seaman for any ship, excepting the fees payable under section 22, shall be *liable to* fine which may extend to two hundred rupees, and may also be dismissed from his office.

CHAPTER IV.

EXAMINATION OF, AND GRANT OF CERTIFICATES TO, MASTERS, MATES, ENGINEERS AND ENGINE-DRIVERS.

[Act I of 1859, ss. 9, 10; Act VII of 1884, s. 26; Bill of 1867, s. 108, 109; Bill of 1882, s. 12, 13.] Cf. 1894, *ss.* 96, 102.

Appointment of examiners.

24. The Local Government may appoint persons for the purpose of examining the qualifications of persons desirous of obtaining—

(*a*) certificates of competency as masters or mates, or

(*b*) certificates of competency as engineers or engine-drivers.

[Act I of 1859, s. 11 (am. by Act V of 1883, s. 35); Act VII of 1884, s. 27(*1*); Bill of 1867, s. 110; Bill of 1882, s. 14.] Cf. 1894, ss. 93, 98.

Grant of certificates of competency as master, mate, engineer or engine-driver.

25. The Local Government shall grant—

(*a*) to every person who is reported by the examiners to possess the necessary qualifications and to have given satisfactory evidence of his sobriety, experience, ability and general good conduct on board ship, a certificate of competency to the effect that he is competent to act as master or first mate or only mate or second mate of a foreign-going ship, or as master or mate of a home-trade ship, *or as master of an Asiatic ship*, as the case may be, and

(*b*) to every person who is reported by the examiners to possess the necessary qualifications and to have given satisfactory evidence of his sobriety, experience and ability a certificate of competency to the effect that he is competent to act as a first-class engineer, or a second-class engineer, or as an engine-driver, as the case may be:

Provided that the Local Government may, in any case in which it has reason to believe that the report has been unduly made, require, before granting a certificate, a re-examination of the applicant or a further enquiry into his testimonials and character.

Explanation.—In this Chapter and in Chapter V "Asiatic ship" means a sailing ship navigated and manned exclusively by Arabs, lascars or other Asiatic masters and seamen.

[Act I of 1859, s. 12 (am. by Act VI of 1891, s., 1); Bill of 1867, s. 111; Bill of 1882, s. 15.] Cf. 1894, s. 99.

Grant of local certificates of service as master or mate of a foreign-going ship.

26. (*1*) Local certificates of service, differing in form from certificates of competency, shall be granted by the Local Government as follows, that is to say,—

(*a*) *every* person who has attained or shall attain the rank of lieutenant, or any corresponding or higher rank, in the service of Her Majesty, or the rank of commander or *lieutenant* in the Royal Indian Marine, shall be entitled to a local certificate of service as master for a foreign-going ship:

(*b*) *every* person who has attained or shall attain the rank of second grade officer in the Royal Indian Marine shall be entitled to a local certificate of service as first mate for a foreign-going ship:

(*c*) *every person who has attained or shall attain the rank of engineer or assistant engineer in Her Majesty's Navy or Indian Marine Service shall be entitled, if an engineer, to a local certificate of service as first class engineer, and, if an assistant engineer, to a local certificate of service as second class engineer.*

(*2*) A certificate of service granted under this section, *clauses* (*a*), (*b*) *and* (*c*), shall have the same effect as a local certificate of competency granted under section 25, *clauses* (*a*) *and* (*b*).

Certificate of service to masters of Asiatic ships.

(*d*) *Every person who before the passing of this Act has served as master of a home-trade ship of a burden of one hundred tons or upwards shall be entitled to*

a certificate of service as master of a home-trade ship of three hundred tons burden or under.

(3) *Each of such certificates of service shall contain particulars of the name and of the length and nature of the previous service of the person to whom it is delivered; and the Local Government shall deliver every such certificate of service to the person entitled thereto upon his proving himself to have served as aforesaid and upon his giving a full and satisfactory account of the particulars aforesaid.*

[Act I of 1859, s. 15; Act VII of 1884, ss. 27 (2), 29; Bill of 1867, s. 114; Bill of 1882, s. 18.] Cf. 1894, *s. 100.*

27. Every certificate of competency or service granted under this Chapter shall be in *the* prescribed form, and shall be made in duplicate, and one copy shall be delivered to the person entitled to the certificate, and the other shall be kept by the Local Government and recorded in the prescribed manner.

Certificates to be in prescribed form and to be made in duplicate.

[Act I of 1859; s. 15; Bill of 1867, s 114; Bill of 1882, s. 18.] Cf. 1894, *s. 100.*

28. A note of all orders made for suspending, cancelling, altering or otherwise affecting any certificate of competency or service in pursuance of the powers contained in this Act shall be entered on the copy of the certificate kept by the Local Government.

Record of orders affecting certificates.

[Act I of 1859, s. 16; Act VII of 1884, s. 30; Bill of 1867, s. 115; Bill of 1882, s. 19.] Cf. 1894, *s. 100.*

29. Whenever a master, mate, engineer or engine-driver proves, to the satisfaction of the Local Government which granted his certificate, that he has, without fault on his part, lost or been deprived of *a certificate already granted to him, the Local Government shall, and in any other case may, upon payment of such fee, if any, as the Governor General in Council may direct, cause* a copy of the certificate to which, by the record kept as provided by law, he appears to be entitled *to* be granted to him, and *such copy* shall have all the effect of the original.

Copy of certificate to be granted in certain cases.

[Act I of 1859, s. 10 (am. by Act V of 1883, s. 34); Act VII of 1884, s. 36; Bill of 1867, s. 109; Bill of 1882, s.13.] Cf. 1894, *ss. 94, 96, 100.*

30. (1) The Governor General in Council may make rules to regulate the granting of certificates of competency under this Chapter, and may by such rules—

Power to make rules as to grant of certificates of competency or service.

(*a*) provide for the conduct of the examination of persons desirous of obtaining certificates of competency as masters, mates, engineers or engine-drivers;

(*b*) prescribe the qualifications to be respectively required of persons desirous of obtaining certificates of competency as masters, first mates, only mates, second mates, *masters of Asiatic ships*, first-class engineers, second-class engineers or engine-drivers;

(*c*) fix the fees to be paid by all applicants for examination

(*d*) prescribe the form in which such certificates are to be framed, and the manner in which the copy of the certificate which is kept by the Local Government is to be recorded; *and*

(*e*) *fix the fees to be paid for copies of certificates granted under section 29.*

(2) The Governor General in Council may also make rules with respect to the grant of local certificates of service to masters, mates *and engineers* under this Chapter, and may by such rules—

[Act VI of 1884, s. 29 (am. by Act XIII of 1895, s. 1).]

(*f*) fix the fees to be paid for such certificates; and

(*g*) prescribe the form in which such certificates are to be framed, and the manner in which the copy of the certificate which is kept by the Local Government is to be recorded.

CHAPTER V.

SHIPS REQUIRED TO CARRY CERTIFICATED OFFICERS.

[Act V of 1883, s. 37; Bill of 1867, [illegible] of 1882, s. 20.]

[Act VII of 1884, ss. 31, 32, 33; Bill of 1867, s. 112.] Cf. *1894, s. 92.*

31. (1) A foreign-going British ship shall not proceed to sea from any port in British India unless she has, as her master, a person possessing a Board of Trade, Colonial or local certificate as master of a foreign-going ship.

British ships required to carry certificated masters and mate or mates.

[Act I of 1859, ss. 13, 14; Bill of 1867, ss. 112, 113; Bill of 1882, ss. 17.] Cf. *1894, s. 92.*

(2) A foreign-going British ship of a burden of one hundred tons or upwards shall not proceed to sea from any port in British India unless she has—

(*a*) as her only mate, a person possessing a Board of Trade, Colonial or local certificate as only mate or first mate or master of a foreign-going ship, or

(*b*) as her first and second mates, two certificated mates,—

(*i*) the first possessing a Board of Trade, Colonial or local certificate as first mate or master of a foreign-going ship, and

(*ii*) the second possessing a Board of Trade, Colonial or local certificate as second mate of a foreign-going ship *or a certificate of a higher grade.*

(3) A home-trade British ship carrying passengers, or a home-trade British ship of a burden of one hundred tons or upwards not carrying passengers, shall not proceed to sea from any port in British India unless she has, as her master, a person possessing a local certificate as master of a home-trade ship, or a Board of Trade, Colonial or local certificate as master of a foreign-going ship.

(4) A home-trade British ship of a burden of one hundred tons or upwards shall not proceed to sea from any port in British India unless she has, as her only or first mate, a person possessing a local certificate as mate *of a* home-trade ship, or a Board of Trade, Colonial or local certificate as only *or* first mate of a foreign-going ship *or a certificate of a higher grade:*

(5) *Provided that, notwithstanding anything in the foregoing provisions of this section, an Asiatic ship may proceed to sea from any port in British India if she has a master possessing a local certificate as master of an Asiatic ship.*

32. (1) A foreign-going British steam-ship shall not proceed to sea from any port in British India unless she has,—

British steam-ships required to carry certificated engineers, engineer or engine-driver.

(*a*) if the steam-ship has engines of one hundred nominal horse-power or upwards, as her first and second engineers, two certificated engineers,—

(*i*) the first possessing a Board of Trade, Colonial or local certificate as first-class engineer, and

(*ii*) the second possessing a Board of Trade, Colonial or local certificate as second-class engineer or first-class engineer;

(*b*) if the steam-ship has engines of under one hundred nominal horse-power, as her only or first engineer, an engineer possessing a Board of Trade, Colonial or local certificate as second-class engineer or first-class engineer.

(2) A home-trade British steam-ship shall not proceed to sea from any port in British India unless she has—

(*c*) if the steam-ship has engines of fifty nominal horse-power or upwards, as her only or first engineer, an engineer possessing a Board of Trade, Colonial or local certificate as second-class engineer or first-class engineer;

(*d*) if the steam-ship has engines of under fifty nominal horse-power, as her engineer, a person possessing a local certificate as engine-driver, or a Board of Trade, Colonial or local certificate as second-class engineer or first-class engineer.

(2A) *The Governor of Bombay in Council, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, declare that all or any British steam-ships proceeding from Aden to any foreign port on the coast of Arabia or Africa not being more than six hundred miles distant from Aden shall be deemed for the purposes of this section to be home-trade ships.*

(3) This section shall not apply to any steam-ship to which the provisions of *the Inland Steam-vessels Act, 1884*, are applicable. ***VI of 1884.***

33. (1) A foreign steam-ship shall not carry passengers from any port in British India to any other port in British India unless she has—

[Act VII of 1884, ss. 31, 32.] Cf. *1894, s. 92.*

Foreign steam-ships required to carry British certificated master, mate, engineer or engine-driver.

(*a*) as her master, a person possessing a local certificate as master of a home-trade ship or a Board of Trade, Colonial or local certificate as master of a foreign-going ship;

(*b*) if the steam-ship is of a burden of one hundred tons or upwards, as her only or first mate, a person possessing a local certificate as mate of a home-trade ship or a Board of Trade, Colonial or local certificate as mate of a foreign-going ship *or a certificate of a higher grade;*

(*c*) if the steam-ship has engines of fifty nominal horse-power or upwards, as her only or first engineer, an engineer possessing a Board of Trade, Colonial or local certificate as first-class engineer or second-class engineer;

(*d*) if the steam-ship has engines of under fifty nominal horse-power, as her engineer, a person possessing a local certificate as engine-driver or a Board of Trade, Colonial or local certificate as second-class engineer or first-class engineer.

(2) So much of this section as relates to engineers or engine-drivers shall not apply to any steam-ship to which the provisions of *the Inland Steam-vessels Act, 1884*, are applicable. ***VI of 1884.***

[Act VII of 1884, s. 33.]

34. (*a*) If any person who has been engaged to serve in any of the capacities referred to in section 31, section 32 or section 33 in any ship to which those sections apply, respectively, proceeds in the ship in that capacity without being at the time entitled to, and possessed of, the certificate thereby required, *or of a certificate of a higher grade*, or

[Act I of 1859, s. 13; Act VII of 1884, s. 34; Bill of 1867, s. 112; Bill of 1882, s. 16.] Cf. 1894, s. 92.

Penalty for serving, or engaging a person to serve, as master, mate, engineer or engine-driver without a certificate.

(*b*) if any person employs any person in any capacity referred to in section 31, section 32 or section 33 in any ship to which those sections apply, respectively, without ascertaining that he is at the time entitled to, and possessed of, the certificate thereby required, *or of a certificate of a higher grade,*

he shall be *liable to* fine which may extend to five hundred rupees.

CHAPTER VI.

SUSPENSION AND CANCELLATION OF CERTIFICATES OF MASTERS, MATES, ENGINEERS AND ENGINE-DRIVERS, AND GRANT OF NEW CERTIFICATES.

[Act V of 1883, s. 18; Bill of 1882, s. 147.]

Saving of powers conferred by English Acts and Orders in Council in reference to Board of Trade and Colonial certificates.

35. Nothing in this Act shall affect—

(*a*) the powers conferred by the Merchant Shipping Act, *1894*, on Courts making investigations referred to in section 260 or section 263 or holding enquiries under section 262 of this Act to suspend or cancel Board of Trade or Colonial certificates, or

57 & 58 Vict., c. 60.

(*b*) any powers conferred on any Local Government by Order in Council made under the Merchant Shipping (Colonial) Act, 1869, *or under the Merchant Shipping Act, 1894*, for dealing with, or granting, Colonial certificates in place of Board of Trade or Colonial certificates which have been suspended or cancelled.

32 & 33 Vict., c 11. *57 & 58 Vict., c. 60.*

[Act V of 1883, s. 19; Bill of 1882, s. 147.]

Power to issue local certificates in lieu of Board of Trade or Colonial certificates which have been suspended or cancelled.

36. (*1*) When any Court referred to in clause (*a*) of section 35 suspends or cancels any Board of Trade or Colonial certificate, the Local Government may, if it thinks fit, whether or not a recommendation to that effect has been made by the Court, grant, without examination, to the holder of the certificate, when the certificate is a certificate as master, a local certificate of competency as mate, and, when the certificate is a certificate as mate or engineer, a local certificate of competency as mate or engineer, as the case may be, of a grade lower than that which he held at the time of the suspension or cancellation:

Provided that the power conferred by this sub-section shall not be exercised by any Local Government which is for the time being empowered to grant Colonial certificates in place of Board of Trade *or* Colonial certificates which have been suspended or cancelled.

(*2*) A certificate granted under sub-section (*1*) shall have the same effect as if it had been granted after examination.

[Act V of 1883, s 24A (*1*), (*2*) (added by Act VI of 1891, s. 13); Bill of 1867, ss. 195, 196; Bill of 1882, s. 148.] Cf. *1894*, s. 470 (*1*), (*2*), (*4*).

Power *of* Court to suspend or cancel local certificates of masters, mates or engineers.

37. (*1*) A local certificate (whether of competency or service) granted to a master, mate or engineer may, if a Court conducting an investigation under Chapter XXVII finds that the loss, abandonment or *serious* damage to any ship, or loss of life, has been caused by the wrongful act or default of the master, mate or engineer, or that he is incompetent or has been guilty of any gross act of drunkenness, tyranny or other misconduct. be suspended or cancelled by the Court:

Provided that the Court shall not suspend or cancel a certificate unless the holder of the certificate was furnished before the commencement of the investigation with the copy of the report or statement required by section 262 or section 263, as the case may be.

(*2*) At the conclusion of the investigation, or as soon afterwards as possible, the Court shall state in open sitting the decision to which it may have come with respect to the suspension or cancellation of any certificate.

[Act V of 1883, s. 20 (rep. in part by Act VI of 1891, s. 12); Bill of 1867, s. 199; Bill of 1882, s. 148.] Cf. *1894*, s. 469.

Power *of* Local Government to suspend or cancel local certificates of masters, mates or engineers.

38. A local certificate (whether of competency or service) granted to a master, mate or engineer may be suspended or cancelled, either by the Local Government which granted the same or by any other Local Government, in any of the following cases, that is to say:—

(*a*) if, on any investigation made beyond British India under the Merchant Shipping Act, *1894*, or on any investigation made beyond British India by any Court or tribunal for the time being authorised by the Legislature of any British Possession to make inquiry into charges of incompetency or misconduct on the part of masters, mates or engineers of ships, or as to shipwrecks or other casualties affecting ships, the Court or tribunal reports that the master, mate or engineer is incompetent, or has been guilty of any gross act of misconduct, drunkenness or tyranny, or that the loss or abandonment of, or *serious* damage to, any ship, or loss of life, has been caused by his wrongful act or default;

57 & 58 Vict., c. 60.

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

(*c*) if, in the case of a master, he has been superseded by the order of any Admiralty Court, or of any Naval Court constituted as provided by the Merchant Shipping Act, 1894, or by any other law for the time being in force.

57 & 58 Vict., c. 60.

[Act VII of 1884, s. 28.]

Power *of* Local Government to suspend or cancel local certificates of engine-drivers.

39. Notwithstanding anything in the foregoing provisions of this chapter, the Local Government may at any time, *after such enquiry as it may think necessary*, suspend or cancel any

local certificate granted by it to an engine-driver, if, in its opinion, the holder is, or has become, unfit to act as an engine-driver.

[Act V of 1883, s. 21, s. 24A (3), (4) (added by Act VI of 1891, s. 13); Bill of 1867, s. 200; Bill of 1882, s. 149.] Cf. *1894*, s. 473.

Obligation to deliver up local certificate on suspension or cancellation.

40. (*1*) Every master, mate or engineer whose certificate has been suspended or cancelled by a Court under section 37 shall deliver the certificate to the Court, and the Court shall forward the same to the Local Government, together with the report which it is required by section 269, sub-section (*1*), to transmit to that Government.

(*2*) Every master, mate, engineer or engine-driver whose certificate has been suspended or cancelled under section 38 or section 39 shall deliver the certificate to the Superintendent of the Mercantile Marine Office or to such other person as the Local Government which suspended or cancelled the certificate may direct.

(*3*) Any master, mate, engineer or engine-driver failing to deliver a certificate as required by this section shall be *liable to* fine which may extend to five hundred rupees.

[Act V of 1883, s. 22; Bill of 1867, ss. 196, 200; Bill of 1882, s. 150.]

Report to other Local Governments.

41. If the Local Government which suspends or cancels a certificate under section 38 is not the Local Government which granted the certificate, the Local Government so suspending or cancelling the certificate shall report the proceedings, and the fact of suspension or cancellation, to the Local Government which granted the certificate.

[Act V of 1883, s. 23; Bill of 1867, s. 196; Bill of 1882, s. 151.]

Report to Board of Trade.

42. Every Local Government suspending or cancelling a certificate under section 38 shall, as soon as may be practicable, report to the Board of Trade the fact ofsuch suspension or cancellation.

[Act V of 1883, s. 24; Bill of 1867, s. 200; Bill of 1882, s. 152] Cf. *1894*, s. 474.

Power to revoke suspension or cancellation and to grant new local certificate.

43. (*1*) Any Local Government may, at any time, revoke *or alter* any order of suspension or cancellation which it may have made under section 38 or section 39, or grant, without examination, to any person whose certificate it has so cancelled, a new local certificate of the same or of any lower grade.

(*2*) A certificate granted under sub-section (*1*) shall have the same effect as if it had been granted after examination.

[Act V of 1883, s. 24A (5) (added by Act VI of 1891, s. 13).]

Duties and powers of Local Governme..t where a local certificate has been suspended or cancelled by a Court.

44. (*1*) The Local Government to which the Court has forwarded the certificate under section 40 *may, if it thinks that the justice of the case requires it, re-issue and return the certificate of a master, mate or engineer which has been cancelled or suspended, or shorten the time for which it is suspended, or grant in place thereof a certificate of the same or any lower grade.*

(*2*) A local certificate for a home-trade ship shall be deemed, for the purposes of this *and the next preceding* section, to be of a lower grade than a local certificate for a foreign-going ship.

[Act VI of 1891, s. 14.]

General provision with respect to surrender of certificates.

45. (*1*) When any Board of Trade, Colonial or local certificate of a master, mate, engineer or engine-driver is suspended or cancelled under any law for the time being in force, he shall deliver to the Court or person entitled to receive delivery from him of such suspended or cancelled certificate every other Board of Trade, Colonial or local certificate, if any, held by him.

(*2*) If any master, mate, engineer or engine-driver fails to comply with the requirement of sub-section (*1*), he shall be *liable to* fine which may extend to five hundred rupees.

CHAPTER VII.

ENGAGEMENT OF SEAMEN.

[Act I of 1859, s. 19; Bill of 1867, s. 117; Bill of 1882, s. 22.] Cf. *1894*, s. 110.

Licenses to procure seamen.

46. (*1*) The Local Government, or any Board or officer authorised by the Local Government in this behalf, may grant to such persons as may be deemed fit licenses to engage or supply seamen *or apprentices* for ships.

(*2*) Such licenses shall be granted on such terms, shall continue for such periods, and shall be revocable on such conditions, as the Local Government may think proper.

[Act I of 1859, s. 19; Bill of 1867, s. 118; Bill of 1882, s. 22.] Cf. *1894*, s. 111.

Penalty for engaging seamen without license.

47. (*1*) *A person shall not engage or supply a seaman or apprentice to be entered on board any ship unless that person either holds a license granted under the last preceding section, or is the owner or master or mate of the ship, or is bond fide the servant and in the constant employment of the owner, or is a Superintendent of a Mercantile Marine Office.*

(*2*) *A person shall not employ for the purpose of engaging or supplying a seaman or apprentice to be entered on board any ship any person, unless that person either holds a license granted as aforesaid, or is the owner or*

master or mate of the ship, or is bonâ fide the servant and in the constant employment of the owner, or is a Superintendent as aforesaid.

(3) A person shall not receive or accept to be entered on board any ship any seaman or apprentice, if that person knows that the seaman or apprentice has been engaged or supplied in contravention of this section.

(4) If a person acts in contravention of this section, he shall, for each seaman or apprentice in respect of whom an offence is committed, be liable to fine which may extend to two hundred rupees, and, if a licensed person, shall forfeit his license.

[*Act I of 1859, s. 20; Bill of 1867 s. 119; Bill of 1882, s. 23.*] *Cf. 1894, s. 112.*

48. *(1) A person shall not demand or receive directly or indirectly from a seaman or apprentice to the sea service, or from a person seeking employment as a seaman or apprentice to the sea service, or from a person on his behalf, any remuneration whatever for providing him with employment other than any fees authorised by this Act.*

Penalty for receiving remuneration from seamen for engagement.

(2) If a person acts in contravention of this section, he shall for each offence be liable to fine which may extend to fifty rupees.

Engagement of Seamen.

[*Act V of 1883, s. 26; Bill of 1867, s. 120; Bill of 1882, s. 24.*] *Cf. 1894, s. 113 (1).*

49. *(1) The master of every foreign-going British ship shall enter into an agreement in accordance with this Act with every seaman whom he carries to sea as one of his crew from any port in British India.*

Agreements with crew.

[Act V of 1883, ss. 27, 28, 29; Bill of 1867, s. 120; Bill of 1882, ss. 25, 26, 27.] Cf. *1894, s. 114 (1), (2), (3).*

50. (1) Every such agreement shall be in a form sanctioned by the Governor General in Council, shall be dated at the time of the first signature thereof, *and shall be signed by the master or the agent of the owner before any seaman signs the same.*

Form and contents of agreement.

(2) *Every such agreement* shall contain the following particulars as terms thereof (that is to say)—

(*a*) either—

(*I*) the nature and, as far as practicable, the duration of the intended voyage or engagement, or

(*II*) the maximum period of the voyage or engagement and (*i*) the places or parts of the world to which the voyage or engagement is to extend, or (*ii*) the places or parts of the world to which the voyage or engagement is not to extend;

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

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

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

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

(*f*) a scale of the provisions which are to be furnished to each seaman, such scale being, in the case of lascars or other native seamen, not less than a scale to be fixed by the Governor General in Council and published in the Gazette of India;

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

(*h*) where it is agreed that the service of any lascar or other native seaman shall end at any port not in British India, a stipulation *to provide him either* fit employment on board some other ship bound to the port at which he was shipped, or *to such* other port in British India as may be agreed on, or a passage to some port in British India free of charge, or on such other terms as may be agreed on:

Provided that, for the purpose of this section, Aden shall not be deemed to be a port in British India except in the case of sailors shipped from, or ordinarily resident in, that port:

Provided also that a statutory native of India of European race or extraction shall not, except with his own express consent, be deemed to be a native seaman within the meaning of this section.

(3) Every such agreement shall be so framed as to admit of such stipulations, to be adopted at the will of the master and seaman in each case, whether respecting the advance and allotment of wages, supply of warm clothing, or otherwise, as are not contrary to law.

(4) Every stipulation referred to in clause *(h)* of *sub-section* (2) shall be signed by the owner of the ship or his agent.

[Act I of 1859, s. 22; Act V of 1883, ss. 27, 29; Bill of 1867, ss. 120, 123; Bill of 1882, ss. 25, 27, 29.] *Cf. 1894, s. 114(1), 115 (1), (2), (3), (4).*

51. (1) Every such agreement shall, subject to the provisions of sub-section (4), be signed by each seaman in the presence of a Superintendent of a Mercantile Marine Office.

Signature of agreement, explanation of agreement to seamen, and disposal of copies.

(2) The Superintendent shall cause the agreement to be read over and explained to each seaman, in a language understood by him, or shall otherwise ascertain that each seaman understands the same before he signs it, and shall attest each signature.

(3) When the crew is first engaged the agreement shall be signed in duplicate. One copy shall be retained by the Superintendent, and the other shall be delivered to the master and *shall* contain a special place or form for the descriptions and signatures of substitutes or persons engaged subsequently to the first departure of the ship.

(4) Where a substitute is engaged in the place of a seaman who duly signed the agreement, and whose services are within twenty-four hours of the ship's putting to sea lost by death, desertion or other unforeseen cause, the engagement shall, when practicable, be made before some Superintendent of a Mercantile Marine Office and, when not practicable, the master shall, before the ship puts to sea, if practicable, and if not as soon afterwards as possible, cause the agreement to be read over and explained to the substitute, and the substitute shall thereupon sign the same in the presence of a witness, and the witness shall attest the signature.

[Act I of 1859, s. 22, Act V of 1883, s. 30; Bill of 1867, ss. 120, 123; Bill of 1882, ss. 28, 29.] *Cf. 1894, s. 114 (4).*

52. (1) If the master of any foreign-going British ship belonging to the United Kingdom or any British possession other than British India has an agreement with his crew, made in due form according to the law of the place to which the ship belongs, or in which her crew were engaged, and engages single seamen, not being lascars or other native seamen, at any port in British India, *each* seaman may sign the agreement so made, and, notwithstanding anything in section 50, it shall not be necessary for him to sign an agreement in the form required by that section.

Engagement of a single seaman for a foreign-going ship belonging to the United Kingdom or a British possession.

(2) *Each* seaman signing an agreement under sub-section (1) shall do so in the presence of a Superintendent of a Mercantile Marine Office.

(3) The Superintendent shall cause the agreement to be read over and explained to the seaman, in a language understood by him, or shall otherwise ascertain that the seaman understands the same before he signs it, and shall attest his signature.

[Act I of 1859, s. 23; Act V of 1867, s. 7; Act V of 1882, s. 2.] *Cf. 1894, s. 114 (5), (6).*

53. (1) In the case of any foreign-going British ship making voyages averaging *less than* six months in duration, a running agreement with the crew may be made to extend over two or more voyages, but every such agreement shall terminate either within six months from the date on which it was executed, or on the first arrival of the ship at her port of destination in British India after the expiration of that period, or on the discharge of cargo consequent upon such arrival, *whichever of these dates shall be the latest:*

Running agreements for foreign-going British ships making short voyages.

Provided that no such agreement shall continue in force if, after the expiration of such period *of six months* as aforesaid, the ship proceeds on a voyage from a port out of British India to any other such port which is not on the direct road to her port of destination in British India.

Cf. Board of Trade's Instructions No 446, dated March, 1892.

(2) The provisions of sections 50 and 51 shall apply to every running agreement made under sub-section (1); and every seaman shall sign the same, whether engaged upon the first commencement thereof or otherwise.

[Act I of 1859, ss. 26, 32 (1); Act V of 1883, s. 26; Bill of 1867, ss. 120, 130, 136 (1); Bill of 1882, ss. 24, 33, 42 (1).] *Cf. 1894, ss. 113, 114, 116.*

54. (1) The master of every home-trade British ship of eighty tons or upwards *registered tonnage* shall enter into an agreement with every seaman whom he engages at, and carries to sea from, any port in British India as one of his crew.

Agreements for home-trade British ships.

(2) The provisions of sections 50 to 53 (both inclusive) shall apply to every such agreement, as if the ship were a foreign-going ship:

Provided as follows:—

(*a*) the agreement need not, unless the master thinks fit, be signed by the seamen in the presence of a Superintendent of a Mercantile Marine Office;

(*b*) where any seaman has not so signed the agreement, the master shall, before the ship puts to sea, if practicable, and, if not, as soon afterwards as possible, cause the agreement to be read over and explained to him, and the seaman shall thereupon sign the same in the presence of a witness who shall attest his signature;

(*c*) where several home-trade ships of a burden of eighty tons or upwards belong to the same owner, then—

[Act I of 1859, s. 27, s. 32, second para. (added by Act VI of 1891, s. 3); Bill of 1867, s. 131; Bill of 1882, s. 34.]

(*i*) the agreement with the seamen may be made by the owner instead of by the master, and the seamen may be engaged to serve in any two or more of such ships, provided that the names of the ships and the nature of the service are specified in the agreement; and

(*ii*) the owner or his agent may enter into time-agreements, in forms to be sanctioned by the Governor General in Council, with individual seamen to serve in any

one or more of such ships, which agreements need not terminate within six months from the dates on which they were respectively executed.

[Act I of 1859, s. 28 Bill of 1867, s. 132; Bill of 1882, s. 35.] Cf. *1894, s. 113 (2).*

Penalties.

55. (*1*) If in any case a master of a British ship carries any seaman to sea *with whom no agreement has been entered into* in the form and manner and at the place and time hereby in such case required, the master, in the case of a foreign-going ship, and the master or the owner, in the case of a home-trade ship, shall be *liable to* fine which may extend to fifty rupees for each such seaman.

[Act V of 1883, s. 28; Bill of 1882, s. 26.]

(*2*) If any master or owner of a British ship enters into an agreement with a lascar or other native seaman for a scale of provisions less than the scale fixed under section 50, clause (*f*), he shall be *liable to* fine which may extend to two hundred rupees for each such seaman.

[Act I of 1859, s. 30; Bill of 1867, s. 134; Bill of 1882, s. 37.] *Cf. 1894, s. 723.*

Power to board British ship and muster seamen.

56. (*1*) For the purpose of preventing seamen from being taken on board any British ship at any port in British India contrary to the provisions of this Act, any Superintendent or Deputy Superintendent of a Mercantile Marine Office may enter at any time on board any such ship upon which he has reason to believe that seamen have been shipped, and may muster and examine the several seamen employed therein.

(*2*) Any person who obstructs a Superintendent or Deputy Superintendent in the exercise of his powers under sub-section (*1*) shall be *liable to* fine which may extend to one hundred rupees.

[Act I of 1859, s. 48; Bill of 1867, s. 168; Bill of 1882, s. 60.] Cf. *1894, s. 156 (1).*

Irregular stipulations and alterations in agreements to be void.

57. (*1*) If any agreement made under this chapter (other than an agreement signed under section 52) between a master or owner of a British ship and a seaman contains a stipulation which is inconsistent with any provision of this Act, such stipulation shall be void.

[Act I of 1859, s. 33; Bill of 1867, s. 137; Bill of 1882, s. 43.] Cf. *1894, s. 122.*

(*2*) Every erasure, interlineation or alteration in any agreement as aforesaid (except additions made under this chapter for shipping substitutes or persons engaged subsequently to the first departure of the ship) shall be inoperative unless proved to have been made with the consent of all the persons interested in such erasure, interlineation or alteration by the written attestation—

(*a*) (if made in Her Majesty's dominions) of some Superintendent of a Mercantile Marine Office, Justice, officer of Customs or other public functionary, or

(*b*) (if made out of Her Majesty's dominions) of a British consular officer, or, where there is no such officer, of two respectable British merchants.

Copy of agreement to be made accessible to crew.

58. The master of every British ship for which an agreement has been made under this chapter (other than an agreement signed under section 52) shall, at the commencement of every voyage or engagement, cause a legible copy of the agreement, and if necessary a translation thereof in a language understood by the majority of the crew (omitting the signatures), to be placed or posted up in the ship so as to be accessible to the crew, and in default shall be *liable to* fine which may extend to fifty rupees.

[Act I of 1859, s. 34; Bill of 1867, s. 138; Bill of 1882, s. 44.] Cf. *1894, s. 120.*

[Act I of 1859, s. 24A (inserted by Act VI of 1891, s. 2).]

Changes in crew of foreign-going British ship to be reported.

59. (*1*) The master of every foreign-going British ship of which the crew has been engaged before a Superintendent of a Mercantile Marine Office in British India shall, before finally leaving British India, sign and send to the nearest Superintendent of a Mercantile Marine Office a full and accurate statement, in a form sanctioned by the Governor General in Council, of every change which takes place in his crew before finally leaving British India, and in default shall be *liable to* fine which may extend to fifty rupees.

[Act I of 1859, s. Bill of 186 s. 133; Bill 1882, s. 3 Cf. *1894, s. 117.*

(*2*) Such statements shall be admissible in evidence.

Discharge and engagement of seamen of foreign-going British ship during pendency of a running agreement.

60. (*1*) The master of every foreign-going British ship for which a running agreement is made under section 53 shall, upon every return to any port in British India before the termination of the agreement, discharge or engage before the Superintendent of the Mercantile Marine Office at such port any seaman whom he is required by law so to discharge or engage;

[Act I of 1859, s. Bill of s. 128; Bill of 188 s. 31] Cf. *1894, s. 115 (7),*

and shall, upon every such return, endorse on the agreement a statement (as the case may be) either that no such discharges or engagements have been made or are intended to be made before the ship again leaves port, or that all such discharges or engagements have been duly made as hereinbefore required;

and shall deliver the agreement so endorsed to the Superintendent.

(*2*) Any master who wilfully makes a false statement in such endorsement shall be *liable to* fine which may extend to two hundred rupees.

(*3*) The Superintendent shall also sign an endorsement on the agreement to the effect that the provisions of this Act relating to such agreement have been complied with, and shall re-deliver the agreement so endorsed to the master.

(*4*) In this section "termination" means, when an agreement has been renewed under section 61, the termination of the period for which the agreement has been so renewed.

Renewal of running agreement for foreign-going British ship.

61. (*1*) When a running agreement with the crew of a foreign-going British ship has been made under section 53, and the ship arrives, after the expiration of a period of six months from the date on which the agreement was executed, at a port of destination in British India which is not the port at which the crew have agreed to be discharged, the master may, with the previous sanction of the Superintendent of the Mercantile Marine Office, renew the agreement, or he may be required by the Superintendent to renew the same, for the voyage from such port of destination to the port in British India at which the crew have agreed to be discharged.

(*2*) If the master is required by the Superintendent to renew the agreement and refuses so to do, any expenses which may be incurred by the Government for the subsistence of the crew and their *conveyance* to the port at which they have agreed to be discharged shall be a charge upon the ship, and shall be recoverable as if they were expenses incurred in respect of distressed seamen under the provisions of Chapter XVIII.

[Act I of 1859, s. 35; Bill of 1867, s. 139; Bill of 1882, s. 45.] Cf. *1894, s. 162.*

Seamen of British ship discharged before voyage to have compensation.

62. Any seaman belonging to a British ship who has signed an agreement under this chapter, and is afterwards discharged *otherwise than in accordance with the terms thereof* before the commencement of the voyage or before one month's wages are earned, without fault on his part justifying such discharge and without his consent, shall be entitled to receive from the master or owner, in addition to any wages he may have earned, due compensation for the damage thereby caused to him, not exceeding one month's wages, and may, on adducing such evidence as the Court or Magistrate hearing the case may deem satisfactory of his having been discharged as aforesaid, recover such compensation as if it were wages duly earned.

[Act I of 1859, s. 115 (am. by Act VI of 1891, s. 4, and Act XII of 1891; Bill of 1867, s. 124; Bill of 1882, s. 38.]

Engagements between masters of foreign ships and native seamen.

63. (*1*) Whenever the master of a foreign-going foreign ship or a home-trade foreign ship of a burden of eighty tons or upwards makes an engagement—

(*a*) at Aden, with a seaman being a native of Asia or Africa, or

(*b*) at any other port in British India, with a seaman being a native of India,

to proceed to sea, he shall enter into an agreement with such seaman.

(*2*) The provisions of section 50, section 51, sub-sections (*1*), (*2*) and (*3*), and sections 57, 58, 59 and 62 shall apply to every agreement made for a foreign-going foreign ship under this section, as if the ship were a British ship.

(*3*) The provisions of section 50, section 51, sub-sections (*1*), (*2*) and (*3*), and sections 57, 58 and 62 shall apply to every agreement made for a home-trade foreign ship under this section, as if the ship were a British ship:

Provided as follows:—

(*i*) the agreement need not, unless the master thinks fit, be signed by the seaman in the presence of a Superintendent of a Mercantile Marine Office;

(*ii*) where any seaman has not so signed the agreement, the master shall, before the ship puts to sea if practicable, and, if not, as soon afterwards as possible, cause the agreement to be read over and explained to him, and the seaman shall thereupon sign the same in the presence of a witness, who shall attest his signature.

(*4*) Whenever an agreement for a foreign-going foreign ship has been made under this section, the master shall give to the Superintendent of the Mercantile Marine Office before whom the agreement was signed a bond, with the security of some approved person resident in British India, for an amount calculated at the rate of one hundred rupees for every seaman signing the agreement and conditioned for the due observance of the agreement and of the provisions referred to in sub-section (*2*), and for the repayment to the Secretary of State for India in Council of all expenses which may be incurred by the Government in respect of any such seaman who may be discharged or left behind at any port out of India and becomes distressed and is relieved under the provisions of the Merchant Shipping Act, 1894, section *191*, and the enactments amending the same. 57 & 58 Vict. s. 60.

[Act I of 1859, s. 117; Bill of 1867, s. 126; Bill of 1882, s. 40.]

Penalty for master of foreign ship illegally engaging native seamen.

64. If any master of a foreign ship engages any seaman referred to in section 63 to proceed to sea, otherwise than in accordance with the provisions of that section, he shall be *liable to* fine which may extend to one hundred rupees for each such seaman.

[Act I of 1859, s. 117; Bill of 1867, s. 126; Bill of 1882, s. 40.] Cf. *1894, s. 723.*

Power to board foreign ship and muster seamen.

65. (*1*) Any Superintendent or Deputy Superintendent of a Mercantile Marine Office may enter at any time on board any foreign ship upon which he has reason to believe that any such seaman has been shipped, and may muster and examine the several seamen employed therein.

(*2*) Any person who obstructs a Superintendent or Deputy Superintendent in the exercise of his powers under sub-section (*1*) shall be *liable to* fine which may extend to one hundred rupees.

[Act XIII of 1876, s. 5; Bill of 1882, s. 46.]

Power to prohibit engagement of native seamen.

66. (*1*) The Local Government, or such officer as it may appoint in this behalf, may, by order in writing signed by one of its Secretaries or by such officer, prohibit any person from engaging in the territories subject to the said Government, or in any specified portion of such territories, any native of India to serve as a seaman on board any ship, whether British or foreign, specified in the order; but in every case the reasons for the prohibition shall be stated in writing.

(*2*) Whoever wilfully disobeys any such prohibition shall be *liable to* imprisonment for a term which may extend to three months, or *to* fine which may extend to one thousand rupees, or *to* both.

CHAPTER VIII.

PRODUCTION OF CERTIFICATES OF OFFICERS AND AGREEMENTS WITH SEAMEN.

[Act I of 1859, s. 31; Act VII of 1884, s. 35; Bill of 1867, s. 135 Bill of 1882, s. 41.] Cf. *1894, ss. 103, 118.*

Production of certificates and agreements in the case of foreign-going British ships.

67. (*1*) The master of every foreign-going British ship for which an agreement is made under Chapter VII (other than an agreement signed under section 52) shall, on signing the agreement, produce to the Superintendent of the Mercantile Marine Office before whom the same is signed the certificate or certificates which the master, mate or mates (if any) and engineer or engineers (if any) are required by Chapter V to possess; and upon such production being duly made, and the agreement being duly executed as required by Chapter VII, the Superintendent shall sign and give to the master a certificate to that effect.

(*2*) Where a running agreement for a foreign-going British ship has been made under section 53, the Superintendent of the Mercantile Marine Office shall, before the second and every subsequent voyage made after the commencement of the agreement, sign and give to the master, on his complying with the provisions contained in Chapter VII with respect to such agreements, and producing to the Superintendent the certificate of any mate or engineer then first engaged by him, a certificate to that effect.

(*3*) The master of every ship referred to in sub-section (*1*) or sub-section (*2*) shall, before proceeding to sea, produce the certificate given to him thereunder to the officer authorised to grant a port-clearance.

(*4*) No officer as aforesaid shall grant a port-clearance for any such ship unless such certificate is so produced; and, if any attempt is made to take any such ship to sea without a clearance, *the ship may be detained* until such certificate is so produced.

(*5*) *In the case of a voyage terminating in British India*, the master of every foreign-going British ship shall, within forty-eight hours after the ship's arrival at her final port of destination, or upon the discharge of the crew at that port, whichever first happens, deliver the agreement with the crew (whether the same was made under this Act or any other law) to the Superintendent of the Mercantile Marine Office.

(*6*) Such Superintendent shall thereupon give to the master a certificate of such delivery; and no officer of Customs shall permit the entry of any such ship inwards unless such certificate is produced to him.

(*7*) If any master fails to deliver the agreement with the crew to the Superintendent as directed by sub-section (*5*), he shall be *liable to* fine which may extend to fifty rupees.

[Act I of 18[illegible] s. 32; Act V of 1884, s. 3[illegible] Bill of 1867 s. 136; Bill of 1882, s. [illegible] 42.] Cf. *1894, ss. 103, 119.*

Production of certificates and agreements in the case of home-trade British ships.

68. (*1*) Within a period of twenty-one days after the thirtieth day of June and the thirty-first day of December in every year, or, if the ship is not at any port in British India within such period in any year, then within forty-eight hours after her next arrival at any port in British India,—

(*a*) the master or owner of every home-trade British ship which is required by Chapter V to carry a certificated officer or certificated officers shall produce

to some Superintendent of a Mercantile Marine Office in British India the certificate or certificates which the master, *mates, engineers and engine-drivers* are required by that chapter to possess, and

(*b*) the master or owner of every home-trade British ship of a burden exceeding eighty tons shall transmit or deliver to some Superintendent as aforesaid every agreement made with the crew within the six calendar months next preceding the said thirtieth day of June or thirty-first day of December, as the case may be.

(*2*) Such Superintendent shall thereupon sign and give to the master or owner a certificate of such production, transmission or delivery, as the case may be.

(*3*) The master of every ship referred to in sub-section (*1*) shall, before proceeding to sea, produce the certificate or certificates given to him under sub-section (*2*) to the officer authorised to grant a port-clearance.

(*4*) No officer as aforesaid shall grant a port-clearance for any such ship unless such certificate or certificates is or are so produced; and, if any attempt is made to take any such ship to sea without a clearance, *the ship may be detained* until such certificate or certificates is or are so produced.

(*5*) If any agreement made with the crew of any such ship is not transmitted or delivered to a Superintendent as directed by sub-section (*1*), the master *or* owner, *as the case may be*, shall be *liable to* fine which may extend to fifty rupees.

Production of certificates and agreements in the case of foreign ships.

69. (*1*) The master of every foreign steamship which is required by section 33 to carry an officer or officers possessing a local Board of Trade or Colonial certificate shall, before *taking the ship from* any port in British India, produce the said certificate or certificates to the Superintendent of the Mercantile Marine Office; and upon such production being duly made, the Superintendent shall sign and give to the master a certificate to that effect.

(*2*) When any agreement between the master of a foreign ship and a seaman has been duly executed under Chapter VII at any port, and (in the case of a foreign-going ship) the master has given a bond under section 63, sub-section (*4*), the Superintendent of the Mercantile Marine Office at that port shall sign and give to the master a certificate to that effect.

(*3*) The master of every ship referred to in sub-sections (*1*) and (*2*) shall, before proceeding to sea, produce the certificate or certificates given to him thereunder to the officer authorised to grant a port-clearance.

(*4*) No officer as aforesaid shall grant a port-clearance for any such ship unless such certificate or certificates is or are so produced; and, if any attempt is made to take any such ship to sea without a clearance, the *ship may be detained* until such certificate or certificates is or are so produced.

(*5*) The master of every foreign ship for which an agreement has been made under section 63 shall, within forty-eight hours after the ship's arrival at her port of final destination in British India, or upon the discharge of the crew at that port, whichever first happens, deliver the agreement to the Superintendent of the Mercantile Marine Office.

(*6*) Such Superintendent shall thereupon give to the master a certificate of such delivery; and no officer of Customs shall permit the entry of any such ship inwards unless such certificate is produced to him.

(*7*) If any master fails to deliver the agreement with the crew to the Superintendent as directed by sub-section (*5*), he shall be *liable to* fine which may extend to fifty rupees.

CHAPTER IX.

WAGES AND DISCHARGE OF SEAMEN AND APPRENTICES, AND SETTLEMENT OF CLAIMS.

Advance of Wages.

[Act I of 1859, ss. 36, 37; Bill of 1867, ss. 140, 141; Bill of 1882, ss. 48.] Cf. *1894, s. 140.*

Advance of wages.

70. (*1*) Any agreement with a seaman of a British ship made under Chapter VII may contain a stipulation for payment to *or on behalf of* the seaman, conditionally on his going to sea in pursuance of the agreement, of a sum not exceeding the amount of one month's wages payable to the seaman under the agreement.

(*2*) *Stipulations for the allotment of a seaman's wages may be made in accordance with this Act.*

(*3*) Any agreement made otherwise than as authorised by this section, by or on behalf of the

employer of a seaman of *a* British ship, for the payment of money to or on behalf of the seaman conditionally on his going to sea from any port in British India,

shall be void, and no money paid in satisfaction or in respect of any such agreement shall be deducted from the seaman's wages, and no person shall have any right of action, suit or set-off against the seaman or his assignee in respect of any money so paid or purporting to have been so paid.

(4) Nothing in this section shall affect any allotment made under this chapter.

Allotment of Wages.

[Act I of 1859, s. 38; Bill of 1867, s. 142; Bill of 1882, s. 49.] Cf. *1894, ss. 140 (b), 141.*

Stipulation for allotment to be inserted in the agreement.

71. (1) Every agreement with a seaman of a British ship made under Chapter VII shall, if the seaman so require, stipulate for the allotment during his absence of any part not exceeding one-half of the wages of the seaman in favour of any *near relative of the seaman.*

(2) Every such stipulation shall be signed by the owner of the ship or his agent.

[Act I of 1859, s. 38; Bill of 1867, s. 142; Bill of 1882, s. 49.] Cf. *1894, s. 141.*

Allotment-notes.

72. (1) Every such allotment shall be signed by means of an allotment-note.

(2) Every allotment-note shall be in a form sanctioned by the Local Government, and shall be made for the benefit only of a *near* relative of the seaman to be named in the note.

(3) *For the purpose of the provisions of this Act with respect to allotment-notes, the expression "near relative" means one of the following persons, namely, the wife, father, mother, grandfather, grandmother, child, grandchild, brother or sister of the seaman.*

[Act I of 1859, ss. 39, 40; Bill of 1867, ss. 143, 144; Bill of 1882, ss. 50, 51.] Cf. *1894, ss. 143, 144.*

Payment of sums allotted.

73. (1) A payment under an allotment-note shall begin at the expiration of one month from the date of the agreement *with the crew* or at such later date as may be fixed by the agreement, and shall be made at expiration of every subsequent month, or of such other periods as may be fixed by the agreement, and shall be made only in respect of wages earned before the date of payment.

(2) The owner or any agent who has authorised the drawing of an allotment-note shall pay to the Superintendent of the Mercantile Marine Office on demand the sums due under the note, and, if he fails to do so, the Superintendent may sue for and recover the same with costs:

Provided as follows:—

(*a*) no such sum shall be recoverable if it is shown to the satisfaction of the Court or Magistrate trying the case that the seaman has forfeited, or ceased to be entitled to, the wages out of which the allotment was to have been paid;

(*b*) the seaman shall be presumed to be duly earning his wages unless the contrary is shown to the satisfaction of the Court or Magistrate, either by a statement made under section 59 of the change in the crew caused by his absence, or by a duly certified copy of some entry in the official log to the effect that he has died or left the ship, or by a credible letter from the master of the ship to the same effect, or by such other evidence, of whatever description, as the Court or Magistrate may consider sufficient.

(3) The Superintendent, on receiving any such sum as aforesaid, shall pay it over to the person named in that behalf in the allotment-note.

(4) All such receipts and payments shall be entered in a book to be kept for the purpose, and all entries in the said book shall be authenticated by the signature of the Superintendent or the Deputy Superintendent.

(5) The said book shall be at all reasonable times open to the inspection of the parties concerned.

Legal Rights to Wages and Salvage.

[Act I of 1859, s. 47; Bill of 1867, s. 159; Bill of 1882, s. 59.] Cf. *1894, s. 155.*

Right to wages when to commence.

74. The right of a seaman of a British ship to wages shall be taken to commence either at the time at which he begins work, or at the time specified in the agreement for his being on board or beginning work, whichever first happens.

[Act I of 1859, s. 48; Bill of 1867, s. 160; Bill of 1882, s. 60.] Cf. *1894, s. 156.*

Seamen not to forfeit lien on ship, remedy for recovery of wages, or salvage rights.

75. (1) No seaman of a British ship shall by any agreement forfeit his lien upon the ship or be deprived of any remedy for the recovery of his wages to which he would otherwise have been entitled.

(2) Every stipulation in any agreement by which a seaman of a British ship consents to abandon his rights to wages in case of the wreck or loss of the ship, or to abandon any right which he may have or obtain in the nature of salvage, shall be wholly inoperative.

[Bill of 1867, s. 160.]

(3) Nothing in this section shall apply to any stipulation made by the seamen belonging to any British ship which, according to the terms of the agreement, is to be employed on salvage service, with respect to the remuneration to be paid to them for salvage services to be rendered by such ship to any other ship.

[Act I of 1859, s. 49; Bill of 1867, s. 161; Bill of 1882, s. 61.] Cf. *1894, s. 157 (1).*

Wages not to be dependent on the earning of freight.

76. (1) The right of a seaman of a British ship to wages shall not be dependent on the earning of freight.

(2) Every seaman and apprentice of a British ship who would be entitled to demand and recover any wages if the ship had earned freight shall, subject to all other rules of law and conditions applicable to the case, be entitled to claim and recover the same notwithstanding that freight has not been earned; but, in all cases of wreck or loss of the ship, proof that he has not exerted himself to the utmost to save the ship, cargo and stores shall bar his claim.

[Act I of 1859, s. 51; Bill of 1867, s. 163; Bill of 1882, s. 63.] Cf. *1894, s. 158.*

Right of seaman to wages to cease with termination of service by wreck or by being left on shore under a certificate.

77. Where the service of any seaman of a British ship terminates before the period contemplated in the agreement, by reason of the wreck or loss of the ship, or by reason of his being left on shore under a certificate of unfitness or inability to proceed to sea granted under section *188* of the Merchant Shipping Act, 1894, or section 150 of this Act, the seaman shall be entitled to wages for the time of service prior to such termination as aforesaid, but not for any further period.

57 & 58 Vict., c. 60.

[Act I of 1859, s. 52; Bill of 1867, s. 164; Bill of 1882, s. 64.] Cf. *1894, s. 159.*

Wages not to accrue during refusal to work or imprisonment.

78. No seaman or apprentice of a British ship shall be entitled to wages for any period during which he unlawfully refuses or neglects to work when required, whether before or after the time specified in the agreement for his beginning work; nor, unless the Court or Magistrate hearing the case otherwise directs, for any period during which he is lawfully imprisoned for any offence committed by him.

Discharge and Payment of Wages, and Settlement of Claims.

[Act I of 1859, s. 41; Bill of 1867 s. 145; Bill of 1882, s. 52.] Cf. *1894, ss. 137, 131.*

Discharge and payment before Superintendent.

79. (1) All seamen discharged from any foreign-going British ship at any port in British India shall be discharged and receive their wages *through or* in the presence of a Superintendent of a Mercantile Marine Office; except in cases where some competent Court otherwise directs.

(2) Any master or owner who discharges any seaman or pays his wages in contravention of the provisions of sub-section (1) shall be *liable to* fine which may extend to one hundred rupees.

(3) In the case of home-trade British ships of a burden exceeding eighty tons, seamen may, if the owner or master so desires, be discharged and receive their wages in the presence of a Superintendent of a Mercantile Marine Office *at a port in British India*, except in cases where some competent Court otherwise directs.

[57 & 58 Vict., c. 60, s. 132.]

Master to deliver account of wages.

80. (1) *The master of every British ship shall, before paying off or discharging a seaman, deliver at the time and in the manner provided by this Act a full and true account, in a form sanctioned by the Local Government, of the seaman's wages, and of all deductions to be made therefrom on any account whatever.*

(2) *The said account shall be delivered—*

(*a*) *when the seaman is not to be discharged before a Superintendent, to the seaman himself not less than twenty-four hours before the discharge or payment off; and*

(*b*) *when the seaman is to be discharged before a Superintendent, either to the seaman himself at or before the time of his leaving the ship, or to the Superintendent not less than twenty-four hours before the discharge or payment off.*

(3) *If the master of a British ship fails without reasonable cause to comply with this section, he shall for each offence be liable to fine which may extend to fifty rupees.*

(4) No deduction from the wages of any seaman of a British ship (except in respect of any matter happening after such delivery as aforesaid) shall be allowed unless it is included in the account delivered under sub-section (1).

(5) Every master of a British ship shall during the voyage enter the various matters in respect of which such deductions are made, with the amounts of the respective deductions, as they occur, in a book to be kept for the purpose, and shall, if required, produce such book at the time of the payment of wages and also upon the hearing before any competent authority of any complaint or question relating to such payment.

[Act I of 1859, s. 43; Bill of 1867, s. 147; Bill of 1882, s. 54.] Cf. *1894, ss. 128, 129.*

On discharge, master to give seamen certificates of discharge, and return certificates to mates and engineers.

81. (1) Every master of a British ship shall, upon the discharge of any seaman, or upon payment of his wages, sign and give him a certificate of discharge, in a form sanctioned by the Local Government, specifying the period of his service and the time and place of his discharge; and shall in default be *liable to* fine which may extend to one hundred rupees.

[57 & 58 Vict., c. 60, s. 129 (1).]

Reports of seaman's character.

(2) *When a seaman is discharged before a Superintendent the master shall make and sign in a form approved by the Local Government a report of the conduct, character and qualifications of the seaman discharged, or may state in the said form that he declines to give any opinion upon such particulars or upon any of them, and the Superintendent before whom the discharge is made shall, if the seaman desires, give to him or endorse on his certificate of discharge a copy of such report.*

(3) Every master of a British ship shall, upon the discharge of any certificated *officer* whose certificate has been delivered to and retained by him, return such certificate, and shall, *if without reasonable cause he fails to do so*, be *liable to* fine which may extend to two hundred rupees.

[Act I of 1859, s. 46; Bill of 1867, s. 157; Bill of 1882, s. 57.] Cf. *1894, s. 136(1) to (4).*

82. (1) Upon the completion in the presence of a Superintendent of a Mercantile Marine Office of any discharge and settlement, as between the master or owner of a British ship and a seaman, the master or owner and the seaman shall respectively, in the presence of the Superintendent, sign, in a form sanctioned by the Local Government, a mutual release of all claims in respect of the past voyage or engagement, and the Superintendent shall also attest the release and shall retain the same.

Release to be signed on settlement of claims.

(2) Such release, so signed and attested, shall operate as a mutual discharge and settlement of all demands between the parties thereto in respect of the past voyage or engagement.

(3) A copy of such release, certified under the hand of such Superintendent to be a true copy, shall be given by him to any party to the release who may require the same, and such copy shall be admissible in evidence upon any future question touching such claims as aforesaid, and shall have all the effect of the original.

(4) In cases in which discharge and settlement in the presence of a Superintendent of a Mercantile Marine Office are required by section 79, sub-section (1), no payment, receipt, settlement or discharge otherwise made shall operate as, or be admissible in evidence of, the release or satisfaction of any claim.

Cf. *1894, s. 134(6).*

83. Notwithstanding anything *hereinbefore contained*, the final settlement of the wages of a seaman of a British ship may, if the seaman consents, be left to the Superintendent of a Mercantile Marine Office under rules (if any) made by the Local Government; and the receipt of the Superintendent shall in that case operate as a release by the seaman under section 82.

Settlement of wages by Superintendent.

[Act I of 1859, s. 46; Bill of 1867, s. 157; Bill of 1882, s. 57.] Cf. *1894, s. 336* (5).

84. Upon any payment being made by a master of a British ship *before a* Superintendent of a Mercantile Marine Office, the Superintendent shall, if so required, sign and give to the master a statement of the whole amount so paid; and such statement shall, as between the master and his employer, be admissible in evidence that he has made the payments therein mentioned.

Statement of payments made to be given to master, and to be evidence.

85. (1) The owner or master of every *foreign-going* British ship shall pay to each seaman, *on account of the time when he* lawfully leaves *the* ship at the end of his engagement, twenty rupees or one-fourth of the balance *of wages* due to him, whichever is least, and shall *pay him* the remainder of his wages within two clear days (exclusive of any Sunday or public holiday) after he so leaves the ship.

Period within which wages are to be paid.

[Act I of 1859, s. 5 Bill of 18 s. 165; B 1882, s. 6 Cf. *1894, ss. 134, 1*

(2) In the event of a seaman's wages or any part thereof not being paid or settled as by this section required, then, unless the delay is due to the act or default of the seaman, or to some reasonable dispute as to liability or to some other cause not being the *wrongful* act or default of the owner or master, the seaman's wages shall continue to run and be payable until the time of the final settlement thereof.

85A. (1) The master or owner of every home-trade British ship shall pay to every seaman his wages within two days after the termination of the agreement with the crew or at the time when the seaman is discharged, whichever first happens.

Period within which wages are to be paid.

(2) If a master or owner fails without reasonable cause to make payment at that time, he shall pay to the seaman a sum not exceeding the amount of two days' pay for each of the days during which payment is delayed beyond that time, but the sum payable shall not exceed ten days' double pay.

(3) Any sum payable under this section may be recovered as wages.

86. (1) Where an agreement with the master of a British ship stipulates for the payment of wages or any other money to a seaman or apprentice in British sterling or any other currency not being British Indian currency, any payment in British India, if made in British Indian currency, shall, notwithstanding anything in the agreement, be made at the rate of exchange for the time being current at the place where the payment is made.

Rate of exchange for payment of seamen or apprentices in British Indian money.

[Act I of 1859, s. 54 (am. by Act XIII of 1870, s. 10); Bill of 1867, s. 166; Bill of 1882, s. 66.] Cf. *1894, s. 139.*

(2) The Governor General in Council may, by notification in the Gazette of India, declare what shall be deemed, for the purposes of sub-section (1), to be the rate of exchange for the time being current at any place in British India.

87. (1) Any Superintendent of a Mercantile Marine Office may hear and decide any question as to wages which is raised before him between the master or owner of a British ship and a seaman or apprentice, provided the amount in question does not exceed fifty rupees and the Superintendent does not consider that the question ought to be decided by a Court of law.

Award by Superintendent.

(2) Subject to the provisions of sub-section (1), every Superintendent of a Mercantile Marine Office shall hear and decide any question whatever between a master or owner of a British ship and a seaman or apprentice which both parties agree in writing to submit to him.

(3) Every award made by a Superintendent under sub-section (1) or sub-section (2) shall be binding on both parties, and shall, in any legal proceeding which may be taken in the matter before any Court or Magistrate, be deemed to be conclusive as to the rights of the parties.

(4) Any document purporting to be an agreement or award made under this section shall *not require to be stamped and shall* be admissible in evidence.

88. (1) In any proceeding relating to the wages, discharge or claims of any seaman or apprentice of a British ship which is carried on before a Superintendent of a Mercantile Marine Office under the provisions of this Act, the Superintendent may call upon the owner or his agent, the master, or any mate or other member of the crew, to produce any logs, papers or other documents in their respective possession or power relating to any matter in question in such proceeding, and may call before him and examine on any such matter any of such persons being then at or near the place where such office is situate.

Master and others to produce ship's papers to Superintendents, and give evidence.

[Act I of 1859, s. 45; Act XVI of 1891; Bill of 1867, s. 56.] Cf. *1894,*

(2) If any person so required fails without reasonable cause to comply with the requisition, he shall for each offence be liable to fine which may extend to fifty rupees.

89. (1) Any seaman or apprentice of a British ship, or any person duly authorised on his behalf, may apply to any Magistrate acting in or near the place at which the service has terminated or at which the seaman or apprentice has been discharged, or at which any person upon whom the claim is made is or resides, for the recovery of any amount of wages due to such seaman or apprentice not exceeding five hundred rupees.

Application to Magistrate for recovery of wages not exceeding five hundred rupees.

[Act I of 1859, s. 55; Act XVI of 1891; Bill of 1867, s. 67; Bill of 1882, s. 67.] Cf. *1894, s.*

(2) Every application dealt with by a Magistrate under sub-section (1) shall be heard and determined in a summary manner, and the order of the Magistrate thereon shall be final.

90. No suit or proceeding for the recovery of wages not exceeding the sum of five hundred rupees shall be instituted by or on behalf of any seaman or apprentice of a British ship in any Colonial Court of Admiralty or (where there is a Court of Small Causes) in any Civil Court other than a Court of Small Causes, unless the owner of the ship is adjudged bankrupt or declared insolvent, or unless the ship is under arrest or has been sold by the authority of any such Court, or unless the Magistrate, *to whom application has been made under* section 89, refers the parties to such Court.

Bar of jurisdiction of superior Civil Courts in suits for wages not exceeding five hundred rupees.

[Act I of 1859, s. 57; Act XVI of 1891; Bill of 1867, s. 169; Bill of 1882, s. 69.] Cf. *1894, s. 165.*

91. *Application of chapter to certain seamen of foreign ships.* [*Omitted.*]

CHAPTER X.

MASTER'S WAGES, DISBURSEMENTS AND LIABILITIES.

92. (1) Every master of a British ship shall, so far as the case permits, have the same rights, liens and remedies for the recovery of his wages as by this Act or any other law or any custom a seaman has for the recovery of his wages.

Remedies for recovery of master's wages and disbursements and for liabilities incurred by master.

[Act I of 1859, s. 58; Act XVI of 1891; Bill of 1867, s. 170; Bill of 1882, s. 70.] Cf. *1894, s. 167.*

(2) Every master of a British ship, and every person lawfully acting as master of a British ship by reason of the disease or incapacity from illness of the master of the ship, shall, so far as the case permits, have the same rights, liens and remedies for the recovery of disbursements properly made by him on account of the ship and for liabilities properly incurred by him on account of the ship, as a master of a British ship has, by sub-section (1) or any other law or any custom, for the recovery of his wages.

(3) If in any proceeding in any Colonial Court of Admiralty touching the claim of a master of a British ship, or any person lawfully acting as master of a British ship, to

wages or such disbursements as aforesaid, or on account of such liabilities as aforesaid, any right of set-off or counter claim is set up, it shall be lawful for the Court to enter into and adjudicate upon all questions and to settle all accounts then arising or outstanding and unsettled between the parties to the proceeding, and to direct payment of any balance which is found to be due.

CHAPTER XI.

POWER TO RESCIND CONTRACTS.

Cf. *1894, s. 168.*

93. (*1*) Where a proceeding is instituted in or before any Court in relation to any dispute between an owner or master of a British ship and a seaman or apprentice *to the sea service*, arising out of or incidental to their relation as such, or is instituted for the purposes of this section, the Court, if, having regard to all the circumstances of the case, it thinks it just so to do, may rescind any contract between the owner or master and the seaman or apprentice, or any contract of apprenticeship, upon such terms as the Court may think just.

Power to rescind contracts.

(*2*) The power conferred by this section shall be in addition to any other jurisdiction which the Court can exercise independently of this section.

(*3*) For the purposes of this section, "Court" includes any Magistrate having jurisdiction in the matter to which the proceeding relates.

CHAPTER XII.

WAGES AND EFFECTS OF DECEASED SEAMEN AND APPRENTICES.

[Act I of 1859, s. 9; Bill of 1867, s. 172; Bill of 1882, s. 72.] Cf. *1894, s. 169.*

94. Whenever a seaman or apprentice dies during a voyage in a British ship which is to terminate at a port in British India, the master shall take charge of all money and effects which he leaves on board.

Property of seamen who die during voyage.

(*2*) *The master may, if he thinks fit, cause any of the effects to be sold by auction at the mast or otherwise by public auction.*

(*3*) *The master shall enter in the official log-book the following particulars:—*

(*a*) *a statement of the amount of the money and a description of the effects;*

(*b*) *in case of a sale, a description of such articles sold and the sum received for each;*

(*c*) *a statement of the sum due to the deceased for wages and of the amount of deductions (if any) to be made from the wages.*

(*4*) *The entry shall be signed by the master and attested by a mate and some other member of the crew.*

[Act I of 1859, s. 61; Bill of 1867, s. 174; Bill of 1882, s. 74.] Cf. *1894, ss. 171 (3), 174 (1).*

95. (*1*) The master shall, within forty-eight hours after his arrival at his port of destination in British India, deliver such effects as aforesaid remaining in his hands, and pay all money which he has so taken charge of or received, and also the wages due to the deceased, to the Superintendent of the Mercantile Marine Office at such port, and shall give to such Superintendent an account of the effects, money and wages so to be delivered and paid.

Effects to be delivered, and money and wages paid, to Superintendent, with full account.

(*2*) No deductions claimed in such account shall be allowed unless verified,—

(*a*) if there is an official log, by the entry therein required by section 166, clause (*i*), and

(*b*) by such other vouchers (if any) as may be reasonably required by the Superintendent.

[Act I of 1859, s. 61; Bill of 1867, s. 174; Bill of 1882, s. 74.] Cf. *1894, s. 171.*

96. If any master fails to take charge of any money or effects of a seaman or apprentice or to make or cause to be made entries in respect thereof, or to make delivery or payment, or to give an account, as hereinbefore directed, he shall be accountable for the money, wages and effects of the seaman or apprentice to such Superintendent as aforesaid, and shall pay and deliver the same accordingly; and shall in addition be *liable to* fine which may extend to treble the value of the money, wages and effects, or, if such value is not ascertained, to five hundred rupees.

Penalties for contravening section 94 or section 95.

Cf. *1894, s. 174.*

97. Where a seaman or apprentice of a British ship registered in British India has been lost with his ship, his wages shall be paid by the owner of the ship to some Superintendent of a Mercantile Marine Office in British India.

Wages of seamen and apprentices lost with their ship to be paid to Superintendent.

Cf. *1894, s. 175.*

98. Whenever any seaman or apprentice dies in British India, and is at the time of his death entitled to claim from the master or owner of any British ship in which he has served any unpaid wages or undelivered effects, such master or owner shall pay such wages, and deliver or account for such effects, to the Superintendent of the Mercantile Marine Office at the port at which the seaman or apprentice was discharged or was to have been discharged, and in default of so doing shall be *liable to* fine which may extend to treble the value of the money and effects, or, if such value is not ascertained, to five hundred rupees.

Wages and effects of seamen and apprentices dying in British India to be made over to Superintendent.

99. Any money, wages or effects referred to in section 94, section 95, section 97 or section 98 may be recovered by the Superintendent of a Mercantile Marine Office in the manner provided by Chapter IX or any other law for the time being in force for the recovery of a seaman's wages.

Procedure for recovery of money, wages and effects of deceased seamen and apprentices.

100. (*1*) In any proceeding for the recovery of the wages of a seaman or apprentice of a British ship registered in British India who has been lost with his ship,—

Evidence as to loss of ship *with reference to the recovery of wages.*

(*a*) if it is shown by some official return produced out of the custody of any officer authorized to grant a port-clearance, or by other evidence, that the ship has twelve months or upwards before the institution of the proceeding left a port of departure, and

(*b*) if a certificate from the Local Government is produced to the effect that the ship has not been heard of within a period of twelve months after such departure, and

(*c*) if it is not shown that the ship has been heard of within such period,

the ship shall be deemed to have been lost with all hands on board, either immediately after the time at which she was last heard of, or at such later time as the Court may think probable.

(*2*) The production out of the custody of the Superintendent of any Mercantile Marine Office of any duplicate agreement *or* list of the crew made out at the time of the last departure of the ship from British India, or

the production of a certificate purporting to be a certificate from a Consular or other public officer at any port beyond British India stating that certain seamen or apprentices were shipped in the ship from such port,

shall, unless the contrary be proved, be sufficient evidence that the seamen or apprentices therein named were on board at the time of the loss.

Act I of 1859, s. 62 (rep. by Act XII of 1891); Bill of 1867, s. 175; Bill of 1882, s. 75.] Cf. *1894, s. 176.*

101. When money, wages or effects left by or due to any deceased seaman or apprentice who belonged to a British ship is or are received by a Superintendent of a Mercantile Marine Office, then, subject to such deductions for expenses incurred in respect of the seaman or apprentice or of his said money, wages or effects as the Superintendent may think proper to allow, the Superintendent may pay and deliver the said money, wages and effects to any claimants who can prove themselves to his satisfaction to be entitled thereto, and the Superintendent shall be thereby discharged from all further liability in respect thereof;

Disposal by Superintendent of money, wages and effects of deceased seaman and apprentice.

or, if he thinks fit so to do, the Superintendent may require probate or letters of administration, or a certificate under the Succession Certificate Act, 1889, to be taken out, and thereupon pay and deliver the said money, wages and effects to the legal representative of the deceased.

VII of 1889.

[Act I of 1859, s. 63 (rep. in part by Act XII of 1876); Bill of 1867, s. 176; Bill of 1882, s. 76.] Cf. *1894, s. 179.*

102. (*1*) Where the money, wages or effects of any deceased seaman or apprentice who belonged to a British ship has or have been received by a Superintendent of a Mercantile Marine Office, and no claim thereto is substantiated within one year from such receipt, the Superintendent shall cause such effects to be sold and pay the proceeds of the sale, together with the unclaimed money and wages, into the public treasury.

Procedure where money, wages or effects of deceased seaman or apprentice not claimed within one year.

(*2*) If, after any money has been so paid into the public treasury, any claim is made thereto, then,

if the claim is established to the satisfaction of the Superintendent, the amount or so much as shall appear to be due to the claimant shall be paid to him, and

if the claim is not so established, the claimant may apply by petition to a Magistrate; and such Magistrate, after taking evidence, either orally or on affidavit, shall make such order on the petition as shall seem just:

Provided that, after the expiration of six years from the receipt of such unclaimed money, wages or effects by the Superintendent, no claim to such money or wages or to the proceeds of the sale of such effects shall be entertained without the sanction of the Local Government.

[Act I of 1859, s. 50; Bill of 1867, s. 162; Bill of 1882, s. 62.] Cf. *1894, s. 157 (2).*

103. The provisions of this chapter as to wages shall apply to wages due to any seaman or apprentice of a British ship under section 76 and remaining unpaid at the date of his death.

Recovery of wages where freight has not been earned.

104. *Application of Chapter to certain seamen of foreign ships.* [*Omitted.*]

CHAPTER XIII.

PROVISIONS, HEALTH AND ACCOMMODATION.

[Act I of 1859, s. 47; Bill of 1867, s. 159; Bill of 1882, s. 59.] Cf. *1894, s. 155.*

105. The right of a seaman of a British ship to provisions shall be taken to commence either at the time at which he begins work, or at the time specified in the agreement for his being on board or beginning work, whichever first happens.

Right to provisions when to commence.

Cf. *1894, s. 206.*

106. (*1*) All beef or pork in barrels, preserved meat or vegetables in tins, and flour or biscuits in casks, and all water, intended for the use of the crew of any British ship which is about to proceed to sea from a port in British India *on a voyage through the Suez Canal or round the Cape of Good Hope or Cape Horn* shall be inspected by an officer appointed by the Local Government in this behalf:

Inspection of provisions and water for crew of foreign-going ship, prior to departure of ship.

57 & 58 Vict., c. 60.

Provided that no provisions which have been certified under section 206 of the Merchant Shipping Act, 1894, for use in any such voyage shall be so inspected.

(*2*) Such inspection shall be made, if practicable, before the articles are placed on board the ship, and shall be made in the prescribed manner.

(*3*) If the said officer is satisfied that the said articles are fit for such use as aforesaid, he shall sign and give to the master of the ship a certificate to that effect.

(*4*) *The inspecting officer may at any time proceed on board any such ship to ascertain whether the stores and water provided have been duly inspected, or, if not, whether they are of a quality fit for the use of the crew of the ship, and if he finds the same not to have been inspected and to be deficient in quality, the ship shall be detained until the defects are remedied to his satisfaction.*

(*5*) The Local Government may make rules to regulate the inspection of provisions and water under sub-section (*1*).

(*6*) *No fee for an inspection under this section shall be levied on the ship.*

[Act I of 1859, s. 64; Bill of 1867, s. 177; Bill of 1882, s. 77.] Cf. *1894, s. 198 (1), (2), (3).*

107. (*1*) Any three or more members of the crew of any British ship may complain to any Superintendent of a Mercantile Marine Office or to any officer appointed by the Local Government in this behalf that the provisions or water provided for the use of the crew are or is at any time of bad quality, unfit for use or deficient in quantity.

Examination of provisions or water on complaint of crew.

(*2*) Any officer to whom such complaint is made *shall* thereupon examine the said provisions or water or cause them or it to be examined; and if, on examination, any of such provisions or water are or is found to be of bad quality and unfit for use or to be deficient in quantity, the person making such examination shall signify the same in writing to the master of the ship.

(*3*) If the master does not thereupon provide other proper provisions or water in place of any so signified to be of bad quality and unfit for use, or does not procure the requisite quantity of any so signified to be deficient in quantity, or uses any provisions or water which have or has been so signified to be of bad quality and unfit for use, he shall be *liable to* fine which may extend to two hundred rupees.

(*4*) When any such examination as aforesaid has been made, the officer to whom complaint was made as aforesaid shall enter a statement of the result of the examination in the official log (if any), and shall, unless he is himself the Superintendent of a Mercantile Marine Office, send a report thereof to such Superintendent.

(*5*) Such report, if produced out of the custody of such Superintendent, shall be admissible in evidence.

[Act I of 1859, s. 65; Bill of 1867, s. 178; Bill of 1882, s. 78.] Cf. *1894, s. 198 (4).*

108. If any officer to whom a complaint is made under section 107 certifies in such statement as aforesaid that there was no reasonable ground for the complaint, each of the parties so complaining shall be liable to forfeit to the owner out of his wages a sum not exceeding the amount of one week's wages.

Forfeiture for frivolous complaint.

[Act I of 1859, s. 71; Bill of 1867, s. 184; Bill of 1882, s. 84.]

109. (*1*) The Superintendent or Deputy Superintendent of the Mercantile Marine Office at any port in British India may enter at any time on board of any British ship upon which seamen or apprentices have been shipped at such port, and inspect any of the provisions or water provided for the use of the crew, other than provisions or water which have been inspected under section 106.

Inspection of provisions or water by Superintendent or Deputy Superintendent.

(*2*) If on any such inspection any of the provisions or water are or is found to be of bad quality and unfit for use, or deficient in quantity, the Superintendent shall proceed as provided in section 107, and the penalty provided by that section shall be incurred by any default of the master of the ship in respect of such provisions or water.

[Act I of 1859, s. 66; Bill of 1867, s. 179; Bill of 1882, s. 79.] Cf. *1894, s. 199.*

110. (*1*) In either of the following cases (that is to say)—

Allowance for short or bad provisions.

(*a*) if during a voyage in a British ship the allowance of any of the provisions for which a seaman has stipulated by his agreement is reduced *except in accordance with any regulations for reduction by way of punishment contained in the agreement with the crew, and also except for any time during which the seaman wilfully and without sufficient cause refuses or neglects to perform his duty or is lawfully under confinement for misconduct either on board or on shore; or*

(*b*) if it is shown that any of such provisions are or have during the voyage been bad in quality and unfit for use;

the seaman shall receive by way of compensation for such reduction or bad quality, according to the time of its continuance, the following sums, to be paid to him in addition to and to be recoverable as wages (that is to say)—

(*i*) if his allowance is reduced by any quantity not exceeding one-third of the quantity specified in the agreement, a sum not exceeding four annas per diem in the case of a European seaman or other person shipped on the same footing as a European seaman, or one anna per diem in the case of a lascar or other native seaman:

(*ii*) if his allowance is reduced by more than one-third of such quantity, eight annas per diem in the case of a European seaman or other person shipped on the same footing as a European seaman, or two annas per diem in the case of a lascar or other native seaman:

(*iii*) in respect of such bad quality as aforesaid, a sum not exceeding twelve annas per diem in the case of a European seaman or other person shipped on the same footing as a European seaman, or three annas per diem in the case of a lascar or other native seaman:

Provided that, if it is shown to the satisfaction of the Court or Magistrate trying the case that any provisions, the allowance of which has been reduced, could not be procured, or supplied in proper quantities, and that proper and equivalent substitutes were supplied in place thereof, the Court or Magistrate shall take such circumstances into consideration, and shall modify or refuse the compensation payable under this *sub*-section as the justice of the case may require.

(*2*) *The Court or Magistrate trying the case may, before making an order awarding compensation under sub-section (1), require the Superintendent of the Mercantile Marine Office, or any other officer appointed by the Local Government in this behalf, to inspect any provisions, which are alleged to be bad in quality and unfit for use, and to report to such Court or Magistrate the result of such inspection.*

111. (*1*) All foreign-*going* British ships, all home-trade British ships carrying passengers, and all home-trade British ships of a burden of eighty tons or upwards not carrying passengers, shall have always on board a sufficient supply of medicines, medical stores, disinfectants and medical appliances suitable for diseases and accidents likely to happen on sea voyages, according to such scale as may be fixed by the Governor General in Council and published in the Gazette of India.

Medicines, medical stores, disinfectants and medical appliances to be provided and kept on board certain ships.

(*2*) If in any ship medicines, medical stores, disinfectants or medical appliances are not provided or kept on board as required by sub-section (*1*), the owner or master of the ship shall be deemed to be in fault and shall be *liable to* fine which may extend to two hundred rupees, unless he can prove that the non-compliance with the said requirements was not caused by any inattention, neglect or wilful default on his part, and, if it is proved that some person other than the owner or master is in fault, such person shall be *liable to* fine which may extend to two hundred rupees.

(*3*) Nothing in this section shall apply to ships navigating from the United Kingdom and complying with the provisions of section *200* of the Merchant Shipping Act, 1894.

57 & 58 Vict., c. 60.

[Act I of 1859, s. 68; Bill of 1867, s. 181; Bill of 1882, s. 81.] Cf. *1894, s. 201.*

112. (*1*) Every master of a British ship shall keep on board proper weights and measures for the purpose of determining the quantities of the several provisions and articles served out to the crew, and shall allow the same to be used at the time of serving out such provisions and articles in the presence of a witness whenever any dispute arises in regard to such quantities.

Weights and measures.

(*2*) Any master failing to comply with the provisions of this section shall be *liable to* fine which may extend to one hundred rupees.

[Act I of 1859, s. 70 (am. by Act XIII of 1876, s. 9); Bill of 1867, s. 183; Bill of 1882, s. 83.] Cf. *1894, s. 201.*

113. (*1*) Every place in any British ship which is occupied by seamen or apprentices engaged under this Act and appropriated to their use shall have,—

Provision of accommodation for seamen and apprentices.

(*a*) for each European seaman or apprentice or other person shipped on the same footing as a European seaman, a space of twelve superficial and seventy-two cubic feet, and

(*b*) for each lascar or other native seaman or person shipped on the same footing as a lascar, a *space* of six superficial and thirty-six cubic feet,

measured on the deck or floor of such place.

(*2*) Every such place shall be such as to make the space aforesaid available for the proper accommodation of the seamen or apprentices who are to occupy it, shall be securely constructed, properly lighted and ventilated, properly protected from weather and sea and, as far as practicable, properly shut off and protected from effluvium which may be caused by cargo or bilge-water.

(*3*) No place under the top-gallant forecastle shall be occupied by or appropriated to the use of any lascar or other native seaman or person shipped on the same footing as a lascar unless the forecastle deck is not less than five feet six inches above the deck immediately below it.

(*4*) Every place referred to in sub-section (*1*) shall be kept free from stores or goods of any kind, not being the personal property of the crew in use during the voyage.

(5) If any such place is not kept free from goods and stores as aforesaid, the master of the ship shall be deemed to be in fault, and shall forfeit and pay to each seaman or apprentice lodged therein the sum of eight annas per diem for each day after complaint made to him by any two or more of such seamen or apprentices during which any goods or stores, not being the personal property of the crew, are stored or kept therein.

(6) If in any other respect the provisions of this section are not observed with respect to any such place, the owner of the ship shall be deemed to be in fault, and shall be *liable to* fine which may extend to two hundred rupees.

114. *Prohibition as to size of lascars' chests.* [*Omitted.*]

[Act I of 1859, s. 71; Bill of 1867, s. 184; Bill of 1882, s. 84.] Cf. *1894, s. 202.*

115. The Superintendent and Deputy Superintendent of the Mercantile Marine Office, *or other officer appointed for the purpose by the Local Government*, at any port in British India, may enter at any time on board of any British ship upon which seamen or apprentices have been shipped at such port, and inspect the medicines, medical stores, disinfectants and medical appliances, and the accommodation for seamen or apprentices, prescribed by or under this Act or the Merchant Shipping Act, *1894*.

Inspection of medicines, medical stores, disinfectants, medical appliances and accommodation.

57 & 58 Vict., c. 60.

[Act. I of 1859, s. 69; Bill of 1867, s. 182; Bill of 1882, s. 82.] Cf. *1894, s. 207.*

116. (1) The following expenses in respect of the illness or burial of the master or any seaman or apprentice of any British ship registered in British India shall be defrayed by the owner of the ship, without any deduction on that account from the wages of the master, seaman or apprentice:—

Expenses consequent upon illness of master, seaman or apprentice how to be defrayed.

(*a*) when any such master, seaman or apprentice receives any hurt or injury in the service of the ship—the expenses of providing the necessary surgical and medical advice and attendance, with medicines, and of his subsistence, until he is cured, or is brought back to the port from which he was shipped or other port agreed upon, and the expenses of his conveyance to such port, and *in case of death* the expenses (if any) of his burial;

(*b*) when any such master, seaman or apprentice is, on account of illness, temporarily removed from the ship for the purpose of preventing infection, or otherwise for the convenience of the ship, and subsequently returns to his duty—the expenses of such removal, and of providing the necessary surgical and medical advice and attendance with medicines, and of his subsistence, while away from the ship;

(*c*) when any such master, seaman or apprentice is ill otherwise than as mentioned in clause (*a*)—the expenses of all medicines and surgical or medical advice and attendance given to him while on board his ship:

Provided that where a seaman or apprentice is during any period, by reason of illness, incapable of performing his duty, and it is proved that such illness has been caused by his own wilful act or default, he shall not be entitled to wages for that period.

(2) Whenever it is shown that any seaman or apprentice of any British ship registered in British India is ill and has, through the neglect of the owner or master, not been provided with proper food or water according to his agreement, or with such medicines, medical stores, medical appliances, anti-scorbutics or accommodation as are required by or under this Act or the Merchant Shipping Act, 1894, as the case may be, then, unless it can be shown that the illness has been produced by other causes,

57 & 58 Vict., c.

the owner or master shall be liable to pay all expenses properly and necessarily incurred by reason of such illness (not exceeding in the whole three months' wages), either by the seaman or apprentice himself or on his behalf by—

(*d*) any Local Government or Superintendent of a Mercantile Marine Office in British India, or

(*e*) any officer authorised in that behalf by the Government of any other British Possession, or

(*f*) any British Consular officer.

(3) Nothing in sub-section (2) shall affect— [*Bill of s. 180, clause.*]

(*g*) any further liability to which any owner or master is subject in respect of such neglect as aforesaid, or

(*h*) any remedy which any seaman or apprentice would have but for that sub-section.

(4) In cases not provided for by sub-section (1) or sub-section (2), any reasonable expenses

duly incurred by the owner of a British ship registered in British India—

(*i*) for a master or seaman in respect of illness, or

(*j*) in respect of the burial of a master, seaman or apprentice dying while on service,

shall, if duly proved, be deducted from the wages of such master, seaman or apprentice.

(5) Where any expenses referred to in sub-section (1) have been paid by the master, seaman or apprentice himself, or where any expenses are payable under sub-section (2), the same may be recovered as if they were wages duly earned; and, if any such expenses are paid or allowed out of any moneys forming part of the revenues of India, the amount shall be a charge upon the ship, and may be recovered with full costs of suit by the Secretary of State for India in Council.

117. *Application of Chapter to certain seamen of foreign ships.* [*Omitted.*]

CHAPTER XIV.

COMPLAINTS BY SEAMEN AND APPRENTICES.

[Act I of 1859, s. 72; Bill of 1867, s. 185; Bill of 1894, s.

118. (1) If any seaman or apprentice, while on board any British ship, states to the master that he desires to make complaint to a Magistrate or a Superintendent of a Mercantile Marine Office against the master or any member of the crew, the master shall,

Seaman or apprentice to be allowed to go ashore to make complaint to a Magistrate or Superintendent.

if the ship is then at a place where there is a Magistrate or a Superintendent of a Mercantile Marine Office, so soon as the service of the ship will permit, or, if the ship is not then at such a place, so soon after her first arrival at such a place as the service of the ship will permit,

allow such seaman or apprentice to go ashore or send him ashore in proper custody, so that he may be enabled to make such complaint.

(2) Any master failing to comply with the provisions of this section shall be *liable to* fine which may extend to one hundred rupees.

119. *Application of section 118 to certain seamen of foreign ships.* [*Omitted.*]

CHAPTER XV.

PROTECTION OF SEAMEN AND APPRENTICES FROM IMPOSITION.

[Act I of 1859, s. 73; Bill of 1867, s. 187; Bill of 1882, s. 86.] Cf. *1894, ss. 163, 212.*

120. (1) No wages due or accruing to any seaman or apprentice of a British ship shall be subject to attachment by order of any Court.

Protection of wages and salvage from encumbrances.

(2) Every payment of wages to a seaman *or apprentice* of a British ship shall be valid in law, notwithstanding any previous sale or assignment of such wages or any encumbrance thereon.

(3) No assignment or sale *of* wages or salvage made by a seaman *or apprentice* of a British ship prior to the accruing thereof shall bind the *person making the same*, and no power-of-attorney or authority for the receipt of wages or salvage due or accruing due to such a seaman *or apprentice* shall be irrevocable.

(4) *Nothing in this section shall affect the provisions of this Act with respect to allotment-notes.*

[Act I of 1859, s. 74; Bill of 1867, s. 188; Bill of 1882, s. 87.] Cf. *1894, s. 213.*

121. No debt exceeding in amount three rupees, incurred by any seaman of a British ship after he has engaged to serve, shall be recoverable until the service agreed for is concluded.

Debt exceeding three rupees when recoverable.

[Act I of 1859, s. 75; Bill of 1867, s. 189; Bill of 1882, s. 88.] Cf. *1894, s. 215.*

122. If any person demands or receives from any seaman or apprentice of a British ship payment in respect of his board or lodging in the house of such person for a longer period than that during which the seaman or apprentice has actually boarded or lodged therein, he shall *for each offence* be *liable to* fine which may extend to one hundred rupees.

Penalty for overcharge by lodging-house-keeper.

[Act I of 1859, s. 76; Bill of 1867, s. 190; Bill of 1882, s. 89.] Cf. *1894, s. 216.*

123. (1) If any person receives or takes into his possession or under his control any moneys or effects of any seaman or apprentice of a British ship, and does not return the same or pay the value thereof when so required by the seaman or apprentice, subject to the deduction of any sum which may be justly due to him from the seaman or apprentice in respect of board or lodging or otherwise, or absconds with any such moneys or effects, he shall *for each offence* be *liable to* fine which may extend to one hundred rupees.

Penalty for retaining money or effects of seaman or apprentice.

(2) Any Magistrate imposing a fine under sub-section (1) may direct the amount or value of such moneys or effects as aforesaid, subject to such deduction as aforesaid, to be forthwith paid to the seaman or apprentice.

[Act I of 1859, s. 77; Bill of 1867, s. 191; Bill of 1882, s. 90.] Cf. *1894, s. 218.*

Penalty for being on board ship without permission before seamen leave.

124. Where a British ship is about *to* arrive, is arriving or has arrived at the end of her voyage, every person, not being in Her Majesty's service or not being duly authorised by law for the purpose, who—

(*a*) goes on board the ship, without the permission of the master, before the seamen lawfully leave the ship at the end of their engagement, or are discharged (whichever last happens), or,

(*b*) being on board the ship, remains there after being warned to leave by the master, or by a police-officer,

shall *for each offence* be *liable to* fine which may extend to two hundred rupees, o with imprisonment for a term which may extend to six months; and the master of the ship may take him into custody, and deliver him up forthwith to a police-officer to be taken before a Court or Magistrate capable of taking cognizance of the offence, and dealt with according to law.

Act of 1859, s. 78; Bill of 1867, s. 192; Bill of 1882, s. 91.] Cf. *1894, s. 217.*

Penalty for solicitations by lodging-house-keepers.

125. If, within twenty-four hours after the arrival of any British ship at any port in British India, any person then being on board the ship solicits any seaman or apprentice to become a lodger at the house of any person letting lodgings for hire, or takes out of the ship any effects of any seaman or apprentice, except under the personal direction of the seaman or apprentice and with the permission of the master, he shall be *liable to* fine which may extend to fifty rupees.

126. *Application of sections 120 to 123 to certain seamen of foreign ships.* [*Omitted.*]

CHAPTER XVI.

DISCIPLINE.

[Act I of 1859, s. 80; Act V of 1883, s. 4 (2); Act XVI of 1891; Bill of 1867, ss. 194, 201; Bill of 1882, s. 108] Cf. *1894, s. 472.*

Power of Admiralty and Criminal Courts to remove master and appoint a new master.

127. Any Colonial Court of Admiralty in British India, or the principal Court of ordinary criminal jurisdiction at any port in British India where there is no Colonial Court of Admiralty, may,

upon application by the owner, a part owner, the agent of the owner, the consignee, any certificated mate, or one-third or more of the members of the crew, of any British ship being within the jurisdiction of the Court, and upon proof on oath to the satisfaction of the Court that the removal of the master of the ship is necessary, remove him accordingly; and

may, with the consent of the owner or his agent, or the consignee of the ship, or, if there is no owner or agent of the owner or consignee of the ship within the jurisdiction of the Court, then without such consent, appoint a new master in his stead; and

may make such order, and require such security, in respect of costs in the matter, as it may think fit.

[Act I of 1859, s. 99; Bill of 1867, s. 218; Bill of 1882, s. 128; Cf. *1894, s. 258.*

On change of master, documents to be handed over to successor.

128. (*1*) If, during the progress of a voyage, the master of any British ship registered in British India is *removed or* superseded, or for any other reason quits the ship, and is succeeded in the command by some other person, he shall deliver to his successor the various documents relating to the navigation of the ship and to the crew thereof which are in his custody; and shall in default be *liable to* fine which may extend to one thousand rupees.

(*2*) Such successor shall, immediately on assuming the command of the ship, enter in the official log a list of the documents so delivered to him.

[Act I of 1859, s. 79 (am. by Act V of 1883, s. 3); Bill of 1867, s. 193; Bill of 1882, s. 110; Cf. *1894, s. 220.*

Punishment for misconduct endangering ship, life or limb.

129. If any master, seaman or apprentice of a British ship, by wilful breach of duty, or by neglect of duty or by reason of drunkenness,—

(*a*) does any act tending to the immediate loss, destruction or *serious* damage of the ship, or tending immediately to endanger the life or limb of any person belonging to, or on board of, the ship, or

(*b*) refuses or omits to do any lawful act proper and requisite to be done by him for preserving the ship from immediate loss, destruction or *serious* damage, or for preserving any person belonging to or on board of the ship from immediate danger to life or limb,

he shall be *liable to* fine which may extend to one thousand rupees, or *to* imprisonment for a term which may extend to two years, or *to* both.

Act I of 1859, s. 83; Bill of 1867, s. 202; Bill of 1882, s. 108.] Cf. *1894, ss. 221, 225.* X of 1882.

Punishment of seamen and apprentices for certain other offences.

30. Whenever any seaman of a British ship who has been lawfully engaged, or any apprentice of a British ship, commits any of the following offences, he shall, notwithstanding anything in Chapter XXII of the Code of Criminal Procedure, 1882, be tried in a summary way, and shall be punishable as follows (that is to say)—

Desertion.

(*1*) *if he deserts*, he shall be liable—

(*a*) to forfeit all or any part of *the effects he leaves on board and of* the wages or emoluments which he has then earned, and

(*b*) if the desertion takes place at any place not in British India, at the discretion of the Court, to forfeit all or any part of the wages or emoluments which he may earn in any other ship in which he may be employed until his next return to a port in British India, and to satisfy any excess of wages paid by the master or owner of the ship from which he deserts to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him, *and also, except in the United Kingdom, he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labour;*

Failing to join ship, or absence without leave.

(*2*) for neglecting or refusing, without reasonable cause, to join his ship or proceed to sea in his ship, or

for absence without leave at any time within twenty-four hours *of* the ship's sailing from any port either at the commencement or during the progress of any voyage, or

for absence at any time without leave and without sufficient reason from his ship or from his duty, where such absence does not amount to desertion or is not treated as such by the master,

he shall be liable to forfeit out of his wages a sum not exceeding two days' pay, and, in addition, for every twenty-four hours of absence, either a sum not exceeding six days' pay or any expenses which have been properly incurred in hiring a substitute, *and also, except in the United Kingdom, he shall be liable to imprisonment for any period not exceeding ten weeks, with or without hard labour;*

Quitting without leave before ship is secured.

(*3*) for quitting his ship without leave after her arrival at her port of delivery and before she is placed in security, he shall be liable to forfeit out of his wages a sum not exceeding one month's pay;

Disobedience.

(*4*) for wilful disobedience to any lawful command he shall be *liable to* imprisonment for a term which may extend to four weeks, and shall also be liable, at the discretion of the Court, to forfeit out of his wages a sum not exceeding two days' pay:

Continued disobedience or neglect of duty.

(*5*) for continued wilful disobedience to lawful commands, or continued wilful neglect of duty, he shall be *liable to* imprisonment for a term which may extend to twelve weeks, and shall also be liable, at the discretion of the Court, to forfeit, for every twenty-four hours' continuance of such disobedience or neglect, either a sum not exceeding six days' pay or any expenses which have been properly incurred in hiring a substitute:

Assault on officer.

(*6*) for assaulting the master or any mate *or certificated engineer* of his ship he shall be *liable to* imprisonment for a term which may extend to twelve weeks:

Combining to disobey, or to neglect duty, etc.

(*7*) for combining with any other member or members of the crew to disobey lawful commands, or to neglect duty, or to impede the navigation of the ship or the progress of the voyage, he shall be *liable to* imprisonment for a term which may extend to twelve weeks:

Wilful damage or theft.

(*8*) for wilfully damaging his ship, or committing theft *or criminal misappropriation* in respect of, or wilfully damaging, any of her stores or cargo, he shall be liable to forfeit out of his wages a sum equal in amount to the loss thereby sustained, and also, at the discretion of the Court, to imprisonment for a term which may extend to twelve weeks:

Act of smuggling, causing loss or damage to owner or master.

(*9*) for any act of smuggling of which he is convicted, and whereby loss or damage is occasioned to the owner or master, he shall be liable to pay to the owner or master such sum as is sufficient to reimburse the owner or master for such loss or damage; and the whole or a proportionate part of his wages may be retained in satisfaction or on account of such liability, without prejudice to any further remedy.

Cf. *1894, s. 226.*

Section 130 not to take away remedy for breach of contract.

131. Nothing in section 130 shall be deemed to take away or limit any remedy which an owner or master would have but for that section for any breach of contract in respect of matters constituting an offence against that section; but no owner or master shall be compensated more than once in respect of the same damage.

[Act I of 1859, s. 84; Bill of 1867, s. 203; Bill of 1882, s. 109.] Cf. *1894, s. 228.*

Entry of offences in official log.

132. (*1*) Upon the commission of any offence mentioned in section 130, *or of any act of misconduct for which the offender's agreement imposes a fine, and it is intended to enforce the fine*, the master shall make, or cause to be made, an entry thereof in the official log (if any), and such entry shall be signed by the master and also by the mate or some other member of the crew.

(*2*) The offender, if still in the ship, shall, before the next subsequent arrival of the ship at any port, or, if she is at the time in port, before her departure therefrom, either be furnished with a copy of such entry or have the same read over distinctly and audibly to him, and may thereupon make such reply thereto as he may think fit.

(*3*) A statement that a copy of the said entry has been so furnished, or that the same has been so read over as aforesaid, and the reply (if any) made by the offender, shall likewise be entered and signed in manner aforesaid.

(*4*) In any subsequent legal proceeding, the entries hereinbefore required shall, if practicable, be produced or proved, and in default of such production or proof the Court hearing the case may, at its discretion, refuse to receive evidence of the offence *or act of misconduct*.

[Act I of 1859, s. 95; Bill of 1867, s. 214; Bill of 1882, s. 123.] Cf. *1894, s. 227.*

Penalty for false statement as to last ship or as to name.

133. (*1*) If any seaman of a British ship, on or before being engaged, wilfully and fraudulently makes a false statement as to the name of his last ship, or last alleged ship, or wilfully and fraudulently makes a false statement as to his own name, he shall be *liable to* fine which may extend to fifty rupees.

(*2*) Such fine may be deducted from any wages which the seaman may earn by virtue of such engagement as aforesaid, and may be applied in whole or in part in reimbursement of the loss and expenses (if any) occasioned by any previous desertion.

[Act I of 1859, ss. 86, 87; Bill of 1867, ss. 205, 206; Bill of 1882, ss. 111, 112.] Cf. *1894, ss. 222, 223, 224.*

Procedure in case of desertion, failure to join ship, or absence without leave.

134. (*1*) Whenever, either at the commencement or during the progress of a voyage, any seaman or apprentice deserts from, or neglects or refuses to join or proceed to sea in, any British ship in which he is duly engaged to serve, or is found otherwise absenting himself therefrom without leave,

the master or any mate, or the owner, ship's husband or consignee may, with or without the assistance of police-officers, who are hereby directed to give the same if required, convey him on board:

Provided that, if the seaman or apprentice so requires, he shall first be taken before some Court capable of taking cognizance of the matter, to be dealt with according to law.

(*2*) If any master, mate, owner, ship's husband or consignee—

(*a*) conveys a seaman or apprentice on board without first complying with any requisition made by him to be taken before a Court as aforesaid, or

(*b*) conveys a seaman or apprentice on board, or takes him before a Court, on grounds which appear to the Court to be improper or insufficient,

he shall be *liable to* fine which may extend to two hundred rupees; but such fine, if inflicted, shall be a bar to any suit for false imprisonment.

(*3*) Whenever any seaman or apprentice is brought before any Court on the ground of his having deserted from, or neglected or refused to join or proceed to sea in, any British ship whicn he is engaged to serve, or of having otherwise absented himself therefrom without leave,

the Court may, if the master or the owner or his agent so requires, cause the seaman or apprentice to be conveyed on board for the purpose of proceeding on the voyage, or deliver him to the master or any mate of the ship, or the owner or his agent, to be by him so conveyed, and

may in such case order any costs and expenses properly incurred by or on behalf of the master or owner by reason of the offence to be paid by the seaman or apprentice, and if necessary to be deducted from any wages which he has then earned, or which by virtue of his then existing engagement he may afterwards earn.

Survey of ships alleged by seamen to be unseaworthy.

135. (*1*) *Whenever in any proceeding against any seaman or apprentice belonging to a British ship for the offence of desertion, or absence without leave or for otherwise being absent from his ship without leave, it is alleged by one-fourth, or if their number exceeds twenty by not less than five, of the seamen belonging to the ship, that the ship is, by reason of unseaworthiness, overloading, improper loading, defective equipment or for any other reason, not in a fit condition to proceed to sea, or that the accommodation in the ship is insufficient, the Court having cognizance of the case shall take such means as may be in its power to satisfy itself concerning the truth or untruth of the allegation, and shall for that purpose receive the evidence of the persons making the same, and may summon any other* Cf. *1894, s. 463.*

witnesses whose evidence it may think it desirable to hear, and shall, if satisfied that the allegation is groundless, adjudicate in the case, but if not so satisfied shall before adjudication cause the ship to be surveyed.

(*2*) *A seaman or apprentice charged with desertion, or with quitting his ship without leave, shall not have any right to apply for a survey under this section unless he has before quitting his ship complained to the master of the circumstances so alleged in justification.*

(*3*) *For the purposes of this section the Court shall require any surveyor of ships appointed under this Act, or, if such a surveyor or person cannot be obtained without unreasonable expense or delay, or is not, in the opinion of the Court, competent to deal with the special circumstances of the case, then any other competent person appointed by the Court, and having no interest in the ship, her freight, or cargo, to survey the ship, and to answer any question concerning her which the Court thinks fit to put.*

(*4*) *Such surveyor or other person shall survey the ship, and make his written report to the Court, including an answer to every question put to him by the Court, and the Court shall cause the report to be communicated to the parties, and, unless the opinions expressed in the report are proved to the satisfaction of the Court to be erroneous, shall determine the questions before it in accordance with those opinions.*

(*5*) *Any person making a survey under this section shall for the purposes thereof have all the powers of a Superintendent of a Mercantile Marine Office under this Act.*

(*6*) *The costs (if any) of the survey shall be determined according to a scale of fees to be fixed by the Local Government, and shall be paid in the first instance out of the general revenues.*

(*7*) *If it is proved that the ship is in a fit condition to proceed to sea, or that the accommodation is sufficient, as the case may be, the costs of the survey shall be paid by the person upon whose demand or in consequence of whose allegation the survey was made, and may be deducted by the master or owner out of the wages due or to become due to that person, and shall be paid over to Government.*

(*8*) *If it is proved that the ship is not in a fit condition to proceed to sea, or that the accommodation is insufficient, as the case may be, the master or owner of the ship shall pay the costs of the survey to Government, and shall be liable to pay to the seaman or apprentice, who has been detained in consequence of the said proceeding before the Court under this section, such compensation for his detention as the Court may award.*

[Act XIII of 1876, s. 6; Bill of 1882, s. 113.]

Report of desertions and absences without leave.

136. (*1*) Whenever any seaman or apprentice not shipped in British India deserts or otherwise absents himself without leave from a British ship in which he is engaged to serve, the master of the ship shall, *if practicable*, within forty-eight hours of discovering such desertion or absence, report the same to the Superintendent of a Mercantile Marine Office or to such other officer (if any) as the Local Government may, by notification in the official Gazette, appoint in this behalf, unless in the meantime the deserter or absentee returns.

(*2*) Any master wilfully neglecting to comply with the provisions of this section shall be *liable to* fine which may extend to one hundred rupees, or *to* imprisonment for a term which may extend to one month, or *to* both.

[Act I of 1859, s. 89; Bill of 1867, s. 208; Bill of 1882, s. 117.] Cf. *1894, s. 229.*

Entries and certificates of desertion abroad to be copied, sent to British India and admitted in evidence.

137. (*1*) Whenever a seaman or apprentice shipped in British India on a British ship registered in British India deserts therefrom while the ship is out of British India, the master shall produce the entry in the official log (if any) of such desertion to the person or persons required or authorised by section *188* of the Merchant Shipping Act, *1894*, to endorse on the agreement a certificate of such desertion. 57 & 58 Vict, c. 60.

(*2*) Such person or persons shall thereupon make and certify a copy of such entry and a copy of the said certificate of desertion.

(*3*) The master shall forthwith transmit such copies to the Superintendent of the Mercantile Marine Office at the port at which the seaman or apprentice was shipped, and the Superintendent shall, if required, cause the same to be produced in any legal proceeding.

(*4*) Such copies, if purporting to be so made and certified as aforesaid, shall in any legal proceeding relating to such desertion be admissible in evidence.

[Act I of 1859, s. 90; Bill of 1867, s. 209; Bill of 1882, s. 118.] Cf. *1894, s. 231.*

Facilities for proving desertion so far as concerns forfeiture of wages or emoluments.

138. (*1*) Whenever a question arises whether the wages or emoluments of any seaman or apprentice of a British ship are forfeited for desertion, it shall be sufficient for the party insisting on the forfeiture to show that the seaman or apprentice was duly engaged in, or that he belonged to, the ship from which he is alleged to have deserted, and that he quitted such ship before the completion of the voyage or engagement, or, if the voyage was to terminate at any port in British India, and the ship has not returned to British India, that he is absent from her, and that an entry of the desertion has been duly made in the official log (if any).

(*2*) Thereupon the desertion shall, so far as relates to any forfeiture of wages or emoluments under the provisions hereinbefore contained, be deemed to be proved, unless the seaman or

apprentice can produce a proper certificate of discharge or can otherwise show to the satisfaction of the Court that he had sufficient reason for leaving his ship.

[Act I of 1859, s. 92; Bill of 1867, s. 211; Bill of 1882, s. 120.] Cf. *1894, s. 234.*

Amount of forfeiture how to be ascertained when seamen contract for the voyage.

139. (*1*) Where a seaman of a British ship contracts for wages by the voyage or by the run or by the share, and not by the month or any other stated period of time, the amount of forfeiture to be incurred under this Act shall be taken to be an amount bearing the same proportion to the whole wages or share as a month or other the period hereinbefore mentioned in fixing the amount of such forfeiture (as the case may be) bears to the whole time spent in the voyage *or run*.

(*2*) If the whole time spent in the voyage *or run* does not exceed the period for which pay is to be forfeited, the forfeiture shall extend to the whole wages or share.

[Act I of 1859, s. 94; Bill of 1867, s. 213; Bill of 1882, s. 122.] Cf. *1894, s. 233.*

Questions of forfeitures may be decided in suits for wages.

140. Any question concerning the forfeiture of or deductions from the wages of any seaman or apprentice of a British ship may be determined in any proceeding lawfully instituted with respect to such wages, notwithstanding that the offence in respect of which such question arises, though hereby made punishable by imprisonment as well as forfeiture, has not been made the subject of any criminal proceeding.

[Act I of 1859, s. 93; Bill of 1867, s. 212; Bill of 1882, s. 121.] Cf. *1894, s. 232.*

Application of forfeitures.

141. (*1*) All wages and *effects* which, under the provisions hereinbefore contained, are forfeited for desertion, shall be applied in the first instance in or towards the re-imbursement of the expenses occasioned by such desertion to the master or owner of the ship from which the desertion has taken place, and may, if earned subsequently to the desertion, be recovered by such master or by the owner or his agent in the same manner as the deserter might have recovered the same if they had not been forfeited; and in any legal proceeding relating to such wages the Court may order the same to be paid accordingly; and, subject to such re-imbursement, the same shall be paid into the public treasury and carried to the account of the Government.

(*2*) In all other cases of forfeiture of wages under the provisions hereinbefore contained, the forfeiture shall, in the absence of any specific directions to the contrary, be for the benefit of the master or owner by whom the wages are payable.

[Act I of 1859, s. 91; Bill of 1867, s. 210; Bill of 1882, s. 119.] Cf. *1894, s. 161.*

Power to deduct from wages costs of procuring conviction.

142. Whenever, in any proceeding relating to a seaman's or apprentice's wages, it is shown that any seaman or apprentice of a British ship has in the course of the voyage been convicted of any offence by any competent tribunal and rightfully punished therefor by imprisonment or otherwise, the Court hearing the case may direct a part of the wages due to such seaman or apprentice, not exceeding thirty rupees, to be applied in re-imbursing any costs properly incurred by the master in procuring such conviction and punishment.

[Act I of 1859, s. 88; Act XIII of 1876, s. 7; Bill of 1876, s. 207; Bill of 1880 ss. 114, 115.] Ct. *1894, s. 223 (4).*

Power to send on board seaman or apprentice not shipped in British India who is undergoing imprisonment.

143. (*1*) (*a*) *If any seaman or apprentice is imprisoned on the ground of his having neglected or refused to join, or to proceed to sea in, any ship in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave, or of his having committed any other breach of discipline, or*

(*b*) if any seaman or apprentice of a British ship who was not shipped in British India is imprisoned for any offence for which he has been sentenced to imprisonment for a term not exceeding one month,

and if during such imprisonment and before his engagement is at an end *the services of such seaman or apprentice* are required on board his ship,

any Magistrate may, at the request of the master or of the owner or his agent, cause the seaman or apprentice to be conveyed on board the ship for the purpose of proceeding on the voyage or to be delivered to the master or any mate of the ship or to the owner or his agent, to be by him so conveyed, notwithstanding that the period for which he was sentenced to imprisonment has not terminated.

(*2*) The officer in charge of the jail in which such seaman or apprentice is confined shall obey all orders given by a Magistrate under this section.

[Act XIII of 1876, s. 8 (am. by Act XII of 1891); Bill of 1882, s. 116.]

Procedure where seaman or apprentice not shipped in British India is imprisoned on complaint of master or owner.

144. (*1*) If any seaman or apprentice of a British ship, who was not shipped in British India, is imprisoned, on complaint made by or on behalf of the master or owner of the ship, for any offence for which he has been sentenced to imprisonment for a term not exceeding one month, then—

(*a*) while such imprisonment lasts, no person shall, without the previous sanction in writing of the Local Government or of such officer as it may appoint in this behalf, engage any native of India to serve as a seaman on board such ship; and

(*b*) the Local Government, or such officer as it may appoint in this behalf, may tender such seaman or apprentice to the master or owner of the ship, and if such master or owner, without assigning reasons satisfactory to the Local Government or to such officer as aforesaid, refuses to receive him on board, may require such master or

owner to deposit in the local Mercantile Marine Office—

(*i*) the wages due to such seaman or apprentice, and his money, *clothes* and effects, and

(*ii*) such sum as may in the opinion of the Local Government or such officer as aforesaid be sufficient to defray the cost of the passage of the said seaman or apprentice to the port at which he was shipped, according to the scale of cost usual in the case of distressed seamen.

(*2*) Whoever wilfully disobeys the prohibition contained in clause (*a*) of sub-section (*1*) shall be *liable to* imprisonment for a term which may extend to three months, or *to* fine which may extend to one thousand rupees, or to both.

(*3*) Any master or owner refusing or neglecting to deposit any wages, money, *clothes and other* effects or sum when required under clause (*b*) of sub-section (*1*) so to do shall be *liable to* fine which may extend to five hundred rupees, *and in default of payment of such fine to imprisonment which may extend to three months.*

[Act I of 1859, s. 96; Bill of 1867, s. 215; Bill of 1882, s. 124.] Cf. *1894, s. 235.*

Entry in official log, and recovery of fines levied under agreement.

145. (*1*) Whenever any seaman of a British ship commits an act of misconduct for which his agreement imposes a fine, and which it is intended to punish by exacting such fine, the master shall make, or cause to be made, an entry thereof in the official log (if any), and such entry shall be signed by the master and also by the mate or some other member of the crew.

(*2*) The provisions of section 132, sub-sections (*2*) and (*3*), shall apply to every such entry.

(*3*) Such fine shall be deducted and paid over as follows (that is to say),—

(*a*) if the offender is discharged at any port in British India,

and the offence, and the entries in respect thereof required by sub-sections (*1*) and (*2*), are proved, in the case of a foreign-going ship, to the satisfaction of the Superintendent of a Mercantile Marine Office before whom the offender is discharged, and, in the case of a home-trade ship, to the satisfaction of the Superintendent of the Mercantile Marine Office at or nearest to the place at which the crew is discharged,

the master or owner shall deduct the fine from the wages of the offender and pay the same over to such Superintendent:

(*b*) if, before the final discharge of the crew in British India, the offender enters into any of Her Majesty's ships or is discharged at any place not in British India,

and the offence and such entries as aforesaid are proved to the satisfaction of the officer in command of the ship into which he so enters, or of the consular officer, officer of Customs or other person by whose sanction he is so discharged,

the master or owner shall deduct the fine from the wages of the offender, and the master shall make or cause to be made an entry of such deduction in the official log (if any), and such entry shall be signed by such officer or other person as aforesaid, and on the return of the ship to British India the master or owner shall pay over the fine, in the case of a foreign-going ship, to the Superintendent of a Mercantile Marine Office before whom the crew is discharged, and in the case of a home-trade ship to the Superintendent of the Mercantile Marine Office at or nearest to the place at which the crew is discharged.

(*4*) If any master or owner neglets or refuses to pay over any fine to a Superintendent of a Mercantile Marine Office as required by sub-section (*3*), he shall be *liable to* fine which may extend to six times the amount of the fine retained by him.

(*5*) No act of misconduct for which a fine has been deducted under sub-section (*2*) shall be otherwise punished under the provisions of this Act.

Penalty for enticing to desert and harbouring deserters.

146. (*1*) *If a person by any means whatever persuades or attempts to persuade a seaman or apprentice to neglect or refuse to join or proceed to sea in or to desert from his ship, or otherwise to absent himself from his duty, he shall for each offence in respect of each seaman or apprentice be liable to fine which may extend to fifty rupees.*

(*2*) *If a person wilfully harbours or secretes a seaman or apprentice who has wilfully neglected or refused to join, or has deserted from, his ship, knowing or having reason to believe the seaman or apprentice to have so done, he shall for every seaman or apprentice so harboured or secreted be liable to fine which may extend to two hundred rupees.*

[Act I of 1859, s. 98; Bill of 1867, s. 217; Bill of 1882, s. 126.] Cf. *1894, s. 237 (1).*

Penalty for obtaining passages surreptitiously.

147. Any person who secretes himself and goes to sea in any British ship without the consent of the master or owner or some other person entitled to give such consent shall be *liable to* fine which may extend to two hundred rupees, or *to* imprisonment for a term which may extend to four weeks.

[Act I of 1859, s. 85; Bill of 1867, s. 204; Bill of 1882, s. 110.] Cf. *1894, s. 237 (2).*

Seafaring persons whom masters of ships are compelled to convey and persons going in ships without leave, to be subject to laws for preserving discipline.

148. Every seafaring person whom the master of a British ship is, under the authority of this Act or any other law, compelled to take on board and convey, and

every person who goes to sea in a British ship without the consent of the master or owner or some other person entitled to give such consent,

shall, so long as he remains in the ship, be subject to the same laws and regulations for preserving discipline, and to the same penalties and punishments for offences constituting or tending to a breach of discipline, to which he would be subject if he were a member of the crew and had signed the agreement.

CHAPTER XVII.

LEAVING SEAMEN OR APPRENTICES IN BRITISH INDIA.

[Bill of 1867, s. 148.] Cf. *1894, s. 186.*

Discharge of seamen or apprentices on disposal of ship in British India, and procedure thereupon.

149. (*1*) Whenever a British ship, other than a home-trade ship of a burden of less than eighty tons, is transferred or disposed of at any port in British India, and any seaman or apprentice belonging to the ship does not, in the presence of the Superintendent of the Mercantile Marine Office, signify his consent in writing to complete the voyage if continued, the master—

shall give to each such seaman or apprentice a certificate of discharge, in the form mentioned in section 81, and,

where a certificated mate or engineer whose certificate has been delivered to and retained by the master is so discharged, shall return such certificate, and

shall, besides paying the wages to which such seaman or apprentice is entitled, either—

(*a*) provide him with adequate employment on board some other British ship bound to the port in Her Majesty's dominions at which he was originally shipped, or to such other port in Her Majesty's dominions as may be agreed to by him, or

(*b*) provide the means of sending him back to such a port, or

(*c*) provide him with a passage home, or

(*d*) deposit with such Superintendent as aforesaid such a sum of money as may by such Superintendent be deemed sufficient to defray the expenses of his subsistence and passage home.

(*2*) Such Superintendent shall indorse upon the agreement of the ship which the seaman or apprentice is leaving the particulars of every such payment, provision or deposit.

(*3*) If any master of a British ship refuses or neglects to comply with the requirements of this section in respect of any seaman or apprentice, the expenses of the subsistence of the seaman or apprentice and of his passage home shall, unless the seaman or apprentice has been guilty of barratry, be recoverable as follows, that is to say:—

(*i*) if such expenses are defrayed by such Superintendent as aforesaid, they shall be a charge upon the ship and upon the owner for the time being thereof, and may be recovered from such owner, with costs, as a debt due to the Secretary of State for India in Council, either by ordinary process of law, or in the manner provided by Chapter IX or any other law for the time being in force for the recovery of a seaman's wages;

(*ii*) if such expenses are defrayed by the seaman or apprentice himself, they may be recovered as wages due to him.

[Act XII 1876, s. 4; Bill of 18[illegible] ss. 149, 15[illegible] Bill of 18[illegible] s. 58.] Cf. *1894, s. 188.*

Discharge, or leaving behind in British India, of seamen or apprentices not shipped in British India.

150. (*1*) No seaman or apprentice of a British ship who was not shipped in British India—

(*a*) shall be discharged at any port in British India without the previous sanction in writing of the Superintendent of the Mercantile Marine Office, or

(*b*) shall be left behind at any place in British India without a certificate in writing previously obtained from some Superintendent of a Mercantile Marine Office and indorsed on the agreement with the crew, stating the fact and whether the cause thereof is unfitness or inability to proceed to sea, desertion or disappearance.

(*2*) Such sanction or certificate shall be given or withheld at the discretion of the Superintendent; but, whenever it is withheld, the reasons for withholding it shall be recorded by him in writing.

(*3*) The Superintendent to whom any application for a certificate is made under sub-section (*1*) shall enquire in a summary way into any allegation of unfitness, inability, desertion or disappearance as aforesaid, and may for that purpose, if he thinks fit so to do, administer oaths.

(*4*) Any person discharging or leaving behind a seaman or apprentice in wilful disobedience to the prohibition contained in sub-section (*1*) shall be *liable to* imprisonment for a term which may extend to three months, or *to* fine which may extend to one thousand rupees, or *to* both.

[Act of 1867, s. 150.] Cf. *1894, s. 188 (4).*

Proof of sanction or certificate on whom to lie.

151. (*1*) Upon the trial of any proceeding against any person for discharging or leaving behind any seaman or apprentice contrary to the provisions of section 150, it shall lie upon such person either to produce the sanction or certificate, as the case may be, required by that section, or to prove that he had obtained the same previously to having discharged or left behind such seaman or apprentice, or that it was impracticable for him to obtain such sanction or certificate.

[Bill of 1867, s. 151, 152.] Cf. *1894, s.*

Wages to be paid when seaman or apprentice is left behind on ground of unfitness or inability.

152. (*1*) Every master of a British ship who leaves any seaman or apprentice on shore at any place in British India under a certificate of his unfitness or inability to proceed to sea shall deliver to the Superintendent of the Mercantile Marine Office by whom such certificate is granted a full and true account of the wages due to such seaman or apprentice, and shall pay such wages to the *Superintendent of the Mercantile Marine Office* either in money or by a bill drawn upon the owner:

Provided that, whenever it is practicable so to do, such payment shall be made in money and not by bill.

(*2*) Whenever a bill is so drawn, such Superintendent shall by indorsement certify thereon that the same is drawn for money due on account of a seaman's or apprentice's wages,

and shall indorse the amount for which such bill is drawn with such further particulars in respect of the case as the Board of Trade may require, upon the agreement of the ship.

(*3*) Where a bill is so drawn, the owner of the ship shall be liable to pay the amount of the same to the holder or indorsee thereof; and it shall not be necessary in any proceeding against the owner upon any such bill to prove that the master had authority to draw the same.

(*4*) Any bill produced out of the custody of a Superintendent of a Mercantile Marine Office and purporting to be drawn in pursuance of this section, and to be indorsed as herein required, and

any indorsement on any such bill purporting to be made in pursuance of this section, and to be signed by the Superintendent of a Mercantile Marine Office,

shall be admissible in evidence.

(*5*) Any master who *without reasonable cause* refuses or neglects to deliver an account of wages, or to pay any wages, as required by sub-section (*1*), shall be *liable to* fine which may extend to one hundred rupees; and any master who delivers a false account of such wages shall be *liable to* fine which may extend to two hundred rupees; without prejudice in either case to his liability to pay the said wages.

CHAPTER XVIII.

DISTRESSED SEAMEN AND APPRENTICES.

Definition of "Local Authority."

153. In this chapter "local authority" means such person as the Local Government may, subject to the control of the Governor General in Council, appoint by name or in virtue of his office to exercise the powers conferred, and to perform the duties imposed, on the local authority under this Chapter.

[Act VII of 1880, s. 54; Bill of 1882, s. 92.]

Relief of distressed seamen and apprentices at British Indian ports.

154. Subject to any rules made under section 162, the local authority may provide for the subsistence—

[Act VII of 1880, s. 55; Bill of 1867, s. 153; Bill of 1882, s. 93.] Cf. *1894, s. 191 (1).*

(*a*) of all seamen and apprentices, being Native Indian subjects of Her Majesty, who have been shipwrecked, discharged or left behind at any place in British India, whether from any British ship employed in the merchant service, or from any *ship belonging to or in the service of Her Majesty or the Government of India*, or who have been engaged by any person (whether acting as principal or agent) to serve in any ship belonging to any foreign Prince or State, or to the subject of any foreign Prince or State, and who are in distress in any such place; and

(*b*) of all seamen and apprentices, not being Native Indian subjects of Her Majesty, who have been shipwrecked, discharged or left behind at any place in British India from any British ship registered in British India and who are in distress in any such place,

until such time as such authority is able to provide them with a passage under the provisions hereinafter contained.

[Act VII of 188 0, s. 56, 57; Bill of 1867, s. 135; Bill of 1882, ss. 94, 95.] Cf. *1894, s. 191 (2).*

155. (*1*) Subject as aforesaid, the Local Authority may cause such seamen or apprentices to be put on board some ship belonging to any subject of Her Majesty which is in want of men to make up its complement and is bound—

Distressed seamen and apprentices to be sent home.

(*a*) in the case of seamen or apprentices who are Native Indian subjects of Her Majesty, to their home or to a port in British India near their home;

(*b*) in the case of other British seamen or apprentices, to any port in the United Kingdom or the British Possession to which they belong (as the case requires); and

(*c*) in the case of seamen or apprentices not being subjects of Her Majesty, to such place as the local authority, subject to the control of the Governor General in Council, may in each case determine.

(*2*) In default of any such ship, the local authority, may, subject as aforesaid, provide such seamen or apprentices with a passage in any ship (whether British or foreign) bound as aforesaid.

[Act VII of 1880, s. 58; Bill of 1867, s. 153; Bill of 1882, s. 96.] Cf. *1894, s. 191 (3).*

156. The local authority shall indorse on the agreement of any British ship on board of which any seaman or apprentice is sent under section 155 the name of every person so sent on board thereof, with such particulars concerning the case as may be prescribed.

Name and other particulars with regard to seamen and apprentices to be indorsed on agreement of British ship.

[Act VII of 1880, ss. 59, 60; Bill of 1867, s. 154; Bill of 1882, ss. 97, 98.] Cf. *1894, s. 192.*

157. (*1*) The master of every British ship bound as aforesaid shall receive and afford a passage and subsistence to all seamen and apprentices whom he is required to take on board his ship under the provisions of section 155, not exceeding one for every fifty tons burden, and shall, during the passage, provide every such seaman or apprentice with a proper berth or sleeping-place effectually protected against sea and weather.

Master of British ship compelled to convey and give subsistence to such seamen and apprentices.

(*2*) If the master of any such ship fails *without reasonable cause* to receive on board his ship or to give a passage or subsistence to, or to provide for, any such seaman or apprentice contrary to the provisions of sub-section (*1*), he shall, for each seaman and apprentice with respect to whom he so fails or refuses, be *liable to* fine which may extend to one thousand rupees.

[Act VII of 1880, s. 61; Bill of 1882, s. 90.] Cf. *1894, s. 192.*

158. (*1*) When any master of a British ship has conveyed a seaman or apprentice in excess of the number (if any) wanted to make up the complement of his crew to any place in accordance with the requisition of a local authority under this Chapter, such master shall be entitled to be paid by the Secretary of State for India in Council in respect of the subsistence and passage of such seaman or apprentice such sum per diem as the Governor General in Council may appoint:

Conditions under which master may claim payment.

Provided that no payment shall be made under this section except on the production of the following documents (that is to say):

(*a*) a certificate signed by the Local Authority by whose direction such seaman or apprentice was received on board, specifying the name of such seaman or apprentice and the time when he was received on board; and

(*b*) a declaration in writing by such master, stating—

(*i*) the number of days during which such seaman or apprentice received subsistence and was provided for as aforesaid on board his ship;

(*ii*) the number of men and boys forming the complement of his crew;

(*iii*) the number of seamen and apprentices employed on board his ship during the time such seaman or apprentice was on board; and

(*iv*) every variation (if any) of such number.

(*2*) The declaration required by clause (*b*) of sub-section (*1*) shall, in the case of a ship conveying Native Indian subjects of Her Majesty to a port in British India, be made before a Superintendent of a Mercantile Marine Office or such officer as the Local Government may appoint; and

shall, in other cases, be made and verified in the same manner as declarations made under section 192 of the Merchant Shipping Act, 1894.

[Act VII of 1880, s. 62; Bill of 1882, s. 100.] Cf. *1894, s. 193.* 57 & 58 Vict., c. 60.

159. (*a*) If any seaman or apprentice, being a Native Indian subject of Her Majesty and belonging to any British ship, is discharged or left behind at any place in British India without full compliance on the part of the master with all the provisions in that behalf of the law for the time being in force, and becomes distressed and is relieved under the provisions of this Chapter; or

Wages of, and expenses incurred in respect of, distressed seamen and apprentices to be charged in certain cases upon ship to which they belong.

(*b*) if any seaman or apprentice, being a Native Indian subject of Her Majesty, after having been engaged by any person (whether acting as principal or agent) to serve in any ship belonging to any Foreign Prince or State or to the subject of any Foreign Prince or State, becomes distressed and is relieved as aforesaid; or

(*c*) if any seaman or apprentice belonging to any British ship registered in British India, and not being a Native Indian subject of Her Majesty, is discharged or left behind at any place in British India without full compliance as aforesaid, and becomes distressed and is relieved as aforesaid,

the wages (if any) due to such seaman or apprentice, and all expenses incurred for his subsistence, necessary clothing, conveyance home, and, in case he should die before reaching home, for his burial, shall be a charge upon the ship, whether British or foreign, to which he so belonged as aforesaid.

[Act VII of 1880, ss. 63, 64, 65; Bill of 1882, ss. 101, 102, 103.] Cf. *1894, s. 193.*

160. (*1*) All such wages and expenses shall be recoverable with costs either from the master of such ship or from the person who is owner thereof for the time being, or, in the case of an engagement for service in a foreign ship, from such master or owner or from the person by whom such engagement was so made, in the same manner as other debts due to the Secretary of State for India in Council, or in the manner provided by Chapter IX or any other law for the time being in force for the recovery of a seaman's wages.

Mode of recovering such wages and expenses.

(*2*) The Local Government may, by notification in the official Gazette, authorise, either generally or specially, such persons as it may think fit to sue for any such wages and expenses and recover the same.

(*3*) Every person so authorised shall be entitled to sue and recover accordingly, and shall be deemed to be a person filling a public office within the meaning of the Indian Evidence Act, 1872, section 57, clause (*7*):

I of 1872.

Provided that when any such wages or expenses are due to or in respect of a seaman or apprentice referred to in section 159, clause (*c*), they may, instead of being recovered by a person authorised under sub-section (*2*), be recovered by the Board of Trade in manner provided by the Merchant Shipping Act, 1894, section *193*, and when so recovered shall be paid by the said Board to the Secretary of State for India in Council.

57 & 58 Vict., c. 60.

[Act VII of 1880, s. 66; Bill of 1882, s. 104.] Cf. *1894, s. 193.*

161. In all proceedings under the foregoing provisions of this Chapter, whether in British India or elsewhere, the production of a certificate signed by the local authority by which any seaman or apprentice named therein was relieved, or any expenses were incurred, under the said provisions, to the effect that such seaman or apprentice was in distress, and that such expenses were incurred in respect of such seaman or apprentice, shall be conclusive proof that such seaman or apprentice was relieved, conveyed home or buried (as the case may be) at the expense of the revenues of India.

Evidence of distress and expenses incurred.

[Act VII of 1880, s. 67; Bill of 1882, s. 105.] Cf. *1894, s. 190.*

162. The Governor General in Council may make rules to determine under what circumstances and subject to what conditions seamen or apprentices may be relieved and provided with passages under the foregoing provisions of this Chapter, and generally to carry out the said provisions.

Power to make rules.

[Act XII of 1876, s. 3; Act VII of 1880, s. 54; Bill of 1882, ss. 92, 157.] Cf. *1894, ss. 92, 193.* 57 & 58 Vict. c. 60.

163. (*1*) Nothing in the foregoing provisions of this Chapter shall apply to seamen or apprentices to whom the provisions of section *191* of the Merchant Shipping Act, 1894, apply.

Relief of distressed seamen to whom the English Merchant Shipping Act applies.

(*2*) A certificate signed by a Secretary to the Local Government, or by such other officer as the Local Government may appoint in this behalf, to the effect that any seaman named therein is distressed, shall, in all proceedings under sections *191, 192 and 193* of the Merchant Shipping Act, 1894, be conclusive proof that such seaman is distressed within the meaning of those sections.

57 & 58 Vict., c. 60.

(*3*) Any master of a British ship refusing to accept such seaman as a distressed seaman under the provisions of the said sections shall, for each seaman with respect to whom he so refuses, be *liable to* fine which may extend to one thousand rupees.

[Act V of 1883, ss. 3, 33; Bill of 1882, s. 71.] 57 & 58 Vict., c. 60.

164. (*1*) Where any wages or expenses recoverable under section 193 of the Merchant Shipping Act, 1894, are, under *that* section, a charge upon any ship, or recoverable from any master, owner or other person, within the jurisdiction of any Court in British India, the Governor General in Council

Recovery in British India, under the Merchant Shipping Act, 1894, of wages and expenses of distressed seamen and apprentices.

may, by notification in the Gazette of India authorise, either generally or specially, such persons as he may think fit to sue for and recover those wages or expenses in the manner provided in *that* section.

(2) Every person so authorised shall be entitled to sue and recover accordingly in any such Court, and shall be deemed to be a person filling a public office within the meaning of the Indian Evidence Act, 1872, section 57, clause (7). 1 of 1872.

(3) All suits and proceedings under this section shall be instituted and carried on in the name of the Secretary of State for India in Council.

CHAPTER XIX.

THE OFFICIAL LOG.

[Act I of 1859, s. 103; Bill of 1867, s. 219; Bill of 1882, s. 128.] Cf. *1894*, s. 239 (1), (2), (3).

165. (1) An official log, in a form sanctioned by the Governor General in Council, shall be kept for every British ship registered in British India which is required by section 31 to have a certificated master. Official log to be kept for certain ships.

(2) The official log may, at the discretion of the master or owner, either be kept distinct from the ordinary ship's log or *be* united therewith: Provided that in the latter case all the entries required by this Act or any other law to be made in the official log be duly made.

[Act I of 1859, s. 105; Bill of 1867, s. 221; Bill of 1882, s. 130.] Cf. *1894*, ss. 240, 423.

166. Every master of a ship for which an official log is required by section 165 shall make or cause to be made in such log entries of the following matters (in addition to all other entries which he is required by this Act or any other law to make therein), that is to say:— Entries required in official log.

(*a*) every offence committed by any member of the crew for which it is intended to prosecute, or to enforce a forfeiture, or to exact a fine, together with such statement concerning the furnishing of a copy of, or the reading over of, such entry, and concerning the reply (if any) made to the charge, as *is* required by section 132, sub-sections (2) and (3): Offences for which it is intended to take proceedings.

(*b*) every offence for which punishment is inflicted on board, and the punishment inflicted: Punishments inflicted on board.

(*c*) every legal conviction of any member of the crew, and the punishment inflicted: Convictions.

(*d*) a statement of the conduct, character and qualifications of each member of the crew, or a statement that the master declines to give an opinion on such particulars: Conduct, etc., of crew.

(*e*) every case of illness or injury happening to any member of the crew, with the nature thereof, and the medical treatment adopted (if any): Illness and injuries.

(*f*) every marriage taking place on board, with the names and ages of the parties: Marriages.

(*g*) the name of every seaman or apprentice who ceases to be a member of the crew otherwise than by death, with the place, time, manner and cause thereof: Quitting ship.

(*h*) the amount of wages due to any seaman who enters Her Majesty's *naval* service during the voyage: Wages of men entering Navy.

(*i*) the wages due to any seaman or apprentice who dies during the voyage, and the gross amount of all deductions to be made therefrom: Wages of deceased seamen or apprentices.

(*j*) the sale of the effects of any seaman or apprentice who dies during the voyage, including a statement of each article sold and of the sum received for it; and Sale of deceased man's effects.

(*k*) every collision with any other ship, and the circumstances under which the same occurred. Collisions.

[Act I of 1859, s. 104; Bill of 1867, s. 220; Bill of 1882, s. 129.] Cf. *1894*, s. 239 (4).

167. (1) Every entry in such official log shall be made as soon as possible after the event to which it relates, and no entry in respect of an event occurring previously to the arrival of the ship at her final port of discharge shall be made more than twenty-four hours after such arrival. Entries in official log when to be made.

(2) If any entry is made after the day on which the event to which it relates occurred,

the dates both of the event and of making the entry shall be shown therein.

[Act I of 1859, s. 106; Bill of 1867, s. 222; Bill of 1882, s. 131.] Cf. *1894*, ss. 169 (4), 228, 239 (5).

168. Every entry in such official log shall be signed as follows, that is to say:— Entries in official log how to be signed.

(*a*) every entry shall be signed by the master;

(*b*) every entry of illness or injury shall be also signed—

(*i*) by the medical officer of the ship or, if there is no such medical officer, by some other surgeon or medical practitioner (if any) on board, and

(*ii*) by the mate or some other member of the crew;

(*c*) every entry of wages due to, or of the sale of the effects of, any seaman or apprentice who dies shall be also signed by the mate and by some other member of the crew;

(*d*) every entry of wages due to any seaman who enters Her Majesty's service shall be also signed—

(*iii*) by the mate or some other member of the crew, and

(*iv*) by the seaman or the officer authorised to receive the seaman into such service; and

(*e*) every entry not specified in clause (*b*), clause (*c*) or clause (*d*) shall be also signed by the mate or some other member of the crew.

[Act I of 1859, s. 107; Bill of 1867, s. 223; Bill of 1882, s. 132.] Cf. *1894*, s. 241.

169. (1) If in any case an official log is not kept as required by this chapter, or if any entry required by this Act to be made by the master or by his direction in such log is not made as required by this Act, or if any entry is not signed by the master as required by this Act, the master shall, if no other penalty is provided by this Act, be *liable to* fine which may extend to fifty rupees. Penalties in respect of official logs.

(2) Every person who makes or procures to be made or assists in making any entry in an official log kept under this chapter, in respect of any event occurring previously to the arrival of the ship at her final port of discharge, more than twenty-four hours after such arrival, shall be *liable to* fine which may extend to three hundred rupees.

(3) Every person who wilfully destroys, mutilates or renders illegible any entry in, or wilfully makes or procures to be made or assists in making any false or fraudulent entry or omission in, any such official log shall be *liable to* imprisonment for a term which may extend to one year.

[Act I of 1859, s. 108; Bill of 1867, s. 224; Bill of 1882, s. 133.] Cf. *1894*, s. 239 (6).

170. All entries made in any such official log in pursuance of this Act or any other law shall, if signed as thereby required, be admissible in evidence. Entries in official log to be admissible in evidence.

[Act I of 1859, s. 109; Bill of 1867, s. 225; Bill of 1882, s. 134.] Cf. *1894*, s. 242.

171. (1) The master of every foreign-going British ship, whether registered in British India or not, shall, within forty-eight hours after the ship's arival at her final port of destination in British India, or upon the discharge of the crew, whichever first happens, deliver to the Superintendent of a Mercantile Marine Office before whom the crew is discharged the official log of the voyage. Delivery of official log to Superintendent periodically.

(2) The master or owner of every home-trade British ship, whether registered in British India or not, which is required by section 31, sub-section (3), to have a certificated master shall, within twenty-one days after the thirtieth day of June and the thirty-first day of December in every year, transmit or deliver to some Superintendent of a Mercantile Marine Office in British India the official log for the preceding half-year.

(3) Every master or owner who *fails without reasonable cause* to deliver or transmit an official log as required by this section shall be *liable to* fine which may extend to two hundred rupees.

[Act I of 1859, s. 110; Bill of 1867, s. 226; Bill of 1882, s. 133.] Cf. *1894*, s. 243.

172. (1) If any British ship registered in British India ceases, by reason of transfer of ownership or change of employment, to fall within the operation of section 165, the master or owner thereof shall, if the ship is then at any port in British India, within one month, and, if she is elsewhere, within six months, deliver or transmit to the Superintendent of the Mercantile Marine Office at the port to which the ship belonged the official log duly made out to the time at which she ceased to be within such operation, and in default shall be *liable to* fine which may extend to one hundred rupees. Delivery of official log to Superintendent in case of transfer, loss or abandonment.

(2) If any British ship registered in British India is lost or abandoned, the master or owner thereof shall, if practicable, and as soon as possible, deliver or transmit to the Superintendent of the Mercantile Marine Office at the port to which the ship belonged the official log (if any) duly made out to the time of such loss or abandonment, and in default shall be *liable to* fine which may extend to one hundred rupees.

CHAPTER XX.

RECOVERY OF FINES IMPOSED ABROAD.

[Act VII of 1880, s. 60.]

173. Where any person, being the owner or master or a member of the crew of a British ship, is tried under this Part at any place in Her Majesty's dominions beyond British India for an offence for which a fine is imposable, any fine imposed shall be recoverable in the currency of such place *at the current rate of exchange*. Recovery, in local currency, of fines imposed abroad.

PART IV.

SAFETY AND PREVENTION OF ACCIDENTS.

CHAPTER XXI.

LIFE-SAVING APPLIANCES.

174. Nothing in this chapter shall apply to— Exemption of certain ships.

(*a*) any ship which is duly provided with *life-saving* appliances in accordance with rules made by the Board of Trade under the Merchant Shipping Act, *1894*, and for the time being in force, 57 & 58 Vict., c. 60.

(*b*) any ship which is duly provided with boats and other appliances for saving life in accordance with rules made by the Governor General in Council under section 324 and for the time being in force,

(*c*) native craft *of not more than two hundred tons burden* not *being* square-rigged *and not carrying passengers.*

Cf. 1894 s. 428.

175. It shall be the duty of the owner and master of every British ship to see that his ship is provided, in accordance with rules made under this chapter, with such *life-saving* appliances as, having regard to the nature of the service on which the ship is employed and the avoidance of undue encumbrance of the ship's deck, are best adapted for securing the safety of her crew and passengers. Duty to carry life-saving appliances.

Cf. 1894, s. 427.

176. The Local Government may make rules with respect to all or any of the following matters, namely:— Power to make rules.

(*a*) the arranging of British ships into classes, having regard to the services in which they are employed, to the nature and duration of the voyage, and to the number of persons carried;

(*b*) the number and description of the boats, life-boats, life-rafts, life-jackets and life-buoys to be carried by British ships, according to the class in which they are arranged, and the mode of their construction; also the equipments to be carried by the boats and rafts, and the methods (which may include oil for use in stormy weather) to be provided to get the boats and other life-saving appliances into the water;

(*c*) the quantity, quality and description of buoyant apparatus to be carried on board British ships carrying passengers, either in addition to or in substitution for boats, life-boats, life-rafts, life-jackets and life-buoys;

(*d*) *the places in which the life-jackets, life-buoys or other buoyant apparatus are to be kept so as to ensure their being immediately available for use when required.*

177. If any British ship required by rules made under section 176 to be provided with *life-saving* appliances proceeds on any voyage or excursion without being so provided, in accordance with the rules applicable to the ship, then, if the owner appears to be in fault, he shall be *liable to* fine which may extend to one thousand rupees, and, if the master appears to be in fault, he shall be *liable to* fine which may extend to five hundred rupees. Penalty for breach of rules. Cf. 1894, s. 430 (*1*).

178. (*1*) The Local Government may appoint persons to inspect British ships in any port, for the purpose of seeing that such ships are properly provided with appliances for saving life at sea in pursuance of the rules made under section 176. Appointment and powers of inspectors. Cf. 1894, s. 431 (*1*).

(*2*) Every person so appointed shall, in the port for which he is appointed, have, for the purposes of such inspection, the following powers (that is to say)—

(*a*) he may go on board any British ship and may inspect the same or any part thereof, or any of the boats, equipments or articles on board thereof, not unnecessarily detaining or delaying her from proceeding on any voyage;

(*b*) he may, by summons under his hand, require the attendance of all such persons as he may think fit to call before him, may examine such persons, and may, by a like summons, require returns in writing to any enquiries which he may think fit to make; and

(*c*) he may administer oaths, or may, instead of administering an oath, require any person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

179. If any person so appointed finds that any British ship is not so provided, he shall give to the master or owner notice in writing pointing out the deficiency, and also what is, in his opinion, requisite in order to remedy the same. Notice of deficiency to be given to master or owner by such inspectors. Cf. 1894, s. 431 (*2*).

180. Every notice so given shall be communicated, in such manner as the Local Government may direct, to the Customs-collector at any port from which such ship may seek to clear; and no officer authorised to grant a port-clearance from such port shall grant the same without a certificate under the hand of some person appointed as aforesaid, to the effect that the said ship is properly provided with appliances for saving life at sea in pursuance of the said rules. Port-clearance not to be granted till inspector certifies that ship is properly provided with life-saving appliances. Cf. 1894, s. 431 (*3*).

CHAPTER XXII.

INSPECTION OF SHIPS WITH REGARD TO LIGHTS AND FOG-SIGNALS.

181. (*1*) The Local Government may appoint persons to inspect, in any port, ships, whether British or foreign, to which the regulations for *the prevention of* collisions at sea, *made* under the Merchant Shipping Act, *1894*, or any other similar law for the time being in force, may apply, for the purpose of seeing that such ships are properly provided with lights and with the means of making fog-signals, in pursuance of such regulations or law. Appointment and powers of inspectors of lights and fog-signals. ct VII of 0, ss. 11, 1894, ss. 430 (*1*), (*3*), 429. 57 & 58 Vict., c. 60.

(*2*) Every person so appointed shall, in the port for which he is appointed, have, for the purposes of such inspection, the following powers (that is to say)—

(*a*) he may go on board any ship and may inspect the same or any part thereof, or any of the equipments or articles on board thereof, not unnecessarily detaining or delaying her from proceeding on any voyage;

(*b*) he may, by summons under his hand, require the attendance of all such persons as he may think fit to call before him, may examine such persons, and may, by a like summons, require returns in writing to any enquiries which he may think fit to make; and

(*c*) he may administer oaths, or may, instead of administering an oath, require any person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

182. If any person so appointed finds that any ship is not so provided, he shall give to the master or owner notice in writing pointing out the deficiency and also what is, in his opinion, requisite in order to remedy the same. Notice of deficiency to be given to master or owner by such inspectors. ct VII of 80, s. 82.] 1894, 430 (*1*).

183. Every notice so given shall be communicated, in such manner as the Local Government may direct, to the Customs-collector at any port from which such ship may seek to clear, and no officer authorised to grant a port-clearance from such port shall grant the same without a certificate under the hand of some person appointed as aforesaid, to the effect that the said ship is properly provided with lights and with the means of making fog-signals in pursuance of the said regulations or law. Port-clearance not to be granted till inspector certifies that ship is properly provided with lights and fog-signals. ct VII of 80, s. 83.] 1894, 0 (*2*).

183A. *Such fees as the Local Government, with the previous sanction of the Governor General in Council, may determine shall be paid in respect of an inspection of lights and fog-signals under this Chapter, not exceeding those specified in Schedule IVA.* Fees. Cf. 1894, s. 420 (*3*).

183B. *The Governor General in Council may, by notification in the Gazette of India, exempt from inspection under this Chapter any native craft which do not use lights or signals.* Power to exempt ships from inspection.

CHAPTER XXIII.

SURVEY OF STEAM-SHIPS.

184. (*1*) A British or foreign steam-ship shall not carry more than twelve passengers between ports in British India, and Certain steam-ships carrying passengers to have certificate of survey. [Bill of 1867, ss. 235 to 250. Act VII of 1884, s. 4.] Cf. 1894, s. 271 (*1*).

a British steam-ship shall not carry more than twelve passengers to or from any port in British India from or to any place out of British India,

unless she has a certificate of survey under this Chapter in force and applicable to the voyage on which she is about to proceed, or the service on which she is about to be employed.

(*2*) Nothing in sub-section (*1*) shall apply to— [Act VII of 1884, s. 5 (*a*), (*b*), (*c*).] Cf. 1894, ss. 278 (*2*), 284.

(*a*) any steam-ship having a certificate of survey granted by the Board of Trade or any British Colonial Government, unless it appears from the certificate that it is inapplicable to the voyage on which the steam-ship is about to proceed or the service on which she is about to be employed, or unless there is reason to believe that the steam-ship has, since the grant of the certificate, sustained injury or damage, or *been* found unseaworthy or otherwise inefficient; or

(*b*) any steam-ship having a certificate of survey granted under *the Inland Steam-vessels Act, 1884*, in force and applicable to the voyage on which the steam-ship is about to proceed or the service on which she is about to be employed; or *VI of 1884.*

(*c*) any steam-ship carrying passengers during the interval between the time at which her certificate of survey under this Chapter expires and the time at which it is first practicable to have the certificate renewed.

[Act VII of 1884, s. 25.]

185. The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, declare that all or any of the provisions of this Chapter shall not apply in the case of any specified class of steam-ships or shall apply to them with such modifications as the Local Government may prescribe.

Power for Local Government to except certain steam-ships.

[Act VII of 1884, s. 6.] Cf. 1894, s. 283.

186. (*1*) If any steam-ship carries or attempts to carry passengers in contravention of section 184, the owner and master of the steam-ship shall each be *liable to* fine which may extend to one thousand rupees.

Penalty for carrying passengers without certificate of survey.

(*2*) If the master or any other officer of any steam-ship which carries or attempts to carry passengers in contravention of section 184 is a licensed pilot, he shall be liable to have his license as a pilot suspended for any period, or cancelled, by the Local Government, as the Local Government may see fit to order.

[Act VII of 1884, s. 7.] Cf. 1894, s. 271 (*b*).

187. No port-clearance shall be granted, nor shall any pilot be assigned, to any steam-ship for which a certificate of survey is required by section 184, until after the production by the owner or master thereof of a certificate under this Chapter in force and applicable to the voyage on which she is about to proceed and the service on which she is about to be employed.

No port-clearance until certificate of survey produced.

[Act VII of 1884, s. 8.] Cf. 1894, s. 271 (*2*).

188. If any steam-ship for which a certificate of survey is required by section 184 leaves or attempts to leave any port of survey without a certificate, the ship may *be detained* until she obtains a certificate.

Power to detain steam-ship not having certificate of survey.

[Act VII of 1884, s. 9 (*1*).] Cf. 1894, s. 724 (*1*).

189. The Local Government may appoint so many persons as it may think fit to be surveyors for the purposes of this Chapter at such ports within the territories under its administration as it may appoint to be ports of survey.

Appointment of surveyors and ports of survey.

[Act VII of 1884, s. 10.] Cf. 1894, s. 725.

190. (*1*) For the purposes of a survey under this Chapter, any surveyor appointed under this Chapter may, at any reasonable time, go on board any steam-ship, and may inspect the same or any part thereof, or the machinery, equipments or articles on board thereof:

Powers of surveyors.

Provided that he does not unnecessarily hinder the loading or unloading of the steam-ship, or unnecessarily detain or delay her from proceeding on any voyage.

(*2*) The owner, master and officers of the steam-ship shall afford to the surveyor all reasonable facilities for a survey, and all such information respecting the steam-ship, and her machinery and equipments, or any part thereof, respectively, as he may reasonably require.

[Act VII of 1884, s. 10A (inserted by Act III of 1890, s. 15). Cf. 1894, s. 277.

191. Before a survey under this chapter is commenced, the owner or master of the steam-ship to be surveyed shall pay to such officer as the Local Government may appoint in this behalf—

Fees in respect of surveys.

(*a*) a fee calculated on the tonnage of the steam-ship according to the rates in Schedule V, or according to any other prescribed rates; and

(*b*) when the survey is to be made in any port of survey *at which a surveyor has not been appointed under section 189*, such additional fee, in respect of the expense (if any) of the journey of the surveyor to the port as the Local Government may, by notification in the official Gazette, direct.

[Act VII of 1884, s. 12 (*in part*). Cf. 1894, s. 272 (*2*) (*4*).

192. When a survey under this Chapter is completed, the surveyor making it shall forthwith, if satisfied that he can with propriety do so, give to the owner or master of the steam-ship surveyed a declaration in the prescribed form containing the following particulars, namely:—

Declaration of surveyor.

(*a*) *that the hull of the steamer is sufficient for the service intended and in good condition;*

(*b*) *that the boats, life-buoys, lights, signals, compasses and shelter for deck passengers are such, and in such condition, as are required by this Act;*

(*c*) *that the machinery of the steamer is sufficient for the service intended, and in good condition;*

(*d*) *the time (if less than one year) for which the hull and equipments will be sufficient;*

(*e*) *the time (if less than one year) for which the machinery will be sufficient;*

(*f*) *that the safety-valves and fire-hose are such and in such condition as are required by this Act;*

(*g*) *the limit of the weight to be placed on the safety-valves;*

(*h*) *the limits (if any) beyond which, as regards the hull and equipments, the steamer is in the surveyor's judgment not fit to ply;*

(*i*) *the limits (if any) beyond which, as regards the machinery, the steamer is in the surveyor's judgment not fit to ply;*

(*j*) *the number of passengers which the steamer is in the judgment of the surveyor fit to carry, distinguishing, if necessary, between the respective numbers to be carried on the deck*

and in the cabins and in different parts of the deck and cabins; those numbers to be subject to such conditions and variations, according to the time of year, the nature of the voyage, the cargo carried, or other circumstances as the case requires;

(*k*) *that the certificates of the master and mate or mates and of the engineer or engineers and engine-drivers of the steamer are such as are required by this Act;*

(*l*) any other prescribed particulars.

[Act VII of 1884, s. 12 (*in part*). Cf. 1894, s. 272 (*3*) (*4*).

193. (*1*) The owner or master to whom a declaration is given under section 192 shall, within fourteen days after the date of the receipt thereof, send the declaration to such officer as the Local Government may appoint in this behalf.

Sending of declaration by owner or master to Local Government.

(*2*) If he fails to do so, he shall *be liable to* forfeit a sum not exceeding five rupees for every day during which the sending of the declaration is delayed.

(*3*) The owner or master shall pay the sum so forfeited on the delivery of the certificate of survey.

[Act VII of 1884, s. 13 (am. by Act III of 1890, s. 17). Cf. 1894, ss. 274, 276.

194. (*1*) Upon receipt of a declaration by the officer appointed in that behalf under section 193, the Local Government shall, if satisfied that the provisions of this Chapter have been complied with, cause a certificate in duplicate to be prepared and delivered, through such officer at the port at which the steam-ship was surveyed as the Local Government may appoint in this behalf, to the owner or master of the steam-ship surveyed, on his applying and paying the sum (if any) mentioned in section 193, sub-section (*3*), as payable on delivery of a certificate.

Grant of certificate of survey.

(*2*) A certificate granted under this section shall be in the prescribed form; shall contain a statement to the effect that the provisions of this Chapter with respect to the survey of the steam-ship and the transmission of the declaration in respect thereof have been complied with; and shall set forth—

(*a*) the particulars concerning the steam-ship which clauses (*d*), (*e*), (*h*), (*i*) *and* (*j*) of section 192 require the declaration by the surveyor to contain; and

(*b*) any other prescribed particulars.

(*3*) When a certificate is ready for delivery under this section, the Local Government shall cause notice thereof to be given by post or otherwise to the owner or master of the steam-ship to which the certificate relates.

(*4*) The Local Government may delegate,—

(*c*) with the previous sanction of the Governor General in Council, to any person, by name or as holding an office, the function, assigned to the Local Government by sub-section (*1*), of granting a certificate of survey under that sub-section;

(*d*) of its own authority, to any person, by name or as holding an office, the function, assigned to the Local Government by sub-section (*3*), of causing notice to be given of a certificate of survey being ready for delivery:

Provided, with respect to clause (*c*) 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 192.

[Act VII of 1884, s. 15. Cf. 1894, s. 281.

195. (*1*) The owner or master of every steam-ship for which a certificate of survey has been granted under this Chapter shall forthwith, on the receipt of the certificate, cause the *duplicate thereof* to be affixed, and kept affixed so long as the certificate remains in force and the steam-ship is in use, on some conspicuous part of the steam-ship where it may be easily read by all persons on board thereof.

Duplicate of certificate of survey to be affixed on conspicuous part of steam-ship.

(*2*) If the *said duplicate* is not so kept affixed, the owner and master of the steam-ship shall each be *liable to* fine which may extend to one hundred rupees.

[Act VII of 1884, s. 16. Cf. 1894, ss. 271 (*a*), 278 (*1*).

196. A certificate of survey granted under this Chapter shall not be in force—

Term of certificate of survey.

(*a*) after the expiration of one year from the date thereof *or such shorter time as may be specified;* or

(*b*) after the expiration of the period, if less than one year, for which the hull, boilers, engines or any of the equipments have been stated in the certificate to be sufficient; or

(*c*) after notice has been given by the Local Government, to the owner or master of the steam-ship to which the certificate relates, that the Local Government has suspended or cancelled it.

[Act VII of 1884, s. 17.] Cf. 1894, s. 279 (*1*).

197. Any certificate of survey granted under this Chapter may be suspended or cancelled by a Local Government if it has reason to believe—

Suspension or cancellation of certificate of survey by Local Government.

(*a*) that the declaration by the surveyor of the sufficiency and good condition of the hull, boilers, engines or any of the equpments of the steam-ship has been fraudulently or erroneously made; or

(*b*) that the certificate has otherwise been granted upon false or erroneous information; or

(*c*) that, since the making of the declaration, the hull, boilers, engines or any of the equipments of the steam-ship have sustained any injury, or have otherwise become insufficient.

[Act VII of 1884, s. 18.] Cf. 1894, s. 280.

Power to require delivery of expired, suspended or cancelled certificate of survey.

198. (*1*) The Local Government may require any certificate of survey granted under this Chapter which has expired or has been suspended or cancelled to be delivered up to such person as it may direct.

(*2*) If the owner or master of any steam-ship, without reasonable cause, neglects or refuses to deliver up a certificate when required under sub-section (*1*) so to do, he shall be *liable to* fine which may extend to one hundred rupees.

[Act VII of 1884, s. 19 (am. by Act III of 1890, s. 19).]

Report of suspension or cancellation of certain certificates.

199. If the Local Government which suspends or cancels a certificate of survey granted under this Chapter is not the Local Government which or whose delegate granted the certificate, the Local Government suspending or cancelling the certificate shall report the fact of suspension or cancellation, together with the reasons therefor, to the Local Government which or whose delegate granted the certificate.

[Act VII of 1884, s. 20.] Cf. 1894, s. 272 (*1*).

Power for Local Government to direct that two surveyors be employed.

200. A survey under this Chapter shall ordinarily be made by one surveyor, but two surveyors may be employed if the Local Government, by order in writing, shall so direct, either generally in the case of all steam-ships at any port of survey, or specially in the case of any particular steam-ship or class of steam-ships at any such port.

[Act VII of 1884, s. 21 (am. by Act III of 1890, s. 20).]

Power for Local Government to order a second survey.

201. (*1*) If the surveyor or surveyors making a survey under this Chapter refuses or refuse to give a declaration under section 192 with regard to any steam-ship, or gives or give a declaration with which the owner or master of the steam-ship surveyed is dissatisfied, the Local Government may, on the application of the owner or master and the payment by him of such fee, not exceeding twice the amount of the fee for the previous survey, as the Local Government may require, direct two other surveyors appointed under this Chapter to survey the steam-ship.

(*2*) The surveyors so directed shall forthwith survey the steam-ship, and may, after the survey, either refuse to give a declaration or give such declaration as may under the circumstances seem to them proper; and their decision shall be final.

Division of duties when two surveyors employed.

202. When a survey is made under section 200 or section 201 by two surveyors, each of the surveyors making the survey shall perform a prescribed portion of the duties assigned by this Chapter or the rules made under this Chapter to a surveyor making a survey.

[Act VII 1884, s. 22.

Power to dispense with survey of foreign steam-ship surveyed abroad.

203. When a foreign steam-ship requires to be furnished with a certificate of survey under this Chapter, and the Local Government is satisfied, by the production of a certificate of survey attested by a British Consular Officer at the port of survey, that the ship has been officially surveyed at a foreign port, and that the requirements of this Chapter are proved by that survey to have been substantially complied with, the Local Government may, if it thinks fit, dispense with any further survey of the ship in respect of the requirements so complied with, and give a certificate which shall have the same effect as a certificate given after survey under this Chapter:

[Act VII 1884, s. 2 Cf. 1894,

Provided that this section shall not apply in the case of an official survey at any foreign port *at which it appears to Her Majesty that corresponding advantages are not extended to British ships, and* with respect to which Her Majesty has by Order in Council directed that section *363* of the Merchant Shipping Act, 1894, shall not apply.

57& 58 Vict. c. 60.

Power to make rules.

204. (*1*) The Local Government may make rules to regulate the making of surveys under this Chapter.

[Act VII 1884, s. (am. by A III of 189 s. 21).] Cf. 1894, s 277, etc.

(*2*) Rules under this section may, among other matters,—

(*a*) declare the times and places at which, and the manner in which, surveys are to be made;

(*b*) regulate the duties of the surveyor making a survey, and, where two surveyors are employed, assign the respective duties of each of the surveyors employed;

(*c*) declare the form in which the declarations of surveyors and certificates of survey under this Chapter are to be framed, and the nature of the particulars which are to be stated therein, respectively; and

(*d*) fix the rates according to which the fees payable in respect of surveys are to be calculated in the case of all or any of the ports of survey within the territories under its administration.

CHAPTER XXIV.

UNSAFE SHIPS.

Preliminary.

[Act VII of 1880, ss. 3, 43 (am. by Act XVII of 1891, ss. 2, 4).] Cf. 1894, ss. 438(*1*), 444.

Exception of certain ships.

205. (*1*) Nothing in this Chapter shall apply to—

(*a*) any home-trade *sailing* ship of less than one hundred and fifty tons *register*, or

(*b*) *any home-trade steam-ship of less than eighty tons register, or*

(*c*) any ship employed solely in fishing, or

(*d*) any pleasure-yacht.

(*2*) *Sections 237 to 245 (both inclusive)* shall not apply to—

(*d*) ships *registered* in the United Kingdom and having *load*-lines fixed, marked and certified in accordance with the provisions of the law for the time being there in force, or

(*e*) ships registered in a British possession and having such lines fixed, marked and certified in accordance with the provisions of an enactment passed by the Legislature of that possession, with respect to which enactment such a declaration as is mentioned in section *444* of the Merchant Shipping Act, 1894, has been made by an Order of Her Majesty in Council and is for the time being in force.

57&58 Vict., c. 60.

(*3*) The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, exclude from, or bring again within, the operation of any of the provisions of *sections 237 to 245 (both inclusive)*, subject to such modifications thereof (if any) as may be specified in the notification, any Native craft not square-rigged.

[Act VII of 1880, s. 2, s. 4 (am. by Act XVII of 1891, s 3).] Cf. 1894, ss. 437(*4*), 439, 459(*1*), 742.

Definitions.

206. (*1*) In any provision of this Chapter, "port" includes also any part of a river or channel leading to a port which for the purposes of such provision the Local Government may, by notification in the official Gazette, declare to be included in such port.

(*2*) A ship is "unsafe" within the meaning of this Chapter when by reason of the defective condition of her hull, equipments or machinery, or by reason of overloading or improper loading, she is unfit to proceed to sea without serious danger to human life, having regard to the nature of the service for which she is intended, and

every ship so loaded as to submerge in perfectly smooth salt water the centre of the disc placed thereon in pursuance of this Chapter or the Merchant Shipping Act, *1894, or any enactment repealed thereby*, and the rules and regulations made thereunder, shall be deemed to be "safe" within the meaning of this Chapter, and every such submersion shall be reasonable and probable cause for the detention of the ship.

57 & 58 Vict., c. 60.

(*3*) *For the purpose of determining whether any ship is so loaded as to submerge the centre of the said disc in perfectly smooth salt water, the ship may, if the owner or master so desires, be taken into a wet basin or dock.*

(*4*) In this Chapter, "amidships" means the middle of the length of the load water-line as measured from the foreside of the stem to the aft-side of the stern-post.

Detention of Unsafe Ships.

[Act VII of 1880, s. 7.] Cf. 1894, s. 459(*a*), (*b*).

Power of Local Government to provisionally detain unsafe ship.

207. (*1*) The Local Government, if it has reason to believe, on complaint or otherwise, that a British ship in any port to which it may specially extend this section is unsafe, may provisionally order the detention of the ship for the purpose of being surveyed.

(*2*) A written statement of the grounds of such detention shall be forthwith served on the master of the ship.

[Act VII of 1880, ss. 8, 10.] Cf. 1894, s. 459 (*b*), (*c*), (*f*).

Power of Local Government to release or finally detain ship, or refer the matter to Court of Survey.

208. When the Local Government provisionally orders the detention of a British ship, it shall forthwith appoint some competent person to survey the ship and report thereon, and, on receiving his report, may, subject to the provisions of section 210, either order the ship to be released or, if in its opinion the ship is unsafe, order her to be finally detained:

Provided that the Local Government may, at any time after a ship has been provisionally detained, refer the matter to the Court of Survey (hereinafter mentioned) for the port where the ship is detained.

[Act VII of 1880, s. 8.] Cf. 1894, s. 459(*c*), (*d*).

Terms of order for final detention, and appeal to Court of Survey.

209. An order under section 208 for the final detention of a British ship may be either absolute or until the performance of such conditions with respect to the execution of repairs or alterations or the unloading or reloading of cargo as the Local Government may think necessary for the protection of human life; and the Local Government may vary or add to any such order:

Provided that, before an order for final detention is so made, a copy of the report shall be served upon the master of the ship, and within seven days after such service the owner or master may appeal against the report, in the manner prescribed, to the Court of Survey (hereinafter mentioned) for the port where the ship is detained.

[Act VII of 1880, s. 9.] Cf. 1894 s. 459 (c).

210. Where a British ship has been provisionally detained and a person has been appointed under section 208 to survey the ship, the owner or master of the ship, at any time before such person makes the survey, may require that he shall take with him as assessor such person as the owner or master may select, being a person named in the list of assessors prepared under section 216, sub-section (*4*), or, if there is no such list, or if it is impracticable to procure the attendance of any person named in such list, a person of nautical, engineering or other special skill and experience; and

Option to owner or master of appointing assessor to accompany surveyor, and appeal to Court of Survey.

in such case, if the surveyor and assessor agree that the ship should be detained or released, the Local Government shall cause the ship to be detained or released accordingly, and the owner or master shall have no appeal;

but, if the surveyor and assessor differ in their report, the Local Government may act as if the requisition had not been made, and the owner or master shall have such appeal touching the report of the surveyor as is provided in section 209.

[Act VII of 1880, s. 24.] Cf. 1894, s. 490 (*1*).

211. If the Local Government is of opinion that an appeal under section 209 or section 210 involves a question of construction or design, or of scientific difficulty or important principle, it may refer the matter to such one or more out of a list of scientific referees, to be prepared by the Local Government, as may appear to possess the special qualifications necessary for the particular case, and may be selected by agreement between the Port-officer and the appellant, or, in default of any such agreement, by the Local Government; and thereupon the appeal shall be determined by the referee or referees instead of by the Court of Survey.

Power to appoint referee to hear appeal.

[Act VII of 1880, s. 25.] Cf. 1894, s. 490 (*2*).

212. The Local Government, if the appellant in any such appeal so requires and gives security to its satisfaction to pay the costs of and incidental to the reference, shall refer such appeal to a referee or referees selected as aforesaid.

Option to appellant to require referee to be appointed.

[Act VII of 1880, s. 26.] Cf. 1894, s. 490 (*3*).

213. The referee or referees to whom an appeal is referred under section 211 or section 212 shall have the same powers as a Judge of the Court of Survey.

Referee to have powers of Court of Survey.

[Act VII of 1880, ss. 11, 12.] Cf. 1894, s. 459 (*2*), (*3*), (*6*).

214. (*1*) For the better execution of this Chapter, the Local Government may appoint a sufficient number of fit persons as its officers, *and may suspend or remove any of them.*

Detaining-officers.

(*2*) Every officer so appointed (hereinafter referred to as a detaining-officer) shall have, for the purpose of his duties under this Chapter, the following powers (that is to say):—

(*a*) he may go on board any British ship and may inspect the same or any part thereof, or any of the machinery, equipments and cargo on board thereof, and may require the unloading or removal of any cargo, ballast or tackle, not unnecessarily detaining or delaying the ship from discharging, unloading or proceeding on any voyage;

(*b*) he may, by summons under his hand, require the attendance of all such persons as he may think fit to call before him, may examine such persons, and may, by a like summons, require returns in writing to any enquiries which he may think fit to make;

(*c*) he may require and enforce the production of all books, papers or documents which he considers important; and

(*d*) he may administer oaths, or may, instead of administering an oath, require any person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

(*3*) Every detaining-officer shall, in addition to the powers conferred by sub-section (*2*), have the same power as the Local Government has under sections 207 and 208, respectively, of provisionally ordering the detention of a British ship for the purpose of being surveyed, and of appointing a person to survey her; and, if he thinks that a ship so detained by him is not unsafe, may order her to be released.

(*4*) Every detaining-officer shall forthwith report to the Local Government any order made by him for the detention or release of a ship.

[Act VII of 1880, s. 49.] Cf. 1894, s. 488 (*4*).

215. For the purposes of the survey of a British ship under this Chapter, any person authorised to make the same may go on board the ship and may inspect the same or any part thereof, or the machinery, equipments or cargo on board thereof, and may require the unloading or removal of any cargo, ballast or tackle.

Powers of person authorised to survey ship.

[Act VII of 1880, ss. 13, 14, 15.] Cf. 1894, s. 487 (*1*),(*2*), (*3*).

216. (*1*) A Court of Survey for a port shall consist of a Judge sitting with two assessors.

Constitution of Court of Survey.

(*2*) The Judge shall be a District Judge, Judge of a Court of Small Causes, Presidency Magistrate, Magistrate of the first class or other fit person appointed in this behalf by the Local Government either generally or for any specified case.

(*3*) The assessors shall be persons of nautical, engineering or other special skill and experience.

(*4*) One of the assessors shall be appointed by the Local Government either generally or in each case, and the other shall be summoned by the Judge, in the manner prescribed, out of a list of persons prepared for the purpose and published by the Local Government in the official Gazette, or, if there is no such list or if it is impracticable to procure the attendance of any person named in such list, shall be appointed by the Judge.

[Act VII of 1880, s. 16.] Cf. 1894, s. 487 (*4*).

217. The Judge shall, on receiving notice of an appeal under section 209 or section 210 or a reference under section 208, immediately summon the assessors, in the manner prescribed, to meet forthwith.

Judge to summon assessors.

[Act VII of 1880, s. 17.] Cf. 1894, s. 488 (*1*).

218. Every such appeal and reference shall be heard in open Court.

Case to be heard in open Court.

[Act VII of 1880, s. 18.] Cf. 1894, s. 488 (*2*).

219. The Judge and each assessor shall, for the purposes of this Chapter, have the same powers as are by section 214, sub-section (*2*), conferred on a detaining-officer.

Powers of Judge and assessors.

[Act VII of 1880, s. 19.] Cf. 1894, s. 488 (*3*).

220. The Judge may appoint any competent person to survey the ship and report thereon to the Court.

Power of Judge to appoint surveyor.

[Act VII of 1880, s. 20.] Cf. 1894, s. 488 (*6*).

221. The owner and master of the ship and any person appointed by the owner or master, and also any person appointed by the Local Government, may attend at any inspection or survey made in exercise or pursuance of the powers conferred by section 219 or section 220.

Owner or master may attend at inspection or survey.

[Act VII of 1880, s. 21.] Cf. 1894, s. 488 (*5*).

222. The Judge shall have the same power as the Local Government has to order the ship to be released or finally detained; but, unless one of the assessors concurs in an order for the detention of the ship, the ship shall be released.

Power of Judge to release or finally detain ship.

223. The Judge shall report the proceedings of the Court in each case to the Local Government in the manner prescribed, and each assessor shall either sign such report or report to the Local Government the reasons for his dissent.

[Act VII of 1880, s. 22.] Cf. 1894, s. 488 (*7*).

Report to Local Government by Court.

224. The Local Government may make rules to carry into effect the provisions of this Chapter with respect to a Court of Survey, and in particular with respect to—

[Act VII of 1880, s. 23.] Cf. 1894 s. 489

Power to make rules with respect to Court of Survey.

(*a*) the procedure before the Court;

(*b*) the requiring, on an appeal, of security for costs and damages;

(*c*) the amount and application of fees; and

(*d*) the ascertainment, in case of dispute, of the proper amount of costs under this Chapter.

225. If it appears that there was not reasonable and probable cause, by reason of the condition of the ship or act or default of the owner, for the provisional detention of a ship, the Government shall be liable to pay to the owner of the ship his costs of and incidental to the detention and survey of the ship, and also compensation for any loss or damage sustained by him by reason of the detention or survey.

[Act VII of 1880, s. 27.] Cf. 1894, s. 460 (*1*).

Liability of Government for costs and damages when ship wrongly detained.

226. If a British ship is finally detained under this Chapter or if it appears that a British ship provisionally detained was at the time of such detention unsafe, the owner of the ship shall be liable to pay to the Government its costs of and incidental to the detention and survey of the ship; and such costs shall, without prejudice to any other remedy, be recoverable as salvage is recoverable.

[Act VII of 1880, s. 28.] Cf. 1894, s. 460 (*2*).

Liability of owner for costs when ship rightly detained.

227. For the purposes of this Chapter, the costs of and incidental to any proceeding before a Court of Survey, and a reasonable amount in respect of the remuneration of the surveyor or officer of the Local Government, shall be deemed to be part of the costs of the detention and survey of the ship.

[Act VII of 1880, s. 29.] Cf. 1894, s. 460 (*3*).

What included in costs of detention and survey.

228. When a complaint is made to the Local Government or a detaining-officer that a British ship is unsafe, it shall be in the discretion of such Government or officer (as the case may be) to require the complainant to give security to the satisfaction of such

[Act VII of 1880, s. 30.] Cf. 1894, s. 461 (*1*), (*2*).

Power to require from complainant security for costs, etc.

Government or officer for the costs and compensation which such complainant may become liable to pay under the provisions of section 229:

Provided that where the complaint is made by one-fourth, being not less than three, of the seamen belonging to the ship, and is not in the opinion of such Government or officer frivolous or vexatious, such security shall not be required; and such Government or officer shall, if the complaint is made in sufficient time before the sailing of the ship, take proper steps to ascertain whether the ship ought to be detained under this Chapter.

[Act VII of 1880, s. 31.] Cf. 1894, s. 461 (3).

Costs, etc, payable by Government recoverable from complainant.

229. Where a British ship is detained in consequence of any complaint, and the circumstances are such that the Government is liable under this Chapter to pay to the owner of the ship any costs or compensation, the complainant shall be liable to pay to the Government all such costs and compensation as the Government incurs, or is liable to pay, in respect of the detention and survey of the ship.

[Act VII of 1880, s. 45.] Cf. 1894, s. 492 (1).

Who may enforce detention of ship.

230. When under this Chapter a British ship is authorised or ordered to be detained, any commissioned officer on full pay in the naval or military service of Her Majesty, any commander or *lieutenant* of any of Her Majesty's Indian Government ships, or any port-officer, harbour-master, conservator of a port or officer of customs may detain the ship.

[Act VII of 1880, s. 46.] Cf. 1894, s. 692 (1).

Penalty for proceeding to sea after detention.

231. If any British ship, after such detention, or after service on the master of any notice of or order for such detention, proceeds to sea, before she is released by competent authority, the master of the ship shall be *liable to* fine which may extend to one thousand rupees.

[Act VII of 1880, s. 47.] Cf. 1894, s. 692 (2).

Penalty for carrying to sea officer in execution of his duty.

232. (*1*) If a British ship so proceeding to sea takes to sea, when on board thereof in the execution of his duty, any person authorised under this Chapter to detain or survey the ship, the owner and master of the ship shall each be liable to pay all expenses of, and incidental to, such person being so taken to sea, and shall also each be *liable to* fine which may extend to one thousand rupees.

(*2*) When any owner or master is convicted of an offence against this section, the convicting Magistrate may enquire into and determine the amount payable on account of expenses by such owner or master under this section, and may direct that the same shall be recovered from him in manner provided by law for the recovery of fines.

[Act VII of 1880, s. 48.] Cf. 1894, s. 459 (5).

Detained ship not to be released because British registry closed.

233. When a British ship has been detained under this Chapter, she shall not be released by reason of her British or British Indian register being subsequently closed.

[Act VII of 1880, s. 44.] Cf. 1894, s. 459 (*g*).

Release of ship at any time by Local Government.

234. The Local Government may at any time, if satisfied that a British ship detained under this Chapter is not unsafe, order her to be released either upon or without any conditions.

[Act VII of 1880, ss. 51, 52.] Cf. 1894, s. 696 (*1*).

Service of order, etc.

235. (*1*) Where any order, notice, statement or document is required for the purpose of any provision of this Chapter to be served on the master of a British ship, the same shall be served, where there is no master, on the owner of the ship, if he resides in the port where the ship is detained, or, if there is no owner residing there, on some agent of the owner residing there; or, where such owner or agent is unknown or cannot be found, a copy of such order, notice, statement or document shall be affixed to the mast of the ship, and shall thereupon be deemed to be duly served.

(*2*) Any such order, notice, statement or document may be served by delivering a copy thereof personally to the person to be served, or by leaving the same at his last place of abode, or, in the case of a master, by leaving it for him on board the ship with the person being or appearing to be in command or charge of the ship.

[Act VII of 1880, s. 85 (added by Act XVII of 1891, s. 5).] Cf. 1894, ss. 445, 462.

Application to foreign ships of provisions respecting detention.

236. Where a foreign ship has taken on board all or any part of her cargo at a port in British India, and is while at that port unsafe by reason of overloading or improper loading, all the foregoing provisions of this Chapter with respect to the detention of British ships shall apply to that foreign ship as if she were a British ship, unless such foreign ship, if in a port of the United Kingdom, would be entitled to the benefit of an Order of Her Majesty in Council under section *445* of the Merchant Shipping Act, 1894. 57 & 58 Vict., c. 60.

Load-lines.

[Act VII of 1880, s. 34 (am. by Act XVII of 1891, s. 4).] Cf. 1894, ss. 438 (*1*), (*2*), 440 (5).

Marking of load-lines in case of ships which are not coasting-vessels.

237. (*1*) The master of every British ship shall, before his ship is entered outwards from any port in British India upon any voyage, or, if that is not practicable, as soon after as may be, mark

outside upon each of her sides amidships or as near thereto as practicable, in white or yellow on a dark ground or in black on a light ground, a circular disc twelve inches in diameter, with a horizontal line eighteen inches in length drawn through its centre.

(*2*) The centre of the disc shall be placed at such level below the deck-line marked under the provisions of the Indian Merchant Shipping Act, 1880, or of the Merchant Shipping Act, 1894, as may be approved by the Local Government, and shall indicate the maximum load-line in perfectly smooth salt-water to which it shall be lawful to load the ship.

(*3*) When a ship has been marked as by this section required, she shall be kept so marked until she next returns to a port of discharge in British India or arrives at a port in the United Kingdom.

[Act VII of 1880, s. 35 (am. by Act XVII of 1891, s. 4).] Cf. 1894, s. 438 (2), (4).

Statement in application to Customs-collector for entry outwards of such ship as aforesaid.

238. (*1*) Every person applying for entry of any such ship outwards shall insert, in the form of application made to the Customs-collector, a statement in writing of the distance in feet and inches between the centre of such disc and the upper edge of each of the lines indicating the position of the ship's decks which is above such centre; and, if default be made in delivering such statement, the Customs-collector may refuse to enter the ship outwards.

(*2*) A copy of such statement shall be entered in the agreement with the crew before it is signed by any member of the crew, and no Superintendent of a Mercantile Marine Office shall proceed with the engagement of a crew for any such ship until such entry has been made.

(*3*) The master shall enter, or cause to be entered, a copy of the said statement in the official log (if any).

[Act VII of 1880, s. 37 (am. by Act XVII of 1891, s. 4).] Cf. 1894, s. 441 (1), (2), (3).

Annual statement as to position of load-line on coasting-vessel.

239. (*1*) *When a ship is employed in the coasting trade she shall be marked before the ship proceeds to sea from any port, and the master* shall also once in every twelve months, immediately before the ship proceeds to sea, send or deliver to the Customs-collector, or other principal officer of Customs of such port as the Local Government may appoint in this behalf, a statement in writing of the distance in feet and inches between the centre of the disc and the upper edge of each of the lines indicating the position of the ship's decks which is above that centre.

(*2*) The master, before the ship proceeds to sae after any renewal or alteration of the disc, shall send or deliver to the Customs-collector or other principal officer of Customs aforesaid notice in writing of such renewal or alteration, together with such statement in writing as before mentioned of the distance between the centre of the disc and the upper edge of each of the decklines.

(*3*) If default be made in sending or delivering any notice or statement required by this section to be sent or delivered, the master shall be *liable to* fine which may extend to one thousand rupees.

(*4*) When a ship has been marked as required by this section, she shall be kept so marked until notice has been given of an alteration.

240. [*Amalgamated with section 239.*]

[Act VII of 1880, s. 39 (am. by Act XVII of 1891, s. 4).] Cf. 1894, ss. 438 (3), 443 (*1*). 57 & 58 Vict., c. 60. VII of 1880.

Position of disc and approval of and certificate as to position thereof.

241. (*1*) The position of the discs mentioned in sections 237 and 239, respectively, shall be fixed in accordance with the tables *used by the Board of Trade at the time of* the passing of the Merchant Shipping Act, 1894, subject to such allowance as may be necessary in consequence of any difference between the position of the deck-line marked under the provisions of the Indian Merchant Shipping Act, 1880, or of the Merchant Shipping Act 1894, and the position of the line from which free-board is measured under the said tables, and subject also to such modifications, if any, of the tables and the application thereof as may, with the previous approval of the Governor General in Council, be sanctioned by the Local Government.

(*2*) The Local Government shall appoint—

(*a*) a surveyor employed by Lloyd's or by any other society, corporation or association for the survey or registry of

57 & 58 Vict., c. 60.

shipping approved by the Board of Trade under section *443* of the Merchant Shipping Act, 1894, and specially authorised in this behalf by Lloyd's or by such society, corporation or association, as the case may be, or

(*b*) an officer specially selected by the Local Government for the purpose,

to approve and certify on its behalf from time to time the position of any such disc *indicating the load-line* and any alteration thereof,

and, with the previous sanction of the Governor General in Council, may fix the fees to be taken in respect of any such approval or certificate.

[Act VII of 1880, s. 40 (am. by Act XVII of 1891, s. 4).] Cf. 1894, s. 443 (2).

Power to make rules.

242. (*1*) The Local Government may make rules—

(*a*) determining the lines or marks to be used in connection with *the* disc in order to indicate the maximum load-line under different circumstances and at different seasons, and declaring that the provisions of this Chapter with respect to load-line are to have effect as if any such maximum load-line were drawn through the centre of the disc;

(*b*) as to the mode in which the disc and the lines or marks to be used in connection therewith are to be marked or affixed on the ship, whether by painting, cutting or otherwise;

(*c*) as to the mode of application for, and form of, certificates under section 241, sub-section (*2*); and

(*d*) as to the entry of such certificates, and any other prescribed particulars concerning the draught of water and freeboard of the ship, in the official log (if any) of the ship, or other publication thereof on board the ship, and as to delivering copies of such entries.

(*2*) Rules under clause (*a*) of sub-section (*1*) may, with respect to any class or classes of ships,—

(*e*) declare what shall be deemed to be seasons of fair weather and seasons of foul weather, respectively, for any of the purposes of the rules, and

(*f*) modify the tables referred to in section 241, sub-section (*1*), *or the application thereof.*

[Act VII of 1880, s. 41 (am. by Act XVII of 1891, s. 4.)] Cf. 1894, s. 442 (1).

Penalty for neglecting to mark, or submerging, load-line.

243. Any master of a British ship who neglects to cause his ship to be marked as by this Chapter required, or to keep her so marked, or who allows the ship to be so loaded that when in perfectly smooth salt-water the centre of the disc is submerged, and any person who conceals, removes, alters, defaces or obliterates, or suffers any person under his control to conceal, remove, alter, deface or obliterate, any of the lines or marks prescribed by or under this Chapter, except in the event of the particulars thereby denoted being lawfully altered, or for the purpose of escaping capture by an enemy,

shall be *liable in respect to each offence to a* fine which may extend to one thousand rupees.

[Act VII of 1880, s. 42 (am. by Act XVII of 1891, s. 4).] Cf. 1894, s. 442 (2).

Penalty on master for having misleading marks.

244. The master of any British ship on which any of the marks or lines prescribed by or under this Chapter is inaccurately placed so as to be likely to mislead, who does not forthwith cause such inaccuracy to be corrected, shall be *liable to* fine which may extend to one thousand rupees.

Cf. 1894, s. 443 (3).

Penalty for neglecting to comply with rules as to entry or publication of certificates or other particulars or as to delivery of copies of entries.

245. If any person makes default in complying with any rule made under section 242, clause (*d*), he shall be *liable to* fine which may extend to one thousand rupees.

CHAPTER XXV.

SHIP SURVEYORS.

[Act VII of 1880, s. 72 (am. by Act XVII of 1891, s. 6, and Act XII of 1892).] Cf. 1894, s. 521 (2).

Power to appoint examiners, and make rules as to qualifications, etc., of ship surveyors.

246. The Local Government may appoint competent persons for the purpose of examining the qualifications of persons desirous of practising the profession of a ship surveyor at any port in the territories administered by such Government, and may make rules—

(*a*) for the conduct of such examinations and the qualifications to be required,

(*b*) for the grant of certificates to qualified persons,

(*c*) for the fees to be paid for such examinations and certificates,

(*d*) for holding enquiries into charges of incompetency and misconduct on the part of holders of such certificates, and

(*e*) for the suspension and cancellation of such certificates.

X of 1889.

[Act VII of 1880, s. 73.] Cf. 1894, s. 520.

No person to practise as ship surveyor unless qualified.

247. No person shall, in any port in which there is a person exercising the profession of a ship surveyor and holding a certificate granted under section 246, exercise such profession unless he holds a certificate granted under that section.

[Act VII of 1880, s. 69.]

Provided that nothing in this section shall—

(*a*) prevent any person employed by Lloyd's Register of British and Foreign Shipping or Bureau Veritas from discharging any of the duties of such employment, or

(*b*) apply to any person specially exempted by the Local Government from the operation of this section.

[Act VII of 1880, s. 70.]

Penalty for practising as ship surveyor without certificate.

248. Any person exercising the profession of a ship surveyor in contravention of the provisions of section 247 shall be *liable to* fine which may extend to one thousand rupees, and shall be incapable of maintaining any suit for any fee or reward for anything done by him in such exercise of such profession.

PART V.

WRECKS, CASUALTIES AND INVESTIGATIONS.

CHAPTER XXVI.

RECEIVERS OF WRECK.

Savings.

249. Nothing in this Chapter shall—

(*a*) affect the declaration of the twenty-third day of October, 1889, in Schedule VI, between the Government of the United Kingdom of Great Britain and Ireland and the Government of the French Republic, with reference to the disposal of the proceeds of wrecks on their respective coasts, that declaration having been made applicable to India, or

(*b*) affect section 29 of the Indian Ports Act, 1889, or entitle any person to salvage in respect of any property recovered by creeping or sweeping in contravention of that section.

Definition of "wreck."

250. In this Chapter, "wreck" includes the following when found in the sea or any tidal water or on the shores thereof, that is to say:—

articles which have been cast into the sea and then sink and remain under water;

articles which have been cast or fall into the sea and remain floating on the surface;

articles which are sunk in the sea, but are attached to a floating object in order that they may be found again:

articles which are thrown away or abandoned; and

a ship abandoned without hope or intention of recovery.

[Act VII of 1880, s. 73.] Cf. 1894, s. 566.

Appointment of Receivers.

251. (*1*) The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, appoint such person as it may think fit to receive and take possession of wreck and to perform such duties connected therewith as are hereinafter mentioned, within such local limits as it may direct.

(*2*) Persons so appointed shall be called Receivers of Wreck.

[Act VII of 1880, s. 74 (am. by Act VI of 1891, s. 7), s. 79.] Cf. 1894, s. 518.

Procedure to be observed by person finding wreck.

252. (*1*) Any person finding and taking possession of any wreck within any local limits for which a Receiver of Wreck has been so appointed, or bringing within such limits any wreck which has been found and taken possession of elsewhere, shall, as soon as practicable,—

(*a*) if he be the owner of such wreck, give the Receiver of Wreck notice in writing of the finding thereof and of the marks by which the same is distinguished;

(*b*) if he be not the owner of such wreck, deliver the same to the Receiver of Wreck.

(*2*) *If any person fails, without reasonable cause, to comply with sub-section* (*1*), *he shall be liable to fine which may extend to one thousand rupees, and shall, in addition, if he be not the owner of the wreck*, forfeit all claim to salvage, and pay to the owner of *the* wreck, if *it* is claimed, or, if *it* is unclaimed, to the Government, a penalty not exceeding twice the value of such wreck.

[Act VII of 1880, s. 75.] Cf. 1894, s. 546.

Government or person finding wreck entitled to salvage.

253. (*1*) Whenever any wreck is found by the Receiver of Wreck or has been delivered to him in accordance with the provisions of section 252 by any person, not being the owner thereof, the Government or such other person so delivering such wreck, as the case may be, shall be entitled to receive a reasonable sum for salvage, having regard to all the circumstances of the case.

(*2*) Any dispute arising concerning the amount due under this section *may* be determined by a Magistrate *of the first class, or a Sub-divisional Magistrate*, upon application to him for that purpose by either of the disputing parties.

(3) *In any case in which the amount claimed exceeds one thousand rupees, either party may appeal from the decision of the Magistrate to the Colonial Courts of Admiralty.*

[Act VII of 1880, s. 76.] Cf. 1894, s. 520.

254. The Receiver of Wreck shall, on taking possession of any wreck, publish a *notice* in such manner and at such place as the Local Government may direct in this behalf, containing a description of the same and a statement of the time at which and the place where the same was found.

Notice to be given by Receiver.

[Act VII of 1880, s. 77.] Cf. 1894, ss. 522, 525.

255. If after the publication of such *notice* the wreck is unclaimed, or if the person claiming the same fails to pay the amount due for salvage and for charges incurred by the Receiver of Wreck in respect thereof,

Wreck may in certain cases be sold.

the Receiver of Wreck may sell such wreck by public auction, if of a perishable nature forthwith, and, if not of a perishable nature, at any period not less than six months after such *notice* as aforesaid.

[Act VII of 1880, s. 78.] Cf. 1894, s. 521.

256. On the realisation of the proceeds of such sale, the amount due for salvage and charges as aforesaid, together with the expenses of the sale, shall be deducted therefrom, and the balance shall be paid to the owner of the wreck, or, if no such person appears and claims the same, shall be held in deposit for payment, without interest, to any person thereafter establishing his right to the same:

Proceeds how applied.

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

257. *Penalty for failure to give notice of, or deliver, wreck to the Receiver of Wreck.* [*Incorporated with section 252.*]

CHAPTER XXVII.

INVESTIGATIONS INTO CASUALTIES AND CHARGES AGAINST MASTERS, MATES AND ENGINEERS.

[Act V of 1883, s. 4 (1); Bill of 1867, s. 201; Bill of 1882, s. 136.] 57 & 58 Vict., c. 60.

258. Nothing in this Chapter shall affect the powers conferred by section 472 of the Merchant Shipping Act, 1894, or by section 127 of this Act on Courts mentioned in those sections, respectively.

Saving of powers for removal of master.

[Act V of 1883, s. 6 (am. by Act VI of 1891, s. 9, and Act XII of 1891); Bill of 1867, s. 255; Bill of 1882, s. 137.] Cf. 1894, ss. 425, 426, 464, 465 (2), 729.

259. (1) Whenever any *First Class* Magistrate *or Sub-divisional Magistrate*, or any officer appointed by the Local Government in this behalf *by name or by virtue of his office*, receives credible information that—

Report of casualties to be made to Local Government.

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

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

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

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

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

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

(2) The word "coasts" in sub-section (1) includes the banks of creeks and tidal rivers.

(3) In the cases mentioned in clauses (*a*), (*b*) and (*c*) of sub-section (1), the master, pilot, harbour-master or other person in charge of the ship, or (where two ships are concerned) in charge of each ship, at the time of the loss, abandonment, stranding, damage or casualty, and

in cases under clause (*d*) of sub-section (1), where the master of the ship concerned, or (except in the case of a loss) where the ship concerned proceeds to any place in British India from the place where the loss, abandonment, stranding, damage or casualty has occurred, the master of the ship,

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

(4) In cases under clause (*c*) of sub-section (1), the managing owner of the ship, or, where there is no managing owner, the ship's husband, shall, as soon as conveniently may be, send to some officer appointed by the Local Government as aforesaid notice in writing of the loss.

(5) Any person bound to give notice under this section and wilfully failing to give the same shall be *liable to* fine which may extend to five hundred rupees.

(6) The Magistrate or other officer whose duty it is under sub-section (1) to report to the Local Government such information as is referred to in that sub-section shall have, for the purposes of such report, the following powers (that is to say)—

(*f*) he may go on board any ship to which the provisions of this Chapter apply and may inspect the same or any part thereof or any of the machinery, boats, equipments or articles on board thereof, not unnecessarily detaining or delaying the ship from proceeding on any voyage;

(*g*) he may enter and inspect any premises the entry or inspection of which appears to him to be requisite;

(*h*) he may, by summons under his hand, require the attendance of all such persons as he may think fit to call before him, may examine such persons, and may, by a like summons, require returns in writing to any inquiries which he may think fit to make;

(*i*) he may require and enforce the production of all books, papers or documents which he considers important; and

(*j*) he may administer oaths, or may, instead of requiring or administering an oath, require any person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

[Act V of 1883, s. 7 (am. by Act VI of 1891, s. 10); Bill of 1867, s. 255; Bill of 1882, s. 138.] Cf. 1894, s. 466 (1), (3).

260. (1) If the Local Government to which the report required by section 259 has been made or within whose territories any competent witnesses of any such loss, abandonment, stranding, damage or casualty as is described in clause (*a*), (*b*), (*c*) or (*d*) of sub-section (1) of the same section have arrived or are to be found, or any evidence of such supposed loss as is described in clause (*e*) of the same sub-section can be obtained, is of opinion that a formal investigation into the facts referred to in any of the said clauses is requisite or expedient, the Local Government may appoint a special Court, consisting of not less than two nor more than four persons, and direct the Court to make the investigation, and may fix the place for making the same.

Power for Local Government to appoint special Court of Investigation.

1876, s. 30, para. 1.

(2) One of the members of the Court shall be a Magistrate *of the first class or Sub-divisional Magistrate*, acting in or near the place where the investigation is made; another shall be some person *of nautical skill and knowledge* and the other or others (if any) shall be *persons of nautical, engineering, mercantile or other special skill or knowledge.*

[Act V of 1883, s. 8 (am. by Act VI of 1891, s. 11); Act XVI of 1891; Bill of 1867, s. 195; Bill of 1882, s. 139.]

261. Any Colonial Court of Admiralty in British India, and the principal Court of ordinary criminal jurisdiction at any port in British India where there is no Colonial Court of Admiralty, may, when so directed by the Local Government or by such officer as the Local Government has empowered in this behalf, make the investigation referred to in section 260.

Power for Admiralty and Criminal Courts to hold investigations into casualties when so directed.

[Act V of 1883, s. 9; Bill of 1882, s. 140.] Cf. 1894, s. 471.

262. (1) Any Court making an investigation referred to in section 260 may inquire into any charge of incompetency or misconduct arising in the course of the investigation against any master, mate, engineer *or engine-driver*, as well as into any charge of a wrongful act or default on his part causing any loss, abandonment, stranding, damage or casualty referred to in section 259.

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

(2) *Every formal investigation into a shipping casualty shall be conducted in such manner that, if a charge is made against any person, that person shall have an opportunity of making a defence.*

(3) In every case in which any such charge, whether of incompetency or misconduct, or of a wrongful act or default as aforesaid, arises against any master, mate or engineer in the course of an investigation, the Court shall, before the commencement of the inquiry into the charge, cause to be furnished to him a copy of the report or statement of the case upon which the investigation has been directed.

[Act V of 1883, s 10; Bill of 1867, s. 197; Bill of 1882, s. 141.] Cf. 1894, s. 471.

263. (1) If the Local Government has reason to believe that there are grounds for charging any master, mate or engineer holding a Board of Trade, Colonial or local certificate with incompetency or misconduct, otherwise than in the course of an investigation referred to in section 260, it may send a statement of the case to—

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

(*a*) any Court mentioned in section 261, or

(*b*) the Court of any Presidency Magistrate or Magistrate of the first class,

at or nearest to the place at which it may be convenient for the parties and witnesses to attend, and may direct the Court to make an investigation into the charge, *and shall at the same time* cause the master, mate or engineer so charged to be furnished with a copy of *such* statement.

[Act V of 1888, s. 15; Bill of 1867, s. 198; Bill of 1882, s 142.] Cf. 1894, ss. 466 (11), 471 (c).

264. For the purpose of an investigation under the foregoing provisions of this Chapter into any charge against a master, mate, engineer *or engine-driver*, the Court may summon him to appear and shall give him full opportunity of making a defence, either in person or otherwise.

Person accused to be heard.

[Act V of 1883, s. 13; Bill of 1882, s. 143.] *Cf. 1894, s. 466 (4), (7).*

Assessors.

265. (*1*) When any investigation under the foregoing provisions of this chapter involves, or appears likely to involve, any question as to the suspension or cancellation of the certificate of a master, mate or engineer, the Court making the investigation shall constitute as its assessors, for the purposes of the investigation, two persons having experience in the merchant service: and in every other investigation under the said provisions the Court making it may, if it thinks fit, constitute as its assessors, for the purposes of the investigation, any person conversant with maritime affairs and willing to act as assessor.

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

[Act V of 1883, s. 12; Act XVI of 1891; Bill of 1867, ss. 198, 257; Bill of 1882, s. 143.] *Cf. 1894, s. 466 (10).*

Powers of Court as to evidence and regulation of proceedings.

266. For the purposes of any investigation under the foregoing provisions of this Chapter, the Court making the investigation, so far as relates to compelling the attendance and examination of witnesses and the production of documents and the regulation of the proceedings, shall have—

(*a*) if the Court is a special Court—the same powers as are exerciseable by the principal Court of ordinary criminal jurisdiction for the place at which the investigation is made;

(*b*) if the Court is a Colonial Court of Admiralty, or a principal Court of ordinary criminal jurisdiction, or a Court of a Presidency Magistrate or a Magistrate of the first class—the same powers as are exerciseable by that Court in the exercise of its admiralty or criminal jurisdiction (as the case may be).

[Act V of 1883, s. 14; Bill of 1882, s. 144.]

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

267. (*1*) If any Court making an investigation under the foregoing provisions of this Chapter thinks it necessary for obtaining evidence that any person should be arrested, it may issue a warrant for his arrest, and may, for the purpose of effecting the arrest, authorise any officer (subject, nevertheless, to any general or special instructions from the Local Government) to enter any ship.

(*2*) Any officer so authorised may, for the purpose of enforcing the entry, call to his aid any officers of Police or Customs, or any other persons, and may seize and detain the ship for such time as is reasonably necessary to effect the arrest.

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

[Act V of 1883, s. 15; Bill of 1882, s. 145.]

Power to commit for trial and bind over witnesses.

268. (*1*) Whenever, in the course of any investigation under the foregoing provisions of this Chapter, it appears that any person has committed, within the jurisdiction of any Court in British India, an offence punishable under any law in force in British India, the Court making the investigation may (subject to such rules consistent with this Act as the High Court may, from time to time, make) cause him to be arrested, or commit him or hold him to bail to take his trial before the proper Court; and may bind over any person to give evidence at the trial, and may, for the purposes of this section, exercise all the powers of a Magistrate of the first class or of a Presidency Magistrate.

(*2*) For the purposes of this section the Recorder of Rangoon shall, throughout Lower Burma, be deemed to be the High Court.

[Act V of 1883, s. 17; Bill of 1867, s. 258; Bill of 1882, s. 146.] *Cf. 1894, ss. 466 (6), 470 (3).*

Report by Court to Local Government.

269. (*1*) The Court shall, in the case of every investigation under the foregoing provisions of this Chapter, transmit to the Local Government a full report of the conclusions at which it has arrived, together with the evidence.

(*2*) In cases in which, under the Merchant Shipping Act, 1894, the Court is required to send a report to the Board of Trade, the report shall be sent through the Local Government, and the transmission of the report to the Local Government shall be a sufficient compliance with this section.

57 & 58 Vict. c. 60.

Cf. 1894, s. 475.

Re-hearing.

270. (*1*) *The Local Government may, in any case* where an investigation into a shipping casualty, or into the conduct of a master, mate or engineer, has been held under this Chapter, *order the case to be re-heard either generally or as to any part thereof, and shall do so*—

(*a*) if new and important evidence which could not be produced at the investigation, has been discovered, or

(*b*) if for any other reason there *is*, in its opinion, ground for suspecting *that* a miscarriage of justice *has occurred.*

(*2*) Where a re-hearing is ordered on the ground that new and important evidence as aforesaid has been discovered, the case shall, *if practicable*, be re-heard by the Court by which

it was heard in the first instance; and *in every other event* the case shall be re-heard by the Colonial Court of Admiralty.

(*3*) The provisions of section 262, section 263, and sections 264 to 269 (both inclusive) shall apply in the case of every re-hearing ordered under this section.

Investigations into Explosions on Steam-ships.

[Act VII of 1884, s. 37 (*1*), (*2*).]

Power to investigate causes of explosions on board steam-ships.

271. (*1*) Whenever an explosion occurs on board any steam-ship, whether British or foreign, on or near the coasts of British India, the Local Government may, if it thinks fit, direct that an investigation into the cause of the explosion be made by such person or persons as it may think fit.

(*2*) The person or persons so directed may enter into and upon the steam-ship, with all necessary workmen and labourers, and remove any portion of the steam-ship or of the machinery thereof, for the purpose of the investigation, and shall report to the Local Government what, in his or their opinion, was the cause of the explosion.

PART VI.

CHAPTER XXVIII.

ASSISTANCE TO PASSENGERS ABROAD.

Whereas, by section 368 of the Merchant Shipping Act, 1894, it is enacted that "The Governor General of India in Council may, by any Act passed for the purpose, declare that all or any provisions of this Part of this Act shall apply to the carriage of steerage passengers upon any voyage from any specified port in British India to any other specified port whatsoever," and that the "provisions of any such Act while in force shall have effect without as well as within British India as if enacted by this Act: Provided that any such Act shall be of no effect under this section, unless it be reserved for the signification of Her Majesty's pleasure thereon, or contain a suspending clause providing that the Act shall not come into operation until Her Majesty's pleasure thereon has been publicly signified in British India;"

And whereas it is expedient that the *provisions* hereinafter appearing *should be enacted under the authority aforesaid;*

It is hereby enacted as follows:—

Commencement.

271A. *This Chapter shall not come into operation until Her Majesty's pleasure thereon has been publicly signified by notification in the Gazette of India.*

Repeal.

271B. (*1*) *On and from the commencement of this Chapter, the Indian Sea Passengers Act, 1885, shall be repealed.* XII of 1885.

(*2*) *Any enactment or document referring to the said Act shall be construed to refer to this Chapter.*

[Act XII of 1885, s. 3; Bill of 1885, s. 285.] *Cf. 1894, s. 368.* 57 & 58 Vict. c. 60.

Certain provisions of the *Merchant Shipping Act, 1894*, made applicable to specified voyages from British India.

272. The provisions in sections 273, 274 and 275 and Schedule VII *of this Act* are declared applicable to the carriage of *steerage* passengers, whether in British or foreign ships, upon the following voyages, namely:—

(*a*) voyages from the ports of Calcutta, Madras and Bombay to the British colonies of Mauritius, Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, Natal, St. Kitts, Nevis, Fiji, *British North Borneo and Labuan;*

(*b*) voyages from the ports of Calcutta, Madras and Bombay to the French colonies of Réunion, Martinique, Guadeloupe and its dependencies, and Guiana;

(*c*) voyages from the ports of Calcutta, Madras and Bombay to the Netherlands colony of Dutch Guiana;

(*d*) voyages from the ports of Calcutta, Madras and Bombay to the Danish colony of St. Croix;

(*e*) voyages under Part VII from Calcutta, Madras, Bombay, Karachi, Rangoon and other ports in British India to the Straits Settlements, to the protected

Native States adjoining the Straits Settlements, to Australia, and to ports in the Red Sea, Gulf of Aden or Persian Gulf and on the East Coast of Africa.

[Act XII of 1885, s. 4; Bill of 1867, s. 286.] Cf. 1855 (Passengers), s. 52.

273. If *any steerage* passenger *is either taken off any ship which is carrying passengers on* any such voyage as is specified in section 272 *and is damaged, wrecked, sunk or otherwise destroyed, or if any such passenger is* picked up at sea from any boat, raft or otherwise, it shall be lawful—

Expenses of *rescue and conveyance of wrecked* passengers.

(*a*) *if the port to which such passenger (in this Act referred to as a "wrecked passenger") is in a British possession* of Her Majesty's colonial possessions, for the Governor of *that possession*, or any person authorised by him for the purpose; *and*

(*b*) *if the port is in a* foreign country, for *the British* Consular Officer *there*,

to defray all or any part of the expenses thereby incurred.

[Act XII of 1885, s. 5; Bill of 1867, s. 287.] Cf. *1894*, s. 333.

274. (*1*) If any *steerage* passenger *from* any ship *which is carrying passengers on any such voyage as is specified in section 272 finds himself*, without any neglect or default of his own, *at any port outside the British Islands* other than *the port* for which the ship was originally bound, or at which he, or the *Board of Trade*, or any public officer or other person on his behalf, has contracted that he should land, *it shall be lawful*—

Forwarding of passengers by Governors or Consuls.

(*a*) *if the place is in a British possession*, for the Governor of *that possession*, or any person authorised by *the Governor* for the purpose, *and*

(*b*) *if the place is elsewhere, for the British Consular Officer there*,

to forward the passenger to his intended destination, unless the master of the ship, within forty-eight hours of the arrival of *the* passenger, gives to the Governor or Consular Officer, as the case may be, a written undertaking to forward or *convey* within six weeks thereafter the passenger to his original destination, and forwards or *conveys* him accordingly within that period.

(*2*) A passenger *so* forwarded *by or by the authority of a Governor or a British Consular Officer* shall not be entitled to the return of *his* passage-money, or to any compensation for loss of passage.

[Act XII of 1885, s. 6; Bill of 1867, s. 288.] Cf. *1894*, ss. 334, 360 (*1*).

275. (*1*) All expenses incurred under section 273 or section 274, by or by the authority of a Governor *of a British possession or* Consular Officer, *in respect of a wrecked passenger, or in forwarding of a passenger to his destination*, including the cost of maintaining the passenger until forwarded to *his* destination, and of all necessary bedding, provisions and stores, shall *be a joint and several debt to the Crown* from the owner, charterer and master of the ship *on board of which the passenger had embarked.*

Recovery of expenses incurred in conveying wrecked passengers and forwarding passengers.

(*2*) *In any proceeding for the recovery of that debt* a certificate in the form *set out* in Schedule VII *to this Act*, or as near thereto as circumstances admit, purporting to be under the hand of *a* Governor or Consular Officer, *and stating the circumstances of the case and* the total amount of the expenses, shall be *admissible* in evidence *in the manner provided by the Merchant Shipping Act, 1894*, and shall be sufficient evidence of the amount of the expenses, and *of the fact* that the same were duly incurred; unless the defendant specially pleads and duly proves that the certificate is false *and* fraudulent, or that the expenses were not duly incurred *under this Chapter*:

57 & 58 Vict., c. 60.

(*3*) *The sum* recovered on account of the expenses *shall not exceed* twice the total amount of passage-money *which* the owner, charterer or master of the ship *proves to have been received by him or on his account, or to be due to and recoverable by him or on his account in respect of* the whole number of passengers, *whether cabin or steerage*, who embarked in the ship.

[Act XII of 1885, s. 7.] Cf. *1894*, s. 335.

276. *A* policy of assurance effected in respect of any streerage passage, or of any *steerage* passage or compensation money, by any person by this Chapter made liable, in the events aforesaid, to provide *such* passage or to pay *such* money, or in respect of any other risk under this Chapter, shall *not* be invalid by reason of the nature of the risk or interest sought to be covered by the policy of assurance.

Validity of insurance of passage-money.

PART VII.

NATIVE PASSENGER-SHIPS.

CHAPTER XXIX.

PRELIMINARY.

Application.

277. (*1*) *The application of this Part extends*—

(*a*) to all subjects of Her Majesty within the dominions of Princes and States in India in alliance with Her Majesty;

(*b*) to all native Indian subjects of Her Majesty without and beyond British India; and,

(*c*) subject to the exceptions mentioned in section 5 and in sub-section (*2*) of this section, to ships, whether British or foreign, carrying as passengers more than thirty natives of Asia or Africa.

(*2*) But it does not apply—

(*d*) to any steam-ship not carrying as passengers more than sixty natives of Asia or Africa,

(*e*) to any ship not intended to carry natives of Asia or Africa as passengers to or from any port in British India, or

(*f*) *to any ship to which the provisions of the Inland Steam-vessels Act, 1884, are applicable.*

(*3*) Notwithstanding anything in sub-sections (*1*) and (*2*), the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, declare all or any of the provisions of this Part to apply—

(*g*) to sailing-ships, or any class of sailing-ships, whether British or foreign, carrying as passengers more than fifteen natives of Asia or Africa, or

(*h*) to steam-ships or any class of steam-ships, whether British or foreign, carrying as passengers more than thirty natives of Asia or Africa.

Power to exempt ships.

278. (*1*) The Local Government, with the previous sanction of the Governor General in Council, may, subject to such conditions as it may think fit, exempt any ship or class of ships from any provision of this Part.

(*2*) In imposing a condition under this section the Local Government may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

Definitions.

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

(*1*) "native passenger" means a passenger by a ship who is a native of Asia or Africa of the age of twelve years or upwards and is not on the *articles of* agreement of the ship as one of the crew; [Bill of 1867 s. 267 (*2*).]

but does not include *a first or second class passenger*, a passenger in attendance on a person who is not a native of Asia or Africa, or a child under one year of age;

and, in the computation of native passengers for any of the purposes of this Part, two persons of the age of one year or upwards and under the age of twelve years shall be reckoned as one passenger;

(*2*) "long voyage" means,—

(*a*) any voyage to *or from* Aden from *or to* any other port in British India, whether the ship performing it proceeds to *or from* Aden direct or calls at one or more intermediate ports, or

(*b*) any voyage from or to a port in British India to or from a port in the Red Sea, whether the ship performing it proceeds to such port direct or calls at one or more intermediate ports, or

(*c*) any voyage (not being a voyage referred to in clause (*a*) or clause (*b*)) during which the ship performing it will in ordinary circumstances be one hundred and twenty hours or upwards continuously out of port, or

(*d*) any voyage (not being a voyage referred to in clause (*a*) or clause (*b*)) during which the ship performing it will not in ordinary circumstances be one hundred and twenty hours continuously out of port, but during which the ship calls at one or more intermediate ports and has *any* native passenger on board *continuously* for two hundred and forty hours or upwards;

(*3*) "short voyage" means,—

(*e*) any voyage (not being a voyage referred to in clause (*a*) or clause (*b*), or a shelter-port voyage or an excursion voyage) during which the ship performing it will not in ordinary circumstances be one hundred and twenty hours continuously out of port, and

(*i*) does not call at any intermediate port, or

(*ii*) calls at one or more intermediate ports *but has no* native passengers on board for two hundred and forty hours *continuously*;

(*4*) "shelter-port voyage" means, subject to the provisions of section 280,—

(*f*) in the case of a steam-ship having a certificate of survey, granted under Chapter XXIII or by the Board of Trade or by a British Colonial Government, in force and applicable to the voyage on which the ship is about to proceed or the service on which she is about to be employed—any voyage (not being an excursion voyage) during which the ship is at no time more than eight hours distant from a port of shelter, and

(*g*) in the case of any other ship—any voyage (not being an excursion voyage) during which the ship performing it is at no time more than six hours distant from a port of shelter;

(*5*) "excursion voyage" means, subject to the provisions of section 280, any voyage beginning and ending in a season of fair weather, during which the ship performing it is not out of port before sunrise or after sunset, and during which native passengers are not embarked before sunrise or kept on board after sunset;

(*6*) "voyage", when used without the prefix "long", "short", "shelter-port" or "excursion", means the whole distance between the ship's port or place of departure and her final port or place of arrival; and

(*7*) "Chief Customs-officer" means the chief executive officer of sea-customs in any port or place to which this Part applies.

[Act X of 1887, s. 55; Bill of 1867, s. 276.]

280. (*1*) The Governor General in Council may, by notification in the Gazette of India, declare what shall be deemed to be, for the purposes of this Part, "seasons of fair weather" and "seasons of foul weather."

Power to declare what shall be deemed "seasons of fair weather" and "seasons of foul weather", and to modify or supplement certain definitions in section 279.

(*2*) The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, declare what ports shall, for the purposes of this Part, be deemed to be "ports of shelter."

CHAPTER XXX.

General Provisions as to Voyages.

[Act X of 1887, s. 6; Bill of 1867, s. 263.]

281. (*1*) A ship carrying native passengers shall not depart or proceed on a voyage from, or discharge such passengers at, any port or place in British India other than a port appointed in this behalf by the Local Government.

Ports for departure of ships or discharge or receiving of native passengers.

(*2*) After a ship has departed or proceeded on a voyage from a port so appointed, a person shall not be received on board as a native passenger except at some other port so appointed.

[Act X of 1887, s. 7; Bill of 1867, s. 268.]

282. (*1*) The master, owner or agent of any ship so departing or proceeding shall give notice to an officer appointed in this behalf by the Local Government that the ship is to carry native passengers, and of her destination, and of the proposed time of sailing.

Notice to be given of destination and time of sailing.

(*2*) The notice shall be given not less than twenty-four hours before that time *in the case of a long voyage and not less than six hours in any other case.*

[Act X of 1887, s. 8; Bill of 1867, s. 269]

283. After receiving the notice, the officer aforesaid or any person authorised by him shall be at liberty at all times to enter on the ship and inspect her and her fittings and the provisions and stores in her.

Power to enter on and inspect ship.

[Act X of 1887, ss. 9(1), 10, 11; Bill of 1867, ss. 264, 265 (1), (4).]

284. (*1*) A ship intended to carry native passengers shall not commence a voyage from a port appointed under section 281 unless the master holds a certificate (hereinafter called Certificate A) to the effect mentioned in sub-section (*2*), and, in the case of a ship proceeding on a long voyage *or a short voyage*, a certificate (hereinafter called Certificate B) to the effect mentioned in sub-section (*3*).

Ship not to sail without certificate or certificates.

(*2*) "Certificate A" shall state—

(*a*) that the ship is seaworthy and properly equipped, fitted and ventilated; and

(*b*) in the case of a ship proceeding on a long voyage, the number of native passengers which she is capable of carrying; or

(*c*) in the case of a ship proceeding on a short voyage, a shelter-port voyage or an excursion voyage,—

(*i*) the full number of native passengers which the ship is capable of carrying during a season of fair weather and a season of foul weather, respectively, and on a short voyage, a shelter-port voyage and an excursion voyage, respectively, when fully equipped and fitted in accordance with this Part and the rules thereunder,

(*ii*) the number of native passengers which the ship is capable of carrying on each division of a deck during a season of fair weather and a season of foul weather, respectively, and on a short voyage, a shelter-port voyage and an excursion voyage, respectively, a plan of each such division being given on the certificate and the number of native passengers being stated on the plan, and

(*iii*) if the ship is to carry upper-deck passengers during a season of fair weather, that she is furnished with a double awning or other sufficient protection against the weather *and with substantial bulwarks or rails and netting protected by curtains*; and

(*d*) in the case of a ship referred to in section 291, that she has on board a medical officer licensed in accordance with the rules under this Part.

(*3*) "Certificate B" shall state—

(*e*) the voyage which the ship is to make, and the intermediate ports, if any, at which she is to touch;

(*f*) that she has the proper complement of officers and seamen;

(*g*) that food, fuel, pure water and medical stores and appliances, over and above what is necessary for the crew,

and the other things, if any, prescribed for the ship, have been placed on board, of the quality prescribed, properly packed, and sufficient to supply the native passengers on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the scale for the time being prescribed;

(*h*) that the master holds Certificate A;

(*i*) if the ship is to carry native passengers to any port in the Red Sea, that she is propelled principally by steam; and,

(*k*) such other particulars, if any, as may be prescribed.

285. No officer authorised to grant a port-clearance shall grant the same for a ship carrying native passengers unless the master holds a certificate or certificates granted in accordance with section 284.

Port-clearance not to be granted without certificate or certificates.

[Act X of 1887, s. 12; Bill of 1867, s. 265.]

286. The person by whom Certificate A and Certificate B are to be granted shall be the officer appointed under section 282.

Grant of certificates.

[Act X of 1887, s. 13.]

287. Where the master of a ship produces to that officer a certificate of survey granted under Chapter XXIII or by the Board of Trade or by a British Colonial Government, in force and applicable to the voyage on which the ship is about to proceed or the service on which she is about to be employed, and any of the particulars required by section 284, sub-section (*2*), are certified thereby, the officer may take the certificate as evidence of those particulars, and the same may thereupon be inserted in Certificate A.

Production of certificate of survey containing particulars required for certificate A

[Act X of 1887, s. 14; Bill of 1867, s. 264, 270.]

288. (*1*) After receiving the notice required by section 282, the officer appointed under that section may, if he thinks fit, cause the ship to be surveyed at the expense of the master or owner by competent surveyors, who shall report to him whether the ship is, in their opinion, seaworthy and properly equipped, fitted, ventilated *and lighted* for the voyage which she is to make:

Survey of ship.

Provided that he shall not cause a ship having a certificate of survey mentioned in section 287 to be surveyed unless, by reason of the ship having met with damage or having undergone alterations, or on other reasonable ground, he considers it likely that she may be found unseaworthy or not properly equipped, fitted, ventilated *or lighted* for the voyage.

(*2*) If the officer causes a survey to be made of a ship holding a certificate of survey mentioned in section 287, and the surveyors report that the ship is seaworthy and properly equipped, fitted, ventilated *and lighted* for the voyage, and that there was no reasonable ground why the officer should have thought it likely that she would be found unseaworthy, or not properly equipped, fitted, ventilated *or lighted* for the voyage, the expense of the survey shall be paid by the Local Government.

(*3*) If at the time of making a survey under this section all the prescribed equipments are not on board the ship, the officer granting Certificate A shall note thereon the deficiency and the number of native passengers proportionate to such deficiency; *and the maximum number of passengers to be carried shall be reduced by such number,* until the deficiency has been supplied and the fact endorsed on the certificate by the said officer.

[Act X of 1887, s. 15.]

289. (*1*) The officer authorised to grant a certificate under this Part in respect of a ship shall not grant it unless he is satisfied that she has not on board any cargo likely from its quality, quantity or mode of stowage to prejudice the health or safety of the passengers.

Discretion as to grant of certificate.

(*2*) But save as aforesaid, and subject to the provisions of sub-section (*3*), it shall be in the discretion of the officer to grant or withhold the certificate.

(*3*) In the exercise of that discretion that officer shall be subject to the control of the Local Government, and of any intermediate authority which that Government may appoint in this behalf.

[Act X of 1887, s. 16.]

290. The master or owner shall post up in a conspicuous part of the ship, so as to be visible to persons on board thereof, a copy of the certificate or each of the certificates granted under this Part in respect of the ship, and shall keep the copy or copies so posted up throughout the voyage.

Copy of certificate to be exhibited.

[Act X of 1887, s. 26; Bill of 1867, s. 267 (5).]

291. Every ship carrying more than four hundred native passengers

Certain ships to carry medical officer.

from or to any port on the Coromandel Coast to or from Rangoon, or

from or to Calcutta to or from Rangoon, or

from or to any port in the territories administered by the Governor of Bombay in Council to or from any port not in those territories, *except ports on the western coast of India, or*

from or to Aden *or Perim* to or from any other port in the territories administered by the Governor of Bombay in Council, and

every ship carrying more than one hundred native passengers from or to any port in British India to or from any port in the Red Sea,

shall have on board a medical officer licensed in accordance with the rules under this Part.

[Act X of 1887, ss. 20, 23.]

Report of deaths.

292. (*1*) The master of every ship carrying native passengers shall notify the date and supposed cause of death of every native passenger dying on the voyage.

(*2*) Such notification shall be made at the first port at which the ship calls after the occurrence of any such death, and shall be made,—

(*a*) in the case of a long voyage, to a person lawfully exercising Consular authority on behalf of Her Majesty at such port, or to the Chief Customs-officer thereat, or to the officer (if any) appointed there under section 282, and

(*b*) in the case of a short voyage, a shelter-port voyage or an excursion voyage, to such officer as the Governor General in Council may appoint in this behalf.

Report as to animals carried.

293. The master of every ship carrying native passengers and calling at any intermediate port in British India between the first port of departure and the final port of arrival shall at each such intermediate port report to the officer appointed under section 282 the number of cattle and other live animals on board which may be occupying space measured for native passengers.

CHAPTER XXXI.

SPECIAL PROVISIONS AS TO LONG VOYAGES.

[Act X of 1887, s. 21; Bill of 1867, s. 267 (2).]

Space to be available for native passengers.

294. Every ship carrying native passengers and performing a long voyage shall, subject to the provisions of section 326, contain in the between-decks the spaces hereinafter respectively mentioned for each such passenger:

if the ship is propelled by sails, twelve superficial and seventy-two cubic feet;

if the ship is propelled by steam, or partly by steam and partly by sails, nine superficial and fifty-four cubic feet.

(*2*) *Every such ship shall have reserved for the use of the native passengers the upper-deck (excluding the portion set apart for the first and second class passengers and the airing space for the crew and any space which may be reserved as a hospital for the use of the passengers): Provided that, if any such ship has less than the full number of native passengers which she is authorised to carry, only so much of such upper deck need be reserved for such passengers as is proportionate to the actual number of such passengers carried.*

Illustration.

If a ship can carry twelve hundred native passengers and there are only six hundred on board, half only of the upper deck need be reserved for the use of such passengers.

(*3*) *In every such ship the height between decks and the height of any permanently covered upper deck shall not be less than six feet.*

[Act X of 1887, s. 22.]

Statements concerning passengers.

295. The master of a ship departing or proceeding on a long voyage from any port in British India shall sign two statements, specifying the number and the respective sexes of all the native passengers, and the number of the crew, and shall deliver them to the officer appointed under section 282, who shall thereupon, after having first satisfied himself that the numbers are correct, countersign and return to the master one of the statements.

Ship taking additional passengers at intermediate places.

296. (*1*) In either of the following cases, namely,—

(*a*) if after the ship has departed or proceeded on a long voyage, any additional native passengers are taken on board at a port in British India appointed under section 281 for the embarkation of such passengers, or,

(*b*) if the ship upon her voyage touches or arrives at any such port, having previously received on board additional native passengers at any place beyond British India,

the master shall obtain a new certificate to the effect of Certificate B from the officer appointed at that port under section 282, and shall make additional statements specifying the number and the respective sexes of all the additional native passengers.

(*2*) All the foregoing provisions of this Part with respect to Certificate B and statements concerning native passengers shall be applicable to any certificate granted or statement made under this section.

Alteration of passenger accommodation.

296A. *If after Certificate A has been granted to the master of any ship any alteration is made in the ship which has the effect of changing the number of native passengers which she is capable of carrying, as stated in such certificate in pursuance of clause (c), sub-clause (i) or sub-clause (ii), of section 284,*

the master shall, before the ship proceeds on any voyage from a port appointed under section 281, report the circumstances to the officer appointed at that port under section 282, and such officer shall alter the certificate accordingly.

CHAPTER XXXII.

SPECIAL PROVISIONS WITH REGARD TO PILGRIM SHIPS.

Definitions.

297. *In this Chapter,—*

"pilgrim ship" means a vessel conveying Muhammadan pilgrims from or to any port in British India to or from any port in the Red Sea:

Provided that no vessel carrying passengers other than pilgrims of the lowest class and having on board pilgrims of the lowest class in a less proportion than one pilgrim for every one hundred tons of the gross tonnage of the vessel shall be subject to the provisions of this Chapter.

Explanation.—By "pilgrims of the lowest class" are meant "pilgrims who are steerage passengers:"

"pilgrim" means a Muhammadan passenger going to or returning from the Hedjaz, and, in the computation of pilgrims for any of the purposes of this Chapter, two pilgrims under the age of twelve years shall be reckoned as one pilgrim.

Notice of sailing.

297A. *The notice required by section 282 shall in the case of a pilgrim ship be given at least three days before the proposed time of sailing.*

Deck space and provision of hospital.

297B. (*1*) *The proviso to section 294, sub-section (2), shall not apply to any pilgrim ship.*

(*2*) *In addition to the ordinary passenger space a hospital shall be reserved on every pilgrim ship so as to be able to accommodate five per cent. of the pilgrims embarked allowing thirty-two superficial feet per head.*

[Act X of 1887, s. 25.]

Ships to be propelled principally by steam.

297C. *Every pilgrim* ship shall be propelled principally by steam.

[Act X of 1887, ss. 27, 28.]

Ships to touch at Aden and obtain bill of health.

298. (*1*) *Every pilgrim* ship shall touch at Aden, and shall not leave that port without having obtained from the proper authority a clean bill of health.

(*2*) The authority at Aden empowered to grant the bill of health shall refuse to grant it if the ship has on board a greater number of *pilgrims* than the number allowed for the ship by or under this *Chapter*, and may refuse to grant it if the requirements of any rule under this *Chapter* are not complied with on board the ship.

[Act X of 1887, s. 29.]

Bond.

299. No officer authorised to grant port-clearances shall grant a *port-clearance to any pilgrim ship* unless and until the master, owner or agent of the ship and two sureties resident in British India have executed in favour of the Secretary of State for India in Council a joint and several bond, for the sum of five thousand rupees, conditioned—

(*a*) that the ship shall touch at Aden on the outward voyage and there obtain a clean bill of health, and shall do the same on the homeward voyage if the ship continues to carry more than sixty *pilgrims*, and

(*b*) that the master and medical officer (if any) of the ship shall comply with, on the outward voyage, and also on the homeward voyage if the ship continues to carry more than sixty *pilgrims*, the provisions of this *Chapter* and of such rules relating to *pilgrim* ships as the Governor General in Council may make under this *Chapter*.

[Act X of 1887, s. 30.]

Power to direct medical inspection of passengers.

300. (*1*) *No pilgrim* shall be received on board any *pilgrim* ship unless and until *he* has been inspected, at such time and place, and in such manner, as the Local Government may fix in this behalf, by a medical officer to be appointed by that Government for the purpose.

(*2*) If in the opinion of any officer making inspection under this section any *pilgrim* is suffering from *cholera, choleraic indisposition or any form of suspicious diarrhœa or* any dangerously infectious or contagious disease, he shall prohibit the embarkation of the *pilgrim*.

(*3*) If any such officer has reason to believe that any *pilgrim*, though not suffering from any dangerously infectious or contagious disease, is or has recently been in attendance upon, or otherwise in contact with, any person so suffering, he may prohibit the embarkation of the *pilgrim* for such period as he may think fit.

(*4*) *All articles, which have been contaminated by persons suffering from cholera or choleraic indisposition, or any dangerously infectious or contagious disease, or are suspected of having been so contaminated, shall, before being taken on board a pilgrim ship, be disinfected under the supervision of a medical officer appointed by the Local Government for the purpose, in such manner as the Local Government shall direct.*

300A. *The master of every pilgrim ship shall be required to pay the whole amount of the sanitary taxes at the ports visited.*

Sanitary taxes payable by master.

CHAPTER XXXIIA.

SPECIAL PROVISIONS AS TO SHORT, SHELTER-PORT AND EXCURSION VOYAGES.

[*Act X of 1887, s. 18 (1), (2), (3); Bill of 1867, s. 267 (2).*]

Space to be available for passengers.

301. Every ship carrying native passengers and performing a short voyage, a shelter-port voyage or an excursion voyage shall, subject to the provisions of section 326, have the spaces hereinafter respectively mentioned:—

(1) when performing a short voyage during a season of fair weather,—

whether the ship is propelled by sails, or partly by steam and partly by sails,

for each native passenger, nine superficial and fifty-four cubic feet on any deck;

(2) when performing a short voyage during a season of foul weather,—

if the ship is propelled by sails,—

for each native passenger carried in the between-decks, twelve superficial and seventy-two cubic feet in the between-decks, and four superficial feet of airing space on the upper deck;

if the ship is propelled by steam, or partly by steam and partly by sails,—

for each native passenger, seven superficial and forty-two cubic feet;

(3) when performing a shelter-port voyage during a season of fair weather,—

for each native passenger, seven superficial and forty-two cubic feet on any deck;

(4) when performing a shelter-port voyage during a season of foul weather,—

if the ship is propelled by sails,—

for each native passenger, nine superficial and fifty-four cubic feet;

if the ship is propelled by steam, or partly by steam and partly by sails,—

for each native passenger, seven superficial and forty-two cubic feet;

(5) when performing an excursion voyage,—

for each native passenger, six superficial and thirty-six cubic feet on any deck:

Provided that, in the case of a ship performing a short voyage or a shelter-port voyage during a season of foul weather—

(a) if native passengers are carried in more than one deck below the main or tonnage deck, the ship shall have on each such additional deck fourteen superficial and eighty-four cubic feet of space for each such passenger;

(b) the spaces hereinbefore prescribed for the carriage of native passengers shall be sheltered by a permanent iron or wooden deck-covering and by solid bulwarks; and

(c) there shall be reserved for the use of the native passengers the uppermost deck or decks (excluding the portion set apart for the first and second class passengers and the airing space for the crew, and any space which may be reserved as a hospital for the use of the passengers): Provided that, if any such ship has less than the full number of native passengers which she is authorised to carry, only so much of such upper-deck or decks need be reserved for such passengers as is proportionate to the number of such passengers carried:

Illustration.

If a ship can carry twelve hundred native passengers and there are only six hundred on board, half only of the uppermost deck or decks need be reserved for the use of such passengers;

(d) in every such ship the height between decks and the height of any permanently covered upper deck shall not be less than six feet.

[*Act X of 1887, s. 18 (4).*]

302. A ship performing a short voyage, a shelter-port voyage or an excursion voyage during a season of fair weather shall not carry upper-deck passengers unless she is furnished with substantial bulwarks *or rails and netting protected by curtains* and a double awning or with other sufficient protection against the weather.

Upper-deck passengers.

[*Act X of 1887, s. 11 (c), s. 19; Bill of 1867, s. 273.*]

303. (*1*) The master of every ship proceeding on a short voyage, a shelter-port voyage or an excursion voyage shall be bound—

Food, &c., to be carried, awnings to be spread and statement as to passengers to be furnished.

(*a*) to keep awnings spread over all exposed decks at sea at all times when the weather permits; and

(*b*) to furnish to the officer appointed under section 282 at every port in British India at which the ship touches a statement in a form sanctioned by the Local Government, showing the number of native passengers taken on board at the last port at which the ship touched, the number to be landed at the port at which the statement is furnished and the number to be conveyed to the next port.

(2) The master of every ship proceeding on a short voyage shall be bound—

(*a*) to carry food, fuel, pure water and medical stores, and appliances, over and above what is necessary for the crew, and the other things, if any, prescribed for the ship, of the quality prescribed, properly packed and sufficient to supply the native passengers on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the scale for the time being prescribed;

(*b*) to certify to such officer at each port as aforesaid that the several articles mentioned or referred to in clause (*a*) have been placed on board in accordance with that clause.

CHAPTER XXXIII.

PENALTIES.

[*Act X of 1887, s. 31; Bill of 1867, ss. 263, 277.*]

Penalty for ship unlawfully departing or receiving native passengers on board.

304. If any ship departs or proceeds on a voyage from, or discharges native passengers at, any port or place in British India in contravention of section 281, sub-section (*1*), or section 284, or

if any person is received as a native passenger on board a ship in contravention of section 281, sub-section (*a*), or

if any native passenger is carried on board a ship in contravention of section 288, sub-section (*3*),

the master or owner shall, for every native passenger carried in the ship, or for every native passenger so discharged, received or carried on board, be *liable to* fine which may extend to one hundred rupees, or *to* imprisonment for a term which may extend to one month, or *to* both, and

the ship, if found within two years in any port or place in British India, may be seized and detained by a Chief Customs-officer until the penalties incurred under this Part by her master or owner have been adjudicated, and the payment of the fine imposed on him under this Part, with all costs, has been enforced, under the provisions of this Part:

Provided that the aggregate term of imprisonment awarded under this section shall not exceed one year.

[*Act X of 1887, s. 32; Bill of 1867, s. 278.*]

Penalty for opposing entry on or inspection of ship.

305. If any person impedes or refuses to allow any entry or inspection authorised by or under this Part, he shall be *liable to* fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or *to* both.

[*Act X of 1887, s. 33.*]

Penalty for not exhibiting copy of certificates.

306. If any master or owner without reasonable excuse, the burden of proving which shall lie upon him, fails to comply with the requirements of section 290, with respect to the posting of copies of certificates, he shall be *liable to* fine which may extend to two hundred rupees, or *to* imprisonment for a term which may extend to one month, or *to* both.

[*Act X of 1887, s. 42.*]

Penalty for sailing without medical officer.

307. If any ship referred to in section 291 has not on board a medical officer as required by that section, the master shall be *liable to* fine which may extend to five hundred rupees, or *to* imprisonment for a term which may extend to three months, or *to* both.

[*Act X of 1887, s. 34.*]

Penalty for failing to notify death.

308. If any master without reasonable excuse, the burden of proving which shall lie upon him, fails to notify any death, as required by section 292, he shall be *liable to* fine which may extend to five hundred rupees, or *to* imprisonment for a term which may extend to three months, or *to* both.

Penalty for failing to make a report as to animals carried.

309. If any master fails to make a report, as required by section 293, as to animals carried on board his ship and occupying space measured for native passengers, or wilfully makes any false statement in any such report, he shall be *liable to* fine which may extend to twenty rupees for every animal occupying such space and not duly reported.

[*Act X of 1887, s. 34.*]

Penalty for not complying with requirements as to statements concerning passengers and certain other matters.

310. If any master fails to comply with any of the requirements of section 295, as to statements concerning native passengers, or wilfully makes any false entry or note in or on any such statement, or

without reasonable excuse, the burden of proving which shall lie upon him, fails to obtain any such new certificate, or to make any such statement of the number of additional native passengers, as is mentioned in section 296,

he shall be *liable to* fine which may extend to five hundred rupees, or *to* imprisonment for a term which may extend to three months, or *to* both.

[Act X of 1887, s. 41.]

Penalty for carrying native passengers to or from the Red Sea in ship not propelled by steam.

311. If any ship carrying native passengers from or to any port in British India to or from any port in the Red Sea is not propelled principally by steam as required by section 297C., the master and owner shall each be *liable to* fine which may extend to five hundred rupees, or *to* imprisonment for a term which may extend to three months, or *to* both.

[Act X of 1887, s. 43.]

Penalty for not obtaining bill of health at Aden.

312. If, in the case of a ship to which section 298 applies, the master, without reasonable excuse, the burden of proving which shall lie upon him, fails to touch at Aden, or leaves that port without having obtained a bill of health under that section, he shall be *liable to* fine which may extend to two thousand rupees, or *to* imprisonment for a term which may extend to six months, or *to* both.

[Act X of 1887, s. 44]

Penalty on master or medical officer of certain ships disobeying rules.

313. If, in the case of a ship to which section 298 applies, the master or the medical officer, if any, of the ship, without reasonable excuse, the burden of proving which shall lie upon him, breaks or omits or neglects to obey any rule under this Part applicable to the ship, he shall be *liable to* fine which may extend to five hundred rupees, or *to* imprisonment for a term which may extend to three months, or *to* both.

[Act X of 1887, s. 45.]

Penalty on master receiving passenger in contravention of section 300.

314. If the master of any ship to which a direction under section 300 applies knowingly receives on board the ship any person in contravention of that section, or of any prohibition made thereunder, he shall be *liable to* fine which may extend to five hundred rupees for each person so received, or *to* imprisonment for a term which may extend to three months, or *to* both.

Penalty for contravention of section 303.

315. (*1*) If any master fails to comply with any of the requirements of section 303, *sub-section* (*2*), clause (*a*), as to the carrying of food, fuel, water, medical stores and appliances and other prescribed things, he shall be *liable to* fine which may extend to two hundred rupees.

(*2*) If any master fails to comply with the requirement of section 303, *sub-section* (*1*), clause (*a*), as to the spreading of awnings, he shall be *liable to* fine which may extend to *one* hundred rupees.

(*3*) If any master fails to comply with any of the requirements of section 303, *sub-section* (*1*), clause (*b*), as to furnishing a statement concerning native passengers, or wilfully makes any false entry in any such statement, he shall be *liable to* fine which may extend to two hundred rupees, and no officer authorised to grant a port-clearance for the ship shall grant the same unless and until the master has furnished a statement, or an amended statement, as the case may be, of the nature required by the said clause.

(*4*) If any master fails to give the certificate required by section 303, *sub-section* (*2*), clause (*b*), or wilfully makes any false entry or note in or on any such certificate, he shall be *liable to* fine which may extend to five hundred rupees, or *to* imprisonment for a term which may extend to three months, or *to* both.

Penalty for fraudulent alteration in ship after certificate obtained or given.

316. If any master, after having obtained any of the certificates mentioned in section 284 or section 296, or after having given a certificate under section 303, *sub-section* (*2*), clause (*b*), fraudulently does or suffers to be done anything whereby the certificate becomes inapplicable to the altered state of the ship, her passengers or other matters to which the certificate relates, he shall be *liable to* fine which may extend to two thousand rupees, or *to* imprisonment for a term which may extend to six months, or *to* both.

316A. *If any master fails to make a report as required by section 296A, he shall be liable to fine which may extend to five hundred rupees.*

Penalty for not reporting alterations of passenger accommodation.

317. (*1*) If any master, without reasonable excuse, the burden of proving which shall lie upon him, omits to supply to any native passenger the prescribed allowance of food, fuel and water, he shall be *liable to* fine which may extend to twenty rupees for every passenger who has sustained detriment by the omission.

Penalty for failing to supply native passengers with prescribed provisions.

(*2*) *The whole of any fine imposed on the master of a pilgrim ship under this section shall be paid to the complainant pilgrim or pilgrims who have suffered by the neglect.*

Penalty for having excessive number of native passengers on board.

318. (*1*) If any ship carrying native passengers to or from any port in British India has on board a number of native passengers which is greater than the number allowed for the ship by or under this Part, the owner and master shall, for every native passenger over and above that number, be each *liable to* fine which may extend to twenty rupees, and the master shall further be liable to imprisonment for a term which may extend to one week in respect of each such passenger:

Provided that the aggregate term of imprisonment awarded under this section shall not exceed six months.

(*2*) Any officer authorised in this behalf by the Local Government may cause all native passengers over and above the number allowed by or under this Part to disembark, and may forward them to any port at which they may have contracted to land, and recover the cost of so forwarding them from the master or owner of the ship as if the cost were a fine imposed under this Part; and a certificate under the hand of that officer shall be conclusive proof of the amount of the cost aforesaid.

[Act X of 1887, s. 38.]

Penalty for bringing native passengers from foreign port in excess of authorised number.

319. If any ship carrying native passengers from any port or place beyond British India to any port in British India has on board a number of native passengers greater either than the number allowed for the ship by or under this Part or than the number allowed by the license or certificate, if any, granted in respect of the ship at her port or place of departure, the master and owner shall, for every native passenger in excess of that number, be each *liable to* fine which may extend to twenty rupees.

[Act X of 1887, s. 39; Bill of 1867, s. 281.]

Penalty for landing native passenger at a place other than that at which he has contracted to land.

320. If any master lands any native passenger at any port or place other than the port or place at which the passenger may have contracted to land, unless with his previous consent, or unless the landing is made necessary by perils of the sea or other unavoidable accident, the master shall for every native passenger so landed be *liable to* fine which may extend to two hundred rupees, or *to* imprisonment for a term which may extend to one month, or *to* both.

[Act X of 1887, s. 39; Bill of 1867, s. 282.]

Penalty for making voyage in contravention of contract with passengers.

321. If any ship, otherwise than by reason of perils of the sea or unavoidable *cause or* accident, touches at any port or place in contravention of any express or implied contract or engagement with the native passengers with respect to the voyage which the ship was to make and the time which that voyage was to occupy, whether the contract or engagement was made by public advertisement or otherwise, the master and owner shall each be *liable to* fine which may extend to five hundred rupees, or *to* imprisonment for a term which may extend to three months, or *to* both.

[Act X of 1887, s. 40.]

CHAPTER XXXIV.

SUPPLEMENTAL PROVISIONS.

[Act X of 1887, s. 51; Bill of 1867, s. 274.]

Information to be sent to ports of embarkation and discharge.

322. (*1*) The Chief Customs-officer, or other officer, if any, appointed by the Local Government in this behalf, at any port in British India at which a ship carrying native passengers touches or arrives, shall, with advertence to the provisions of this Part, send any particulars which he may deem important respecting the ship, and the native passengers carried therein, to the officer appointed under section 282 at the port from which the ship commenced her voyage, and to the officer appointed under the said section at any other port in British India where the passengers or any of them embarked or are to be discharged.

(*2*) The Chief Customs-officer, or other officer, if any, appointed by the Local Government in this behalf, at any port in British India at which a ship to which this Part applies touches or arrives, may enter on the ship and inspect her in order to ascertain whether the provisions of this Part as to the number of native passengers and other matters have been complied with.

[Act X of 1887, s. 52; Bill of 1867, s. 275.]

Certain documents to be admissible in evidence.

323. In any proceeding for the adjudication of any penalty incurred under this Part, any document purporting to be a report of such particulars as are referred to in section 322, sub-section (*1*), or a copy of the proceedings of any Court of Justice duly authenticated, and also any like document purporting to be made and signed by any person lawfully exercising consular authority on behalf of Her Majesty in any foreign port, shall be admissible in evidence, if it appears to have been officially transmitted to any officer at or near the place where the proceeding under this Part is had.

[Act X of 1887, s. 37; Bill of 1867, ss. 279, 280.]

[Act X of 1887, s. 53(*1*), (*2*), (*3*).]

324. (*1*) The Governor General in Council may make rules to regulate, in the case of any ship or class of ships, all or any of the following matters:—

Power to make rules.

[Bill of 1867, s. 266.]

(*a*) the scale on which food, fuel and water are to be supplied to native passengers or to any class or classes of native passengers, and the quality of the food, fuel and water;

(*b*) the medical stores and other appliances and fittings to be provided on board for maintaining health, cleanliness and decency;

(*c*) the licensing and appointment of medical officers in cases where they are required by section 291 to be carried;

(*d*) the anchors and cables to be provided on board;

(*e*) the instruments for purposes of navigation to be supplied;

(*f*) the apparatus for ventilation and for the purpose of extinguishing fires on board, and the precautions to be taken to prevent such fires;

(*g*) the provision of boats and other appliances for saving life and of means for making signals of distress, and the supply of lights inextinguishable in water and fitted for attachment to life-buoys:

(*h*) the area to be deducted from the space measured for native passengers when live animals are carried in such space;

(*i*) the functions of the master, medical officer (if any) and other officers of the ship during the voyage;

(*j*) the access of between-decks passengers to the upper deck; and

(*k*) generally, to carry out the purposes of this Part.

(*2*) The Local Government may make rules to regulate, in the case of any ship or class of ships,—

(*l*) the local limits within which, and the time and mode at and in which, native passengers are to be embarked or discharged at any port appointed under section 281 in that behalf; and

(*m*) the time within which the ship or any ship of the class is to depart or proceed on her voyage after commencing to take native passengers on board.

(*3*) In making a rule under this section the authority making it may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

325. If any officer appointed in this behalf by the Local Government is satisfied that a native passenger has brought on board a ship for his own use food of the quality and in the quantity for the time being prescribed, the requirements of this Part respecting the supply of food for native passengers shall not apply so far as regards the supply of food for that passenger.

[Act X 1887, s.

Supply by passengers of their own food.

326. The Governor General in Council may, by notification in the Gazette of India, declare in the case of any ship or class of ships and for all or any voyages the number of superficial and cubic feet of space to be available for native passengers; and the order shall be alternative to, or override, as the Governor General in Council may direct, the provisions of sections 294 and 301 so far as they apply to that ship or class of ships.

[Act X 1887, s.

Power to declare space to be available for native passengers.

327. The Local Government shall appoint such persons as it may think fit to exercise and perform the powers and duties which are conferred and imposed by this Part or may be conferred and imposed thereunder.

[Act X 1887, s. Bill of s. 265.]

Appointment of officers.

328. The penalties to which masters and owners of ships are made liable by this Part shall be enforced only on information laid at the instance of officers appointed to grant certificates under this Part, or, at any port or place where there is no such officer, at the instance of the Chief Customs-officer.

[Act X of 1887, s. Bill of 18 s. 293.]

Authority to institute proceedings for penalties.

PART VIII.

CHAPTER XXXV.

COAST-LIGHT DUES.

Preliminary.

X of s. 3.]

329. In this Chapter, unless there is something repugnant in the subject or context, "voyage" means the whole distance between a ship's place of departure and her final place of arrival; but the return of a ship from any place shall, notwithstanding the terms of any charter-party, be deemed a distinct voyage.

Definition of "voyage."

Levy and Recovery of Dues.

X of ss. 4, 6.] 94, s.

330. For the purpose of establishing and maintaining coast-lights in the eastern part of the Bay of Bengal, a toll, hereinafter called "coast-light dues," shall be paid in respect of every ship, whether British or foreign, of the burden of fifty tons or upwards making any voyage mentioned in Schedule VIII, at the rate of one anna and six pies per ton of burden:

Dues chargeable.

Provided that such ship sails from, or enters during the course of, or at the termination of, such voyage, a port in British India, or takes in, or discharges, cargo off the coast of British India:

Provided further that the Governor General in Council may, by notification in the Gazette of India,—

(*a*) reduce, and again raise to an amount not exceeding one anna and six pies per ton of burden, the rate of coast-light dues payable in respect of all ships or any particular class of ships, or

(*b*) abolish the coast-light dues payable in respect of all ships or any particular class of ships.

331. Coast-light dues chargeable under section 330 shall become due and payable—

[Act IX of 1879, s. 5.]

Dues when payable.

(*a*) in the case of a ship clearing out of a port in British India upon any such voyage as aforesaid—previous to the grant of any port-clearance;

(*b*) in the case of a ship entering a port in British India in the course, or at the termination, of any such voyage as aforesaid—immediately upon her entering such port:

Provided that the said dues shall not be levied more than once on any ship in the course of the same voyage.

332. The Customs-collector shall collect the coast-light dues,

[Act IX of 1879, s. 7.] Cf. 1894, s. 671 (2).

Collection of dues.

and shall grant to the person paying the same a voucher in writing under his hand, setting forth the name of his office, the port at which the coast-light dues are paid, the amount so paid, the name, tonnage and other proper description of the ship in respect of which such payment is made, and the voyage on which she is or has been bound.

333. Within twenty-four hours after the arrival within a port of any ship chargeable with coast-light dues, the master of the ship shall give notice of such arrival to the Customs-collector.

[Act IX of 1879, s. 8.]

Master to report arrival of ship.

334. In order to ascertain the tonnage of any ship chargeable with coast-light dues, the following rules shall be observed:—

[Act IX of 1879, s. 9.]

Ascertainment of tonnage of ship chargeable with dues.

(*1*) (*a*) if the ship is registered in the United Kingdom or in British India or any other British Possession, the Customs-collector may require the owner or master of the ship or any person having possession of her certificate of registry to produce such certificate for inspection.

(*b*) If the owner or master or such person as aforesaid neglects or refuses to produce such certificate, or otherwise to satisfy the Customs-collector as to what is the true tonnage of the ship in respect of which the coast-light dues are payable, he shall be punished with fine which may extend to one hundred rupees, and the Customs-collector may cause the ship to be measured, and the tonnage thereof to be ascertained, according to the mode of measurement for the time being prescribed by or under the Merchant Shipping Act, 1894, for ascertaining the tonnage of British ships; and in such case the owner or master of the ship shall also be liable to pay the expenses of the measurement.

57 & 58 Vict., c. 60.

(*2*) If the ship is not registered in the United Kingdom or in British India or some other British Possession, and the owner or master thereof fails to satisfy the Customs-collector as to what is her true tonnage according to the mode of measurement for the time being prescribed by or under the Merchant Shipping Act, 1894, for ascertaining the tonnage of British ships, the Customs-collector shall cause the ship 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 ship shall be liable to pay the expenses of the measurement.

57 & 58 Vict., c. 60.

(*3*) If the ship is a ship of which the tonnage cannot be ascertained according to the mode of measurement mentioned in clauses (*1*) and (*2*), the tonnage of the ship shall be determined by the Customs-collector on such an estimate as may seem to him to be just.

335. If the master of any ship refuses or neglects to pay to the Customs-collector on demand by him the amount of any dues or expenses payable in respect of the ship under this Chapter, the Customs-collector may distrain or arrest the ship and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount of such dues or expenses is paid;

[Act IX of 1879, s. 10.] Cf. 1894, s. 671 (2).

On refusal to pay dues or expenses, the Collector may distrain and sell.

and in case any part of such dues or expenses, or of the costs of the distress or arrest, or of the keeping of the same, remains unpaid for the space of five days next after any such distress or arrest is so made, the Customs-collector may cause the ship or other thing so distrained or arrested to be sold, and with the proceeds of such sale may satisfy such dues, expenses and costs (including the costs of sale) remaining unpaid, and shall render the surplus (if any) to the master of the ship upon demand.

[Act IX of 1879, s. 11,] Cf. 1894, s. 671 (2).

336. No officer authorised to grant a port-clearance shall grant the same for a ship to which this Chapter applies until her master or some other person has paid, or secured to the satisfaction of such officer, the amount of all dues, expenses and costs with which the ship is chargeable under this Chapter, and of any fine to which any person is liable for anything done by him in contravention of this Chapter.

No port-clearance to be granted until dues, etc., are paid.

[Act IX of 1879, s. 12.]

337. The master of any ship departing from or entering any port in British India upon, or in the course of, or at the termination of any voyage, shall, upon the demand of the Customs-collector, specify upon what voyage she is or has been bound.

Master to specify on demand voyage on which ship is bound.

[Act IX of 1879, s. 13.]

338. If the master of any ship evades, or attempts to evade, the payment of any coast-light dues, expenses or costs payable in respect of the ship under this Chapter, he shall be *liable to* fine which may extend to two hundred rupees.

Penalty for evading payment of dues, etc.

[Act IX of 1879, s. 14.]

339. (*1*) If any dispute arises as to whether any ship is chargeable with any coast-light dues, expenses or costs under this Chapter, or as to the amount of such dues, expenses or costs, such dispute shall, upon application made in that behalf by either of the disputing parties, be heard and determined in the towns of Calcutta, Madras and Bombay by a Presidency Magistrate, and elsewhere by any *Sub-Divisional Magistrate or* Magistrate *of the first class.*

Magistrate to decide disputes.

(*2*) All decisions under this section shall be final.

Statement of Receipts and Expenditure.

[Act IX of 1879, s. 16.] Cf. 1894, s. 675.

340. The Governor General in Council shall publish annually in the Gazette of India, as soon after the first day of April as may be, a statement showing the amount received on account of coast-light dues during the year ending on the thirty-first day of March last preceding, and the amount expended during the same period on the establishment and maintenance of coast-lights in the eastern part of the Bay of Bengal.

Statement of receipts and expenditure to be published.

PART IX.

CHAPTER XXXVI.

MISCELLANEOUS.

341. The following persons shall be deemed to be public servants within the meaning of the Indian Penal Code, namely :—

[Act VII of 1880, s. 5; Act V of s. 6 (4) (a); by Act V 1891, s. 14 (3); Act VII of 1884, 9 (3), 37; Cf. 1894, 696 (2).

Certain persons to be deemed "public servants."

(*a*) every surveyor appointed under section 189,

(*b*) every judge, assessor, officer or surveyor acting under Chapter XXIV,

(*c*) every person appointed under section 259, sub-section (*1*), to report information as to casualties,

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(*d*) every officer authorised under section 267, sub-section (*1*), to enter a ship, and all persons whom he calls to his aid, and

(*e*) every person making an investigation under section 271.

342. Any officer or surveyor appointed under this Act may be suspended or removed by the authority which appointed him.

[Act I of 1859, s. 3; Act VII of 1880, s. 11; s. 39 (am. Act XVII 1891, s. 4); s. 54, s. 8; Act VII of 1884, s. 9 (2).]

Suspension and removal of officers.

343. (*1*) The power to make rules under this Act is subject (except in the case of rules made under section 30 or section 268) to the condition of the rules being made after previous publication in such manner as the Governor General in Council may direct, *and in the case of rules made under section 176 or section 204 the draft shall not be taken into consideration for six months after such publication.*

[Act VII of 1880, s. 23; s. 40 (am. by Act XVII of 1891, s. 4), s. 67, s. 68; Act VII of 1884, s. 42; Act X of 1887, s. (2), (4), and see Act I of 1887, s. 6.]

Provisions with respect to rules.

(*2*) A rule made by a Local Government under this Act shall not take effect until it has been sanctioned by the Governor General in Council and published in the local official Gazette.

(*3*) A rule made by the Governor General in Council under this Act shall not take effect until it has been published in the Gazette of India.

(*4*) The publication in the Gazette of a rule purporting to be made under this Act shall be conclusive proof that the rule has been duly made and sanctioned.

(*5*) Any rule under this Act may be cancelled or varied by the authority by whom it was made.

344. (*1*) No Magistrate shall try any offence against this Act or any rule thereunder unless he is a Presidency Magistrate or a Magistrate whose powers are not less than those of a Magistrate of the first class.

[Act I of 1859, s. 112, 1st paragraph; Act VII of 1884, s. 38; Act X of 1887, ss. 5(7), 46 (*1*).]

Jurisdiction of Magistrates in respect of offences.

X of 1882.

(*2*) Any offence against this Act which is triable in a summary way may be so tried by a Magistrate of the first class, although he has not been specially empowered by the Local Government under section 260 of the Code of Criminal Procedure, 1882.

345. Any person committing an offence against this Act or any rule thereunder shall be triable for the offence in any place in which he may be or which the Local Government may, by notification in the official Gazette, direct in this behalf, or in any other place in which he might be tried under any other law for the time being in force.

[Act VII of 1880, s. 84; Act VII of 1884, s. 39; Act X of 1887, s. 47; Act III of 1867, s. 292; Bill of 1882, s. 98.] Cf. 1894, s. 684.

Place of trial of offences.

346. (*1*) Whenever, in the course of any legal proceeding under this Act instituted at any place in British India before any Court or Magistrate or before any person authorised by law or by consent of parties to receive evidence, the testimony of any witness is required in relation to the subject-matter,

[Act I of 1859, s. 111; Act V of 1883, s. 16; Act X of 1887, s. 50; Bill of 1867, s. 289; Bill of 1882, ss. 145, 154.] Cf. 1894, s. 591.

Deposition of absent witness.

and the defendant or the person accused, as the case may be, after being allowed a reasonable opportunity for so doing, does not produce the witness before the Court or Magistrate,

any deposition previously made by the witness in relation to the same subject-matter before any Court, Justice or Magistrate in Her Majesty's dominions (including all parts of British India other than those subject to the same Local Government as the place where the proceeding is instituted), or before any British Consular officer elsewhere, shall be admissible in evidence—

(*a*) if the deposition is authenticated by the signature of the presiding officer of the Court, or of the Justice, Magistrate or Consular officer before whom it was made, and

(*b*) if the defendant or the person accused had an opportunity, by himself or his agent, of cross-examining the witness, and

(*c*) if the proceeding be criminal, on proof that the deposition was made in the presence of the person accused :

Provided that, when such cross-examination has taken place, it shall be recorded as part of the deposition.

(*2*) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition; and a certificate, by such person that the defendant or the person accused had an opportunity of cross-examining the witness, and that the deposition, if made in a criminal proceeding, was made in the presence of the person accused, shall, unless the contrary be proved, be sufficient evidence that he had that opportunity and that it was so made.

347. When an order for the payment of any wages or other money is made by a Superintendent of a Mercantile Marine Office under section 87 or by a Magistrate under section 89, and the money is not paid at the time or in the manner directed, the sum mentioned in the order, with such further sum as may be thereby awarded for costs, shall be levied by distress and sale of the moveable property of the person directed to pay the same, under a warrant to be issued for that purpose by a Magistrate.

[Act I of 1859, ss. 44, 56; Bill of 1867, ss. 155, 168; Bill of 1882, ss. 55, 68.]

Levy of wages, &c., by distress of moveable property.

348. Where any Court or Magistrate has power to make an order under this Act directing payment to be made of any seaman's wages, fine, or other sum of money, then, if the person so directed to pay the same is the master or owner of a ship, and the same is not paid at the time or in the manner directed by the order,

[Act I of 1859, s. 113; Act VII of 1884, s. 40; Act X of 1887, s. 46 (2); Bill of 1867, s. 291; Bill of 1882, s. 155.] Cf. 1894, s. 693.

Levy of wages, fines, &c., by distress of ship.

the Court or Magistrate may, in addition to any other power it or he may have for the purpose of compelling payment, by warrant direct the amount remaining unpaid to be levied by distress and sale of the ship, and the tackle, apparel and furniture thereof.

349. A Magistrate imposing a fine under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any detriment which he may have sustained by the act or default in respect of which the fine is imposed, or in or towards payment of the expenses of the prosecution.

[Act X of 1887, s. 49; Bill of 1867, s. 264.] Cf. 1894, s. 699 (1).

Application of fines.

PART X.

INLAND STEAM-SHIPS.

[*Omitted.*]

SCHEDULE I.

ENACTMENTS REPEALED.

1	2	3
Number and year.	Subject or title.	Extent of repeal.
PART A.		
(See section 2.)		
Acts of the Governor General in Council		
XIII of 1856	Bombay Town Police	Section 54.
I of 1859	Merchant Seamen	The whole, so far as it has not been repealed.
IX of 1874	European Vagrancy Act, 1874.	In section 31, the words "and whenever a sailor of European extraction not being a British subject is discharged from his ship in any British Indian port," the words "or discharge from his ship," and the words "or, in the case of a sailor, the person who is at the date of the discharge the owner or agent of the ship from which the sailor has been so discharged."
XV of 1874	Laws Local Extent Act, 1874.	The first schedule so far as it relates to Act I of 1859.
XIII of 1876	Indian Merchant Seamen's Act, 1876.	The whole.
IX of 1879	Burma Coast-lights Act, 1879.	The whole, so far as it has not been repealed.
VII of 1880	Indian Merchant Shipping Act, 1880.	The whole, so far as it has not been repealed.
V of 1883	Indian Merchant Shipping Act, 1883.	The whole, except section 38.
VII of 1884	Indian Steam-ships Act, 1884.	The whole, so far as it has not been repealed.
X of 1887	Native Passenger Ships Act, 1887.	The whole.
III of 1890	An Act to amend Acts VI and VII of 1884.	Sections 15 to 20, so far as they have not been repealed.
VI of 1891	An Act to amend certain Acts respecting Indian Merchant Shipping.	The whole, so far as it has not been repealed.
XII of 1891	Repealing and Amending Act, 1891.	The second schedule, so far as it relates to Acts I of 1859, XIII of 1876, VII of 1880 *and* V of 1883, and *Act* III of 1890, *section 17*.
XVII of 1891	Deck and Load Lines Act, 1891.	The whole.
Acts of the Governor of Fort St. George in Council.		
III of 1888	Madras City Police Act, 1888.	Section 70.

SCHEDULE I—*continued.*

ENACTMENTS REPEALED—*continued.*

1	2	3
Number and year.	Subject or title.	Extent of repeal.
Act of the Governor of Bombay in Council.		
II of 1864	An Act to provide for the periodical survey of steam-vessels in the ports, harbours, rivers or waters of the Presidency of Bombay.	Section 15.
Act of the Lieutenant-Governor of Bengal in Council.		
IV of 1866	Calcutta Police Act, 1886.	Section 42.
PART B.		
(See section 7.)		
Acts of the Governor General in Council.		
XIX of 1838	Coasting-vessels (Bombay).	The whole, so far as it has not been repealed.
X of 1841	Registration of Ships	In the title, the words "belonging to ports within the territories under the Government of the East India Company or" and the words "under a proclamation of the Governor General of India in Council made." In the preamble, the words from "that it shall be lawful" to "the same statute" (both inclusive), the words "be deemed British ships, or," the words "under such proclamation as aforesaid" and the words and figures from "no ship or vessel shall be deemed a British ship under such proclamation as aforesaid" to the end. Sections 2 to 12 (both inclusive) and 14 to 23 (both inclusive), so far as they have not been repealed. In section 25, the words "certificate or" and the words "registering or." Section 26. In section 27 (inserted by Act VII of 1891, section 9), the words "Local Governments of India" and "Government of the Presidency." The proclamation appended to the Act. The schedule.
XI of 1850	An Act to amend Act X of 1841.	In section 3, the words and figures "owned by British subjects entitled to registry under Act X of 1841, or," the words "be registered and," and the words "and the tonnage may be marked." Section 4.
XV of 1874	Laws Local Extent Act, 1874.	The third schedule, so far as it relates to Act XIX of 1838.
V of 1883	Indian Merchant Shipping Act, 1883.	Section 38.
VII of 1891	An Act to amend Act X of 1841.	Sections 2 to 7 (both inclusive), so far as they have not been repealed.
XII of 1891	Repealing and amending Act, 1891.	The second schedule, so far as it relates to Act VII of 1891.

(Schedule III.—Maximum Fees for Purposes connected with the Registry of British Ships.)

SCHEDULE II.

CERTIFICATES GRANTED UNDER ACTS REPEALED BY THE INLAND STEAM-VESSELS ACT, 1884, HOW TO BE REGARDED UNDER THE INDIAN MERCHANT SHIPPING ACT, 189 .

[*Omitted, the provisions having been transferred to section 2, sub-section (3), of the Bill.*]

SCHEDULE III.

MAXIMUM FEES FOR PURPOSES CONNECTED WITH THE REGISTRY OF BRITISH SHIPS.

[*Act XI of 1850, s. 4.*]

Cf. 1894, ss. 64 (1), 77 (2), 210 (3), Sch. III, Sch. VI, cls. (6), (7), (8).

(See section 13, sub-section (4).)

1. For measurement of tonnage of British ships.

	Rs.
For a ship *under 50 tons register tonnage*	10
„ „ *from* 50 to 100 *tons register tonnage*	15
„ „ „ 100 to 200 „	20
„ „ „ 200 to 500 „	30
„ „ „ 500 to 800 „	40
„ „ „ 800 to 1,200 „	50
„ „ „ 1,200 to 2,000 „	60
„ „ „ 2,000 to 3,000 „	70
„ „ „ 3,000 to 4,000 „	80
„ „ „ 4,000 to 5,000 „	90
„ „ „ 5,000 *tons* and upwards *register tonnage.*	100

1(a). For altering the name of the ship in the register book in pursuance of section 47, sub section (4) or sub-section (5), of the Merchant Shipping Act, 1894, as amended by section 12 of this Act—

57 & 58 Vict., c. 60.

Half the fee which would be payable under clause 1 of this Schedule.

2. For inspection of places in British ships which are occupied by seamen or apprentices engaged under this Act, and appropriated to their use.

For each visit to the ship . Rs. 5

Provided as follows :—

(*a*) the aggregate amount of the fees for any such inspection shall not exceed ten rupees, whatever be the number of separate visits ;

(*b*) when the accommodation is inspected at the same time with the measurement of the tonnage, no separate fee shall be charged for such inspection.

	Rs.	A.
3. For inspection of a register-book	0	8
4. For re-measurement of a British ship *in pursuance of section 77, sub-section (2), of the Merchant Shipping Act, 1894.*		
For each transverse section .	5	0

57 & 58 Vict., c. 60.

(Schedule IV.—Table A.—Maximum Fees payable upon Engagements and Discharges of Seamen effected before a Superintendent of a Mercantile Marine Office —Table B.—Maximum Sums which may be deducted from Wages of Seamen by way of partial Repayment of the foregoing Fees. Schedule IVA.—Maximum Fees for Inspection of Lights and Fog Signals. Schedule V.—Rates of Fees payable in respect of Survey of Steam-ships. Schedule VI.—Declaration between the Government of the United Kingdom of Great Britain and Ireland and the Government of the French Republic, with reference to the disposal of the proceeds of Wrecks on their respective Coasts.)

SCHEDULE IV.

(See section 22.)

TABLE A.

[Act I of 1859, Table A ; Bill of 1867, Sch. II, Table A ; Bill of 1882, Sch. II, Table A.]

MAXIMUM FEES PAYABLE UPON ENGAGEMENTS AND DISCHARGES OF SEAMEN EFFECTED BEFORE A SUPERINTENDENT OF A MERCANTILE MARINE OFFICE.

(*1*) Engagement or discharge of crews—

	Rs.	A.
For ships *under 100 tons register tonnage* .	3	0
„ „ *from* 100 to 200 *tons register tonnage*	7	0
„ „ „ 200 to 300 „ „	10	0
„ „ „ 300 to 400 „ „	12	8
„ „ „ 400 to 500 „ „	15	0
„ „ „ 500 to 600 „ „	17	8
„ „ „ 600 to 700 „ „	20	0
„ „ „ 700 to 800 „ „	22	8
„ „ „ 800 to 900 „ „	25	0
„ „ „ 900 to 1,000 „ „	27	8
„ „ „ 1,000 *tons* and upwards *register tonnage* . .	30	0

and so on for ships of larger tonnage, adding for every one hundred tons above one thousand two rupees and eight annas.

(*2*) Engagement or discharge of seamen separately—

One rupee for each seaman.

TABLE B.

[Act I of 1859, Table B ; Bill of 1867, Sch. II., Table B Bill of 1882, Sch. II, Table B.]

MAXIMUM SUMS WHICH MAY BE DEDUCTED FROM WAGES OF SEAMEN BY WAY OF PARTIAL REPAYMENT OF THE FOREGOING FEES.

(*1*) In respect of engagements and discharges of crews—

Upon each engagement and each discharge—

	Rs.	A.
From wages of any mate, purser, engineer, surgeon, carpenter or steward .	0	12
From wages of any other seaman .	0	8

(*1*) In respect of engagements and discharges of seamen separately—

Upon each engagement and each discharge	0	3

SCHEDULE IVA.

MAXIMUM FEES FOR INSPECTION OF LIGHTS AND FOG SIGNALS.

(See section 183 A.)

For each visit made to a ship on the application of the owner, and for each visit made where the lights or fittings are found defective . . . . . Rs. 5.

Provided that the aggregate amount of fees for any such inspection shall not exceed ten rupees, whatever may be the number of separate visits.

SCHEDULE V.

(See section 191.)

RATES OF FEES PAYABLE IN RESPECT OF SURVEY OF STEAM-SHIPS.

[Act VII of 1854, Sch. (am. by Act III of 1890, s. 22.)] Cf. 1894, Sch. 9.

	Tons.	Rs.
For steam-ships of less than .	200	40
„ „ „ 200 tons and up to	350	50
„ „ „ 350 „ „ „	700	60
„ „ „ 700 „ „ „	1,000	80
„ „ „ 1,000 „ „ „	1,500	100
„ „ „ 1,500 „ and upwards		120

SCHEDULE VI.

DECLARATION BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND IRELAND AND THE GOVERNMENT OF THE FRENCH REPUBLIC, WITH REFERENCE TO THE DISPOSAL OF THE PROCEEDS OF WRECKS ON THEIR RESPECTIVE COASTS.

[Act VII of 1880, Sch. (added by Act VI of 1891, s. 8.)]

(See section 249.)

The Government of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and the Government of the French Republic, desiring to regulate by a new Agreement questions relative to the disposal of the proceeds of wrecks on the coasts of the two States, have agreed to replace the Declaration signed at London on the 16th June, 1879, by the following arrangements :—

ARTICLE I.

When any ship belonging to the subjects of one of the two Contracting States is wrecked or stranded on the coast of the other, the competent local authorities shall, with as little delay as possible, bring the fact to the knowledge of the Consul General, Consul, Vice-Consul or Consular Agent nearest to the spot where the wreck or stranding has taken place.

ARTICLE II.

All operations relative to the salvage of British ships which may be wrecked or stranded on the coasts of France shall be directed by the Consuls General, Consuls, Vice-Consuls or Consular Agents of Great Britain, and reciprocally

the French Consuls General, Consuls, Vice-Consuls and Consular Agents shall direct all operations relative to the salvage of ships of their nation wrecked or stranded on the coasts of Great Britain.

ARTICLE III.

If the owners of the ship and cargo, or their duly authorised representatives, shall be present and shall claim it, the Consuls General, Consuls, Vice-Consuls and Consular Agents shall hand over to them the conduct of the salvage operations after requiring the deposit of the ship's papers, as well as the reimbursement of the expenses already defrayed, and a sufficient guarantee for those incurred before the operations were handed over, and which may not have been already settled.

ARTICLE IV.

The intervention of the local authorities shall only take place in the two countries for the purpose of assisting the Consular authority, of maintaining order, of securing the interests of the salvors if they are strangers to the ship-wrecked crews, and of assuring the due execution of the arrangements to be carried out for the entry and departure of the merchandise saved.

In the absence, and until the arrival, of the Consuls General, Consuls, Vice-Consuls or Consular Agents, the local authorities shall, moreover, take all necessary measures for the protection of the persons and for the preservation of the articles which shall have been saved from the wreck.

This intervention shall not give rise to any charges, with the exception of those which the salvage operations and the protection of the articles saved shall have rendered necessary, and those to which national ships would, under similar circumstances, be liable. These charges shall be paid according to the circumstances of the case, either by the Agents of the Consular service, or by their owners or their proxies.

In case absence, sickness or any other cause should prevent the Agents of the Consular service from seeing to the operations and the management of the salvage, the local authorities who may be charged with the operations and management in question shall be bound to remit to the aforesaid Agents the ship's papers and the net proceeds of the ship and the cargo.

ARTICLE V.

The merchandise and articles saved shall not be liable to any customs-duties, unless they are intended for home consumption, in which case they shall pay the same duties as they would have had to pay if they had been imported in national vessels.

ARTICLE VI.

The stipulations of the present Declaration shall be applicable to all the Colonies and foreign possessions of Her Britannic Majesty, excepting to those hereinafter named, that is to say, except to—

India.	New South Wales.
The Dominion of Canada.	Victoria.
Newfoundland.	Queensland.
The Cape.	Tasmania.
Natal.	South Australia.
	Western Australia.

New Zealand.

Provided always that the stipulations of the present Declaration shall be made applicable to any of the above-named Colonies or foreign possessions on whose behalf notice to that effect shall have been given by Her Britannic Majesty's Representative to the French Republic within one year from the date of the signature of the present Declaration.

The stipulations of the present Declaration shall be applicable to all the Colonies and foreign possessions of France.

ARTICLE VII.

The present Declaration shall come into operation three months after the date of its signature, and shall remain in force until the expiration of one year from the day on which either party may give notice of its intention to terminate it.

In witness whereof, the undersigned plenipotentiaries, His Excellency the Earl of Lytton, Ambassador of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and His Excellency M. Eugene Spuller, Minister for Foreign Affairs, have signed the present Declaration, and have affixed thereto their seals.

Done at Paris, this twenty-third day of October, 1889.

(LS.) LYTTON.
(LS.) E. SPULLER.

SCHEDULE VII.

[Act XII of 1835, Sch.] Cf. 1894, Sch. 14, Form III.

FORM OF GOVERNOR'S OR CONSUL *OR OFFICER'S* CERTIFICATE OF EXPENDITURE IN THE CASE OF PASSENGERS WRECKED *OR FORWARDED.*

(*See section 275.*)

I hereby certify that acting under, and in conformity with, the provisions of Part VI of the Indian Merchant Shipping Act, 189 , I have defrayed the expenses incurred in rescuing, maintaining, supplying with necessary bedding, provisions and stores, (1) and in forwarding to their destination *steerage* passengers who were proceeding from to,

in the ship

which was wrecked at sea, &c. (2)

And I further certify, for the purposes of *Part VI* of the said Act, that the total amount of such expenses is , and that such expenses were duly incurred by me under Part VI of the said Act.

Given under my hand this day of 189 .

{*Governor of, &c.* (or as the case may be)
{*British Consul or Officer at* .

(1) If more passengers were rescued than forwarded, or if bedding, &c. was not supplied, alter the certificate to suit the facts of the case.

(2) State generally the nature of the disaster and where it occurred. But if the passengers were only left behind without any default of their own, state the fact accordingly.

SCHEDULE VIII.

VOYAGES IN RESPECT OF WHICH COAST-LIGHT DUES ARE PAYABLE.

(*See section 330.*)

[Act IX of 1879, Sch.]

1. A voyage to or from Chittagong or any place west of the longitude of Chittagong—

(*a*) from or to any port in Burma; or

(*b*) from or to any port in the Andaman and Nicobar Islands or any place east of the longitude of Mergui, by a course passing between the northern extremity of the Andaman Islands and the coast of Burma.

2. A voyage to or from any port in Burma—

from or to any other port in Burma,

except voyages between Maulmain and Tavoy, between Maulmain and Mergui, or between Tavoy and Mergui.

3. A voyage to or from Rangoon or any port in Burma west of the longitude of Rangoon—

from or to any place east of the longitude of Mergui.

4. A voyage to or from any port in Burma, other than Tavoy and Mergui,—

from or to any port in the Andaman and Nicobar Islands.

J. M. MACPHERSON,

Offg. Secretary to the Government of India.

SCHEDULE E (SECTION 104).

DISTRAINT WARRANT.

To

(*Here insert the name of the officer charged with the execution of the Warrant.*)

Whereas of has not paid or shown sufficient cause for the non-payment of the sum of rupees due for the taxes mentioned in the margin for the 18 , although the said sum has been duly demanded from the said and *fifteen* (*or* "*three*", *as the case may be*) days have elapsed since *such demand was made.* This is to command you to distrain the goods and chattels of the said (*or, as the case may be, any goods and chattels found on the premises referred to*) to the amount of the said sum of rupees, together with for warrant-fee and *distraint-fee*, making together *a sum of* , and such further sum as may be sufficient to defray the charges of taking, keeping and selling such *distraint;* and if, within seven days next after such *distraint*, the *amount due on account of the said taxes and fees* shall not be paid, together with such further sum as may be sufficient to defray the charges of taking and keeping such *distraint*, to sell the said goods and chattels; and having paid and deducted out of the proceeds of the sale the *amount due on account of the said taxes and fees* rupees and the charges of taking, keeping and selling such *distraint*, to return the surplus, if any, on demand, to the person whom you *found* in possession of the said goods and chattels. If sufficient *distraint* cannot be found of the goods and chattels of the said you are to certify the same to me together with this Warrant.

(L.S.)

Date

(Signature or Stamp of the Chairman of the Municipal Council.)

SCHEDULE F (SECTION 105).

FORM OF INVENTORY AND NOTICE.

(*State particulars of goods seized.*)

Take notice that I have this day seized the goods and chattels specified in the above inventory for the sum of rupees due for the taxes mentioned in the margin for the 18 ; and that, unless you pay into the office of the Municipal Council of the amount due, together with the *warrant-fee, the distraint-fee and the cost of taking and keeping the goods and chattels,* within seven days from the day of the date of this notice, the goods and chattels will be sold on the day of 18 , at the Municipal Office or at such other place as the Chairman may direct; *and that the goods and chattels may be sold at any previous date, if they are liable to speedy and natural decay.*

(Signature of the officer executing the Warrant of Distress.)

Date

MADRAS ACT No. I OF 1884,* AS IT WILL STAND IF AMENDED AS PROPOSED BY THE SELECT COMMITTEE.

[* *Received the assent of the Governor on the 7th May and of the Governor-General on the 2nd July 1884.*]

The Madras District Municipalities Act.

WHEREAS it is expedient to make better provision for the organization and administration of District Municipalities in the Presidency of Fort St. George, for the conservancy and improvement thereof, for the diffusion of education therein, and for other objects of public utility calculated to promote the health, comfort and convenience of the inhabitants of the said Municipalities; It is hereby enacted as follows :—

Preamble.

CHAPTER I.

PRELIMINARY.

Short title.

1. (1) This Act may be called "The Madras District Municipalities Act, 1884."

Local extent.

(2) It extends to the territories for the time being administered by the Governor in Council of Fort St. George and situated beyond the limits of the City of Madras as defined by the said Governor in Council under the City of Madras Municipal Act, *1884*, or other law in force for the time being.

2. (*Repeal*) *Repealed.*

Interpretation clause.

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

"Building." (i) "Building" *includes walls, and, also, houses, huts, sheds,* roofed *enclosures and constructions appurtenant thereto,* whether used for the purpose of human habitation or otherwise.

"Company." (ii) "*Company*" *means a company registered under the Indian Companies Act, 1882, or under the (English) Companies Acts, 1862 to 1890, or incorporated by an Act of Parliament or of the Governor-General in Council, or by Royal Charter or Letters Patent.*

"Gender." (iii) Words importing the masculine gender shall be taken to include females.

"Guardian." (iv) "Guardian" means any person to whom the care, nurture or custody of any child falls by law or by natural right or recognised usage, or who has accepted or assumed the care, nurture or custody of any child, or to whom the care or custody of any child has been entrusted by any lawful authority.

"Hack-stable." (v) "Hack-stable" means any place where a horse is ordinarily kept for hire.

"Horse." (vi) "Horse" includes pony and mule.

"Inhabitant." (vii) "Inhabitant" means any person who shall have been ordinarily residing in any Municipality for a period of six months or upwards.

"Inoculation." (viii) "Inoculation" means any operation performed with the object of producing the disease of small-pox by means of variolous matter.

"Latrine." (ix) "Latrine" includes privy.

"Magistrate." (x) "Magistrate" means a Magistrate appointed under *the Code of Criminal Procedure, 1882.*

"Market." (xi) "Market" means any place which is a market at the passing of this Act, or which may *have been declared under Section 193-A* to be a market.

"Public market." (xii) "Public market" means any market *belonging to the Municipal Council or* constructed, repaired or maintained out of the Municipal fund.

"Private market." (xiii) "*Private market*" *means any other market.*

"Municipality." (xiv) "Municipality" means any town, village, hamlet, suburb, bazaar, station or other local area, or any number of the same, which may be declared to be a Municipality in the manner hereinafter provided.

"The Municipal Council." (xv) "The Municipal Council" means the body of persons constituted under this Act for each Municipality.

"Notice." (xvi) "Notice" means a written, printed or lithographed notice.

"Nuisance." (xvii) "Nuisance" means any act, omission or thing causing or likely to cause *any common* injury, annoyance, offence, harm, danger or damage to the sense of sight, smell or hearing *of*, or which is, or is likely to be, dangerous or injurious to *the* health or property *of, the public or the people in general who dwell or occupy property in the vicinity or persons who may have occasion to use any public right.*

"Number." (xviii) Words in the singular shall include the plural and *vice versâ.*

"Owner." (xix) "Owner" includes the person for the time being receiving or entitled to receive the rent or profits of the property or in charge of the animal or thing in connection with which the word is used, whether on his own account or as agent or trustee for another person.

(xx) "*Palanquin*" *includes longous, manchils and chairs carried by men by means of poles.*

"Palanquin."

(xxi) "Parent" means the father of a legitimate child and the mother of an illegitimate child.

"Parent."

(xxii) "Person" shall include any company or association or body of individuals, whether incorporated or not.

"Person."

(xxiii) "*Relatives*" *means, with reference to any individual, his lineal ancestors and descendants, fathers-in-law, mothers-in-law, sons-in-law, daughters-in-law, brothers, sisters, brothers-in-law, sisters-in-law, uncles, aunts, nephews, nieces and first cousins.*

"Relatives."

(xxiv) "Salary" means pay and acting pay, or payment by way of commission, but not allowances for house-rent, carriage hire or travelling expenses.

"Salary."

(xxv) "*Scavenger*" *means a person employed in collecting or removing night-soil, in cleansing drains or slaughter-houses or in driving carts used for the removal of night-soil.*

"Scavenger."

(xxvi) "Schedule" means a schedule to this Act. The schedules shall be read as part of this Act.

"Schedule."

(xxvii) "Section" means a section of this Act.

"Section."

(xxviii) "Street" includes any road, street, square, court, alley or passage, whether a thoroughfare or not, over which the public has a right of way, together with *the drains on either side and with* the land, whether covered or not by any pavement, verandah or other erection, which *lies on either side of the roadway up to the boundaries of the adjacent property, whether that property be private property or property reserved by Government for other purposes*; and also *includes* the roadway over any public bridge or causeway.

"Street."

(xxix) "Public street" means any street which *is now vested in the Municipal Council, or which may hereafter be made at the cost of the Municipal Fund, or* which may hereafter be declared *under Section 163* to be a public street.

"Public street."

(xxx) "Unprotected child" means a child who has not been protected from small-pox by having had that disease either naturally or by inoculation or by having been successfully vaccinated, and who has not been certified in the manner hereinafter provided to be insusceptible of vaccination.

"Unprotected child."

(xxxi) "Vaccinator" means a public or private vaccinator.

"Vaccinator."

(xxxii) "Public vaccinator" means any vaccinator employed under this Act by a Municipal Council.

"Public Vaccinator."

(xxxiii) "Private vaccinator" means any person licensed by the Governor in Council to perform the operation of vaccination.

"Private Vaccinator."

(xxxiv) "*Water-course*" *includes any river, stream or channel, whether natural or artificial.*

"Water-course."

(xxxv) "*Public water-courses, springs, wells and tanks*" *include those used by the public to such an extent as to give it a prescriptive right to such use.*

"Public water-courses, &c."

(xxxvi) "Year" means the year beginning on the first day of April, or such other date as may hereafter be fixed by the Governor in Council by Notification.

"Year."

4. (1) For the purposes of this Act the Governor in Council may, by Notification, from time to time, declare any town, village, hamlet, suburb, bazaar, station or other local area, or any number of the same, to be a Municipality.

Extension of Act.

(2) The Governor in Council may, *by an order in writing accompanied by a statement of his reasons for making the same,* in like manner *modify* such declaration *or* cancel *it* and dissolve the Municipal Council and pass such orders as he may deem fit as to the disposal of the property theretofore vested in such Municipal Council.

Withdrawal of Act and modification of Notifications.

5. This Act shall come into force in any Municipality on such date as may be specified in the Notification mentioned in Section 4, sub-section (1).

Commencement of Act.

6. (*Effects of Municipal Council coming into existence in any town as defined in Act III of 1871*) *Repealed.*

7. (*Reference in prior Acts, &c.*) *Repealed.*

CHAPTER II.

1. MUNICIPAL COUNCILS AND THEIR CONSTITUTION.

8. There shall be constituted for each Municipality a Municipal Council, having authority over such Municipality and consisting of not less than twelve *and of not more than twenty-four* persons, who shall be called Municipal Councillors.

Establishment of a Municipal Council.

9. The Revenue Officer in charge of the Division of the District wherein any Municipality is situated shall *ex-officio* be a Municipal Councillor of such Municipality.

Revenue officer in charge of the Division to be *ex-officio* Municipal Councillor.

Appointment of other Municipal Councillors.

10. (1) Subject to *the conditions contained in Section 10-A and to* such rules and *other* conditions as may be prescribed by the Governor in Council, the other Municipal Councillors may be—

(*a*) either wholly appointed by the Governor in Council, or

(*b*) partly so appointed, and partly appointed by election by the tax-payers and inhabitants of the Municipality or of a part thereof.

(2) *All appointments under this section shall be notified in the Fort St. George Gazette.*

Qualifications for appointment as Municipal Councillor.

10-A. (1) *In order to be qualified to be appointed a Municipal Councillor, a person must—*

(*a*) *be of the male sex ;*

(*b*) *have completed his twenty-fifth year ;*

(*c*) *be resident within the Municipality or within two miles of the limits thereof ;*

(*d*) *not be a Municipal Councillor or an officer or servant holding office under this Act ;*

(*e*) *not have been convicted of any such offence or subjected by a Court of Justice to any such order as implies, in the opinion of the Governor in Council, a defect of character which unfits him to be a Municipal Councillor ;*

(*f*) *not be an uncertificated bankrupt or undischarged insolvent ;*

(*g*) *not be a person interested, otherwise than as a shareholder in a Joint Stock Company, in any contract made with, or work done for, the Municipal Council.*

(2) *No person is qualified to be appointed a Municipal Councillor if any of his relatives or servants or any person in whose service he is employed is a member of the Municipal Council.*

Penalties for corrupt practices.

10-B. (1) *Whoever, being qualified to vote at any election under this Act or claiming to be so qualified, accepts or obtains, or agrees to accept or attempts to obtain, for himself or for any other person any gratification whatever as a motive or reward for giving, or forbearing to give, his vote in any such election, shall be liable to a fine not exceeding one hundred rupees for every such offence.*

(2) *Whoever, by any gift or reward, or by any promise or agreement or security for any gift or reward, corrupts or procures, or offers to corrupt or procure, any person to give, or forbear to give, his vote in any election under this Act, shall be liable to a fine not exceeding five hundred rupees for every such offence.*

Proportion of officials and non-officials.

11. Any person holding a salaried office under Government in the district in which any Municipality is situated may be appointed to be a Municipal Councillor of such Municipality.

Provided that the number of such persons appointed by the Governor in Council to be Municipal Councillors of any Municipality shall, together with the *ex-officio* Municipal Councillor, not exceed one-fourth of the number of Municipal Councillors for such Municipality.

Proportion of Municipal Councillors appointed by election.

12. In any Municipality, where the Municipal Councillors are partly appointed by election, the number of the persons so appointed shall, unless the Governor in Council otherwise directs, be three-fourths of the whole number of the Municipal Councillors.

Governor in Council to declare what the maximum number of Municipal Councillors is to be, &c.

13. Upon this Act coming into force in any Municipality, the Governor in Council shall, by Notification, declare

(i) what shall be the maximum number of Municipal Councillors to be appointed for the time being for such Municipality ;

(ii) what shall be the number or proportion, if any, of Municipal Councillors to be appointed by election in such Municipality or in a part thereof ; *and*

(iii) whether the Chairman shall be appointed by the Governor in Council or by election.

He may cancel or modify such declaration.

Provided that the Governor in Council may, by Notification, from time to time, cancel or modify such declaration ; *but such cancellation or modification shall not come into force until three months after the same shall have been notified in the Fort St. George Gazette.*

Governor in Council shall appoint Chairman,

or may authorise his election.

14. Unless the Governor in Council appoints one of the Municipal Councillors to be the Chairman of the Municipal Council, the Municipal Councillors shall appoint their Chairman by election from among their own number, subject to the approval of the Governor in Council and in accordance with such rules and conditions as may from time to time be prescribed by the Governor in Council.

The Revenue Officer in charge of the Division to assume charge of the office of Chairman in case that office becomes vacant.

15. In any Municipality where the office of Chairman becomes vacant, the Revenue Officer in charge of the Division of the District wherein such Municipality is situated shall assume charge of the office of Chairman, and shall discharge the duties of the same until a Chairman is duly appointed.

Chairman alone may receive remuneration.

16. No Municipal Councillor, *other than the Chairman,* shall receive any salary or other remuneration from the municipal fund ; *and no Chairman shall receive any such salary or remuneration* unless the payment *thereof* shall have been sanctioned by *the Governor in Council or by* the Municipal Council with the approval of the Governor in Council.

Term of office of Municipal Councillor.

17. (1) *Subject to the provisions of Section 19, every* person appointed, as aforesaid, to be a Municipal Councillor shall continue in office for three years from the date of the *Fort St. George Gazette wherein his appointment was notified under sub-section (2) of Section 10* and *he* shall then cease to be a Municipal Councillor ; and any Municipal Councillor appointed to be Chairman shall be deemed to have vacated such office *on the expiry of the term for which he was originally appointed Municipal Councillor or* on his *otherwise* ceasing to be a Municipal Councillor or upon the cancellation *of a declaration made under Section 13 (iii) in respect of the Municipality of which he is Chairman.*

Outgoing Municipal Councillor eligible for re-appointment.

(2) But any outgoing Chairman or Municipal Councillor shall, if otherwise qualified, be eligible for re-appointment.

Resignation of Municipal Councillor.

18. (1) Any person appointed, as aforesaid, to be Chairman or Municipal Councillor may tender his resignation to the Governor in Council, and, on such resignation being accepted, he shall be deemed to have vacated his office.

Vacation of office by Government servant who is Municipal Councillor.

(2) Any person holding a salaried office under Government who is a Municipal Councillor of any Municipality shall, on being transferred from the District or Division wherein such Municipality is situated, *or on quitting the District or Division with the intention of remaining absent therefrom for more than three months*, be deemed to have vacated his office of Municipal Councillor.

Removal of Municipal Councillor.

19. (1) The Governor in Council may, *by notification*, remove any Chairman or Municipal Councillor, *other than an ex-officio Chairman or Municipal Councillor*,—

(i) *on the ground that, at the time of his appointment, he was not qualified under Section 10-A to be appointed a Municipal Councillor;*

(ii) 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 Court *of Justice* to any such order, as implies, in the opinion of the Governor in Council, a defect of character which unfits him to be a Chairman or Municipal Councillor;

(iii) if he, without an excuse sufficient in the opinion of the Governor in Council, neglects for more than three consecutive months to be present at the meetings of the Municipal Council;

(iv) if his continuance in office is, in the opinion of the Governor in Council, dangerous to the public peace or order, *or likely to be injurious to the efficiency of the Municipal Council or to bring the Municipal administration into contempt.*

(2) The Governor in Council may prescribe a period during which such Chairman or Municipal Councillor so removed shall not be eligible for re-appointment or re-election.

Filling of vacancy.

20. When the office of Chairman or Municipal Councillor, appointed under this Act, becomes vacant, a new Chairman or Municipal Councillor shall, unless the Governor in Council otherwise directs, be appointed in the same manner in which his predecessor was appointed.

Incorporation of Municipal Councils.

21. Every Municipal Council shall be a body corporate by the name of the Municipal Council of its Municipality, shall have perpetual succession and a common seal, with power to hold and acquire property, both moveable and immoveable, and, subject to the restrictions hereinafter contained, 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.

2. MUNICIPAL PROPERTY AND MUNICIPAL FUND.

Power to vest property in Municipal Council.

22. (1) The Governor in Council may, from time to time, by notification, direct that any property, moveable or immoveable, which is vested in Her Majesty and is situate in the territories administered by the Governor in Council, shall vest in any Municipal Council; and thereupon such property shall vest in that Municipal Council for the purposes of this Act, subject to all rights (if any) existing over, and all debts, liabilities and obligations (if any) affecting, such property.

(2) The Governor in Council may, in like manner, at any time cancel such notification and pass such orders as to the disposal of such property as he may deem fit.

Public streets, &c., vested in the Municipal Council.

23. All public streets in any Municipality, and the pavements, stones and other materials thereof, and also all erections, materials, implements and other things provided for such streets, shall vest in, and belong to, the Municipal Council. But it shall be competent to the Governor in Council, from time to time, by notification, to exclude any street from the operation of this Act, and to modify or cancel such notification.

Sewers, drains, &c., vested in the Municipal Council.

24. (1) All sewers, drains, drainage works, tunnels, and culverts in, alongside or under the streets, in any Municipality, whether made at the cost of the Municipal Council or otherwise, and all works, materials and things appertaining thereto, shall vest in, and belong to, the Municipal Council.

Rubbish, &c., to belong to Municipal Council.

(2) All rubbish, sewage, filth and other matters collected under this Act shall vest in, and belong to, the Municipal Council.

Governor in Council may exclude any sewer, &c.

(3) But it shall be competent to the Governor in Council to exclude, from time to time, by notification, any sewer, drain, drainage work, tunnel and culvert from the operation of this Act, and to modify or cancel such notification.

Hospitals, schools, choultries, &c., may be vested in the Municipal Council.

25. Any hospital, dispensary, school, choultry, market, tank or well in any Municipality, not being private property, and any medicines, furniture and other articles appertaining thereto and not being private property, may, by notification of the Governor in Council, be vested in the Municipal Council; and thereupon all endowments or funds belonging to, *or applicable to the maintenance of*, such hospital, dispensary, school, choultry, *market, tank or well* shall be transferred to, and vest in, the Municipal Council as trustees to hold and apply the same to the purposes to which such endowments and funds were lawfully applicable at the time of such transfer. Provided always that no such notification shall be issued until one month after the intention to transfer such property shall have been notified by the Governor in Council.

Saving of Revenue Board's powers in regard to charitable endowments.

26. (1) Nothing in this Act shall be deemed to affect the duties and powers vested in the Board of Revenue in respect of charitable endowments by Regulation VII of 1817.

(2) But it shall be competent to the said Board, with the written consent of the Governor in Council and of the Municipal Council, to make over to the Municipal Council the management and superintendence of any such endowment; and thereupon all powers and duties which attach to the Board of Revenue in respect thereof shall attach to such Municipal Council as if they had been specifically named in the said Regulation.

Power to transfer them to Municipal Council.

27. All moneys, rents and profits received by the Municipal Council of any Municipality by virtue of this or any other Act, and all fines, fees and penalties paid or levied under this Act, and all other moneys which, under sanction of the Governor in Council, may be transferred to such Municipal Council, shall be credited to, and shall constitute a fund which shall be called, the Municipal Fund of such Municipality, and shall, together with all property of every nature or kind which may become vested in the said Municipal Council, be under their control, and shall be held by them in trust for the purposes of this Act.

What shall constitute the Municipal Fund.

28. (1) All moneys received by the Municipal Council or forming part of the Municipal Fund, shall be lodged in the nearest Government Treasury or, with the sanction of the Governor in Council, in *a Bank*. Provided always that it shall be competent to the Municipal Council, with the sanction of the Governor in Council, to invest any sums, not required for immediate use, either in the Government Savings Bank or in Government Securities, or in any other form of security which may be approved of by the Governor in Council.

Custody of Municipal Fund.

(2) All orders for payment of money from the Municipal Fund shall be signed by the Chairman or, in the absence of the Chairman *and the Chairman delegate, by any two Municipal Councillors who have been duly authorized in this behalf by the Chairman or his delegate*, and the Treasury or Bank in which such fund may be lodged shall, so far as the funds to the credit of the Municipality admit, pay all orders against the said fund which are so signed.

Mode of drawing on Municipal Fund.

3. MODE OF TRANSACTING BUSINESS.

29. (1) The Municipal Council shall provide an office and shall meet for the transaction of business at least once in every month, upon such days and at such times as they may arrange, and also at other times as often as a meeting shall be called by the Chairman.

Municipal Council to keep an office, and to meet at least once a month.

(2) The Chairman shall, at any time, on the requisition in writing of not less than one-third of the Municipal Councillors *then on the Council*, convene a meeting of the Municipal Council.

Chairman to convene meeting on requisition.

(3) *Except in cases of urgency*, no meeting shall be held unless notice of the day and time when *the meeting* is to be held *and of the business to be transacted thereat* has been given at least *three clear* days previous to the day *fixed for* the meeting.

Notice of meeting and business to be issued.

(4) *All meetings of the Municipal Council shall be open to the public. Provided that the presiding member may, in any particular case, for reasons to be recorded in the Minute-book kept under Section* 31, *direct that the public generally, or any particular person, shall withdraw.*

Meetings to be public.

30. (1) At every Meeting of the Municipal Council the Chairman shall preside. In the absence from any Meeting of the Chairman, the Municipal Councillors present at the Meeting shall choose some one of their number to preside thereat.

Who to preside at Meetings.

(2) All questions which may come before the Municipal Council at any Meeting shall be decided by a majority, and, in every case of equality of votes, the Chairman or the presiding Municipal Councillor shall have a second or casting vote.

Decision by majority. Casting vote.

(3) *No Municipal Councillor shall vote on any question coming before the Council for consideration in which (otherwise than in its general application to all persons and properties within the Municipality) he or any of his relatives or servants or any person in whose service he is employed has any pecuniary interest.*

Interested Councillor not to vote.

(4) *The Sanitary Commissioner, the Sanitary Engineer*, the Civil Surgeon of the District, the Executive Engineer of the Division and the Inspector *and Assistant Inspector* of Schools, when such officer is not a Municipal Councillor, may, with the previous sanction of the Chairman, address the Council on any matter affecting sanitation, public works and public instruction.

Certain officers may address Council.

(5) No business shall be transacted at a meeting unless *there be present* at least *four Municipal Councillors or, if the number of Municipal Councillors then on the Council exceeds twelve, at least one-third of that number.*

Quorum.

(6) No resolution of the Municipal Council shall be modified or cancelled within three months after the passing thereof except *at a meeting specially convened in that behalf and* by a resolution of the Municipal Council supported by *the votes of not less than one-half of the sanctioned number of* Municipal Councillors.

Modification, &c., of resolutions.

31. (1) Minutes of the *proceedings* at each Meeting *of the Municipal Council* shall be drawn up and entered in a book to be kept for that purpose; and shall be signed by the Chairman or the Municipal Councillor who presided at such Meeting, or, in his absence, by some one of the Municipal Councillors present thereat; and the said Minutes shall, at all reasonable times and without charge, be open at the Municipal Office to the inspection of any person who pays any tax under this Act in the Municipality.

Minutes of Proceedings to be kept, and to be open for inspection.

(2) Within three days of the date of the Meeting, a copy of the Minutes of the *proceedings at* such Meeting shall be forwarded by the *Chairman* to the Revenue Officer in charge of the Division of the District wherein the Municipality is situated, for publication, at the cost of the Municipal

Minutes to be sent to Divisional Officer for publication.

Fund, in the District Gazette, in English and in a Vernacular language of the district.

Certified copies of proceedings and records.

(3) *The Chairman and, in his absence, the Chairman delegate shall have the custody of the proceedings and records of the Municipal Council and may grant copies of any such proceedings and records on payment of such fees as the Municipal Council may, by general or special order, prescribe. Copies granted under this sub-section shall be certified by the Chairman or, in his absence, by the Chairman delegate, as provided in Section 76 of the Indian Evidence Act, 1872, and copies so certified may be used to prove the records of the Municipal Council in the same manner as they may, under sub-section (5) of Section 78 of the said Act, be used to prove the proceedings of that body.*

32. (1) The resolutions of the Municipal Council shall be carried into effect by the Chairman, in whom the entire executive power of the Municipal Council shall be vested, and who shall be directly responsible for the due fulfilment of the purposes of this Act.

The Chairman to carry out the resolutions of the Municipal Council.

Chairman to furnish progress reports.

(2) *The Chairman shall furnish to the Municipal Council such monthly reports regarding the progress made in carrying out the resolutions of that body as the Municipal Council may prescribe.*

Delegation of powers by Chairman.

(3) Any Chairman may, with the previous consent of the Municipal Council, from time to time authorize, by an order in writing, any Municipal Councillor *whom he may select*, to exercise any of the powers conferred, *or to perform any of the duties imposed*, on such Chairman by this Act and may, at any time, in like manner, modify or cancel such *order*.

Provided that—

(i) *the Chairman may not delegate his powers or duties under this sub-section for any period or periods exceeding, in the aggregate, three months in any one year ;*

(ii) *the delegation of powers or duties under this sub-section shall not relieve the Chairman of any responsibility imposed upon him by this Act ; and*

(iii) *every order made by the Chairman under this sub-section shall be communicated at once to the District Collector and to the Revenue officer in charge of the Division.*

A Municipal Councillor authorized under this sub-section to exercise any of the powers or to perform any of the duties of the Chairman shall, for the period during which he exercises such powers or performs such duties, be styled the 'Chairman delegate.'

Exception.

(4) It shall not be lawful for the Chairman to exercise any power which, according to this Act, shall be exercised by the Municipal Council.

Execution of resolution on neglect of Chairman.

33. (1) If at any time it appears to the Collector of the District that *the* Chairman has made default in carrying out any resolution of the Municipal Council, the Collector may by notice in writing require *the* Chairman to carry out such resolution within a reasonable time to be specified in such notice, and he may, if *the* Chairman omits to comply with

such notice, assume the execution of such resolution and pass all necessary orders accordingly.

(2) Any Collector taking action under this section shall, in a memorandum, record his reasons for such action and shall forthwith forward such memorandum to the Municipal Council for their information, and shall at the same time forward a copy thereof to the Governor in Council who may pass such orders thereon as he may deem fit.

Control by Collector.

34. (1) The Collector of the District wherein any Municipality is situated may—

(i) enter on and inspect, or cause to be entered on and inspected, any immoveable property or any work in progress under the control of any Municipal Council ;

(ii) call for and inspect any document in the possession or under the control of any Municipal Council ;

(iii) require such Municipal Council to furnish such statements, accounts, reports and copies of documents relating to their proceedings or duties as he may think fit to call for ; and

(iv) record in writing, for the consideration of any Municipal Council, any observations he may think proper in regard to their proceedings or duties.

Delegation of powers of Collector to other public officers.

(2) The Governor in Council may, by notification, from time to time, authorize any public officer to exercise any one or more of the powers of a Collector under *sub-section (1)* and may, in like manner, at any time modify or withdraw such authority. *The Collector of the District, also, may, by a special order in writing in each case, direct the Revenue officer in charge of the Division to exercise any of the powers referred to in clauses* (i), (ii) *and* (iii) *of sub-section (1).*

Power to suspend action under Act.

35. (1) The Governor in Council or the Collector of the District may, by order in writing, suspend the execution of any resolution or order of a Municipal Council, or cancel such resolution or order, and may prohibit the doing of any act which is about to be done, or is being done, in pursuance of or under colour of this Act, if, in his opinion, such resolution, order or act is in excess of the powers conferred by law, or the execution of the resolution or order, or the doing of such act, is likely to cause obstruction, injury or annoyance to any persons lawfully employed, or danger to human life, health or safety, or is likely to lead to a riot or an affray.

Collector shall forward copy of order to Governor in Council and Municipal Council.

(2) When the Collector makes any order under this section, he shall forthwith forward a copy thereof, with a statement of his reasons for making it, to the Governor in Council and the Municipal Council. The Governor in Council may thereupon rescind the order or direct that it continue in force with or without modification, permanently or for such period as he thinks fit.

Extraordinary powers of the Collector and the Revenue officer in charge of a Division of a District in cases of emergency.

36. (1) In cases of emergency, *the Collector of the District or* the Revenue officer in charge of the Division may provide for the execution of any work, or the doing of any act, which the Municipal Council *or the Chairman* 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 thea ct shall be paid by the Municipal Council.

Expense may be recovered from Municipal fund.

(2) If the expense is not so paid, such *Collector or* Revenue officer may make an order directing the person having the custody of the Municipal Fund to pay the same in priority to any other charges against such fund. Such person shall, so far as the funds to the credit of the Municipality admit, be bound to comply with such order.

Report to be made to Governor in Council.

(3) *Every case in which the powers conferred by this section are exercised shall be forthwith reported to the Governor in Council by the Collector or, through the Collector, by the Revenue officer in charge of the Division, as the case may be.*

Powers of Governor in Council in case of default of Municipal Council or Chairman.

37. (1) If at any time it appears to the Governor in Council that a Municipal Council *or a Chairman* has made default in performing any duty imposed by or under this or any other Act, the Governor in Council may, by order in writing, fix a period for the performance of such duty.

Governor in Council may appoint person to perform duty.

(2) If such duty is not performed within the period so fixed, the Governor in Council may appoint some person to perform it, and may direct that the expense of performing it shall be paid, within such time as he may fix, to such person by the Municipal Council.

Expense may be recovered from Municipal Fund.

(3) If the expense be not so paid, the Collector of the District, with the previous sanction of the Governor in Council, may make an order directing the person having the custody of the Municipal Fund to pay the same in priority to any other charges against such fund *except charges for the service of authorized loans*. Such person shall, so far as the funds to the credit of the Municipality admit, be bound to comply with such order.

Rules as to conduct of business.

38. Every Municipal Council may, from time to time, make rules consistent with this Act and with any rules framed by the Governor in Council, in regard to the following matters:—

(i) the time and place of their meetings;
(ii) the manner in which notice thereof shall be given;
(iii) the conduct of proceedings at meetings;
(iv) the division of duties among the members of the Municipal Council;
(v) the appointment and procedure of committees consisting wholly of a certain number of Municipal Councillors, or partly of such Municipal Councillors and partly of other inhabitants of the Municipality, for the superintendence and management of educational institutions, hospitals, dispensaries, choultries or other institutions maintained by the Municipal Council;
(vi) the persons by whom receipts may be granted for money paid to the Municipal Council; and
(vii) all other similar matters.

4. MUNICIPAL SERVANTS.

The Municipal Council to fix the number and salaries of their permanent servants with the sanction of the Governor in Council.

39. The Municipal Council shall at their first meeting, and may from time to time thereafter, fix the number and salaries of all such permanent servants as they may think necessary and proper to assist in carrying out the purposes of this Act, and shall submit a statement of their proposals for the sanction of the Governor in Council in such form as he may from time to time prescribe, and he shall pass such orders thereon as he may deem fit.

Government servants employed by Municipal Council.

40. (1) The Governor in Council may, on the application of any Municipal Council, place the services of any Government servant at their disposal to be employed by them for the purposes of this Act. The Municipal Council shall pay any Government servant so employed the salary he may be entitled to receive under the rules of the branch of the Government service to which he belongs, and shall also pay the Governor in Council such contribution towards the pension of such servant as may be payable under the rules in that behalf in force for the time being.

Contribution by Government towards pay of Municipal servants.

(2) If such servant, while employed under the Municipal Council, or if any other servant of the Municipal Council, does any work for Government, the Governor in Council shall contribute to the Municipal Council so much of the salary of such servant as the Governor in Council may consider to be an equivalent for such work.

Dismissal of Government servants employed by Councils.

(3) No Government servant employed by the Municipal Council under this section shall be dismissed from such employment without the consent of the Governor in Council or until three months' notice in writing to that effect shall have been given to the chief controlling authority of the branch of the Government service to which such servant belongs.

Withdrawal of such servants.

(4) No Government servant employed under the Municipal Council shall, except in cases of emergency, be withdrawn from the service of the Municipal Council, without their consent, unless and until the Governor in Council shall have given three months' notice in writing to that effect to the Municipal Council *or unless some other Government servant has been deputed to replace the one withdrawn.*

Privileges of Government servants in Municipal employ.

(5) *Government servants employed under Municipal Councils shall be entitled to leave and other privileges in accordance with the regulations applicable to the department of the general administration to which they belong.*

Municipal servants, &c., public servants under Indian Penal Code.

41. Every Municipal servant, every contractor or agent, to whom the collection of any tax, toll, or other sum due to the Municipal Council is entrusted, and every person engaged in the collection of such tax, toll, or sum shall be deemed to be a public servant within the meaning of the Indian Penal Code.

42. (1) The Chairman shall, subject to such rules as the Governor in Council may prescribe, appoint such permanent servants as shall have been provided for in the manner aforesaid, and may also, *in cases of emergency*, appoint such temporary servants as, *in his opinion*, may be required for the purposes of this Act, and shall pay such permanent and temporary servants from the Municipal Fund the salaries that may be fixed for them in the manner aforesaid or as the emergency may require.

The Chairman to appoint servants subject to rules prescribed by the Governor in Council.

(2) The Chairman may, subject to the provision in Section 40, sub-section (3), and to such control as may, from time to time, be prescribed by the Governor in Council, fine, suspend, *reduce*, or dismiss any of such *servants*, and appoint others in their stead.

The Chairman may punish servants.

43. The Municipal Council may, from time to time, make rules consistent with this Act and with any rules framed by the Governor in Council as to the following matters in respect of their servants:—

Rules as to securities, pensions, &c.

(i) the servants who shall furnish security for the due performance of their duties;
(ii) the amount of such security;
(iii) the grant of leave to servants and the allowances to be paid to persons acting for such servants;
(iv) the period of service of all servants;
(v) the conditions under which such servants, or any of them, shall, on retirement, receive pensions, gratuities or compassionate allowances;
(vi) the amount of such pensions, gratuities or compassionate allowances (if any);
(vii) the establishment of a Pension or Provident Fund by such servants; and
(viii) the rates at which, and the conditions under which, contributions shall be paid from the Municipal Fund towards such Pension or Provident Fund.

Provided that no rules as to the matters mentioned in clauses (iii), (v), (vi), (vii) and (viii) shall be valid until they have been confirmed by the Governor in Council.

5. MUNICIPAL CONTRACTS.

44. (1) A Municipal Council may delegate to one or more of its members the power of making, on its behalf, any contract whereof the value or amount does not exceed Rs. 200.

Delegation of authority to contract.

(2) In respect of a contract whereof the value or amount exceeds Rs. 200, the sanction of the Municipal Council for the making thereof shall be obtained before the same is made.

Certain contracts to be sanctioned at a meeting.

(3) *Notwithstanding anything in the two preceding sub-sections, any person appointed by the Governor in Council to carry any work into execution on behalf of a Municipal Council may, subject to such control as the Governor in Council may prescribe, make such contracts as are necessary for the purpose of carrying such work into execution, to the extent of the sum provided for such work; and the Municipal Council shall pay to the person so appointed such sums as may be required for the said purpose, to the extent aforesaid.*

Contractual powers of persons appointed by Government.

45. (1) Every contract made by, or on behalf of, a Municipal Council, whereof the value or amount exceeds Rs. 200, shall be in writing, and, *except in the case of contracts made under the provisions of sub-section (3) of Section 44*, shall be signed by two Municipal Councillors, one of whom shall be the Chairman.

Mode of executing contracts.

(2) A contract executed or made otherwise than in conformity with the provisions of this and the last preceding section shall not be binding on the Municipal Council.

Contract made otherwise not binding.

46. No Municipal Councillor shall be personally liable in respect of any contract made, or for expense incurred, by or on behalf of the Municipal Council; but the funds from time to time in the hands of the Municipal Council shall be liable for, and chargeable with, all contracts and expenses duly made and incurred as aforesaid.

No Municipal Councillor to be personally liable for contracts.

CHAPTER III.

TAXES AND TOLLS, AND MODE OF REALIZING THEM.

47. The taxes and tolls *which may* be levied for the purposes of this Act, *are* as follows:—

Levy of taxes and tolls.

(i) A yearly tax on arts, professions, trades and callings, and on offices and appointments, at *the* rates specified in Schedule A;
(ii) A yearly tax on buildings *or* lands *or both, calculated as hereinafter provided;*
(iii) A yearly water *and drainage* tax on buildings *or* lands *or both, calculated as hereinafter provided;*
(iv) A half-yearly tax on vehicles with springs, palanquins and animals, at rates not exceeding *in any case* those specified in Schedule B;
(v) A half-yearly tax on carts and other vehicles without springs, at a rate not exceeding two rupees for each half-year in respect of every such vehicle;
(vi) Tolls on vehicles and animals entering the municipal limits, at rates not exceeding *in any case* those specified in Schedule D; *and*
(vii) *A monthly tax on private menial and domestic male servants, at a rate not exceeding two rupees per mensem for each such servant.*

Provided that the water *and drainage* tax shall be levied only to enable the Municipal Council to provide for *expenses connected with* the construction, maintenance, repair, extension *or* improvement of water *and drainage* works heretofore provided or hereafter to be provided *and that the proceeds of the said tax shall be solely devoted to defraying the said expenses.*

Proviso as to levy of water and drainage tax.

Provided, further, that the tax on servants shall be levied in hill-stations, being Municipalities, only.

Proviso as to levy of tax on servants.

48. The Municipal Council may, from time to time, with the approval of the Governor in Council, determine to raise the funds required for the purposes of this Act from all, or

Municipal Council may raise funds from any of above sources.

any one or more of, the above sources, at a rate or rates not exceeding those specified in the last preceding section.

Governor in Council may direct the levy of taxes.

49. If, at any time, it seems advisable to the Governor in Council that the funds required for the purposes of this Act shall be raised in any Municipality from all, or any one or more of, the above sources, the Governor in Council may direct the Municipal Council of such Municipality to levy such taxes or tolls at any rate or rates, not exceeding the rates authorized by this Act, unless the Municipal Council shall show cause to the contrary within a month after the receipt of the order containing such direction. If the Municipal Council fail to show cause within the said time to the satisfaction of the Governor in Council, the taxes or tolls so directed to be levied shall be levied in such Municipality as if the levy of the same had been determined by the Municipal Council with the approval of the Governor in Council; provided that it shall be competent to the Governor in Council from time to time to cancel or modify such direction.

unless the Municipal Council show cause to the contrary.

and may cancel or modify such direction.

Municipal Council to issue Notification intimating that tax, &c., will be levied.

50. When the Municipal Council shall have determined, with the approval of the Governor in Council, to levy any tax or tolls, they shall at once issue a Notification in the District Gazette and by beat of drum specifying the rate at which the tax or tolls are to be levied and intimating to the inhabitants of the Municipality that such tax or tolls will be levied from a date to be specified in the Notification, and such tax or tolls shall be levied in the manner hereinafter provided until such time as the said Notification shall be modified or cancelled.

Tax, &c., to be levied until cancellation of Notification.

Council may exempt persons unable to pay.

51. The Municipal Council may exempt, in whole or in part, from the payment of any tax under this Act, any person who *is*, in their opinion, unable, by reason of poverty, to pay the same, and they may, in like manner, exempt, with the approval of the Governor in Council, any class of persons.

Chairman to maintain assessment books.

52. (1) The Chairman shall prepare, and keep, separate *assessment books showing* the persons and property liable to *taxation* under this Act.

Council may direct Chairman to amend assessment books.

(2) *If, at any time, it appears to the Municipal Council that any person or property has been inadequately assessed or improperly omitted from the assessment books, they may direct the Chairman to amend the said books in such manner as they may deem just; provided that no such direction shall be given unless the person concerned shall have been afforded a reasonable opportunity to show cause to the Municipal Council why the assessment books should not be amended as proposed.*

Appointment of Committee to scrutinize assessment books.

(3) *The Municipal Council may at any time, for the purpose of deciding whether action should be taken under sub-section* (2), *appoint a Committee, consisting of the Chairman and not more than two other Municipal Councillors, to scrutinize the assessment books.*

Assessment books to be open to inspection.

(4) *The assessment books* shall be open at all reasonable times to inspection—

(i) *free of fee, by* any tax-payer *or his authorized agent in respect of any entry relating to himself or to property which he occupies;*

(ii) *on payment of a fee of eight annas upon each occasion, by any person in respect of any entry.*

Assessment of taxes payable by Chairman.

52-A. *In the case of taxes payable by the Chairman of a Municipal Council, the original assessments shall be made by the Revenue officer in charge of the Division in which the Municipality is situated and appeals against such assessments shall lie to the Municipal Council.*

Receipts to be given for all payments of taxes.

52-B. (1) The Chairman shall give *to* every person making payment *of a tax* a receipt *therefor* signed by *him* or by some *person* duly authorized by him in that behalf.

(2) Such receipt shall specify—

(i) the date of the grant thereof;

(ii) the name of the person to whom it is granted;

(iii) the *tax* in respect of which the payment has been made;

(iv) the period for which *the payment* has been made; and

(v) the *amount* in respect *of which it is granted.*

1. TAX ON ARTS, PROFESSIONS, TRADES AND CALLINGS.

Payment of Profession-tax.

53. If the Municipal Council notify, under section 50, that a tax on arts, professions, trades and callings, and on offices or appointments shall be levied, every person who, within the Municipality, exercises, after the date specified in the said Notification, any one or more of the arts, professions, trades or callings, or holds any one or more of the offices or appointments, specified in Schedule A, shall, subject to the provisions of Section 59, pay in respect thereof the sum specified in the said schedule as payable by persons of the class in which such person is placed.

Pensioners liable to tax.

Explanation.—A person in receipt of a pension paid from any source shall be deemed to be a person holding an office or appointment within the meaning of this section.

Chairman to decide class.

54. (1) The Chairman shall decide in which of the said classes such person ought to be placed.

Chairman may revise.

(2) The Chairman may from time to time revise such classification.

Tax to be paid half-yearly.

55. The sum payable under Section 53 shall be paid in two equal instalments, one for each half of the year; the instalment payable in respect of each half of the year shall be payable by any person who has, for sixty days, reckoned consecutively or from time to time, in such half-year, exercised such art, profession, trade or calling, or held any such office or appointment, within the Municipality.

Notice of non-payment.

56. If, in any half-year, any person exercises any such art, profession, trade or calling, or holds any such office or appointment, for sixty days, without paying the sum due in respect of such half-year, the Chairman *shall* serve upon such person a notice to pay such sum within fifteen days from the date of such service.

56-A. *A person who exercises any of the arts, professions, trades or callings, or holds any of the offices or appointments, specified in Schedule A shall be deemed to exercise such art, profession, trade or calling, or to hold such office or appointment, within the Municipality, if he occupies a house or part of a house therein or if he, or any person by whom he is employed, maintains therein a place for the transaction by him of business connected with such art, profession, trade, calling, office or appointment.*

Persons who are to be deemed to exercise profession within Municipality.

57. *(Chairman to grant receipt) Repealed.*

58. Every member of a firm or partnership, or of an undivided Hindu family, shall be personally and separately liable *for* the tax leviable *in respect of such firm or partnership, or imposed on any member of such family*, under Section 53.

Every member of a firm or undivided Hindu family to be separately liable.

59. A person who carries on more arts, professions, trades or callings, or holds more offices or appointments than one, or comes under more than one of the designations or classes mentioned in Schedule A, shall be chargeable under any one of such designations or classes on his aggregate income from all such sources.

Persons coming under several designations, how assessed.

60. No person, *other than a company*, shall be liable to the payment of the tax under Section 53 who shall prove that he has paid, *on account of the said tax*, for the same half-year, in any other Municipality, *a sum not less in amount than the tax from which he claims exemption.*

Extent of liability for half-yearly tax in more than one Municipality.

61. The Chairman may, by notice, from time to time, require every owner or occupier of a building or of any land to forward to him, within a specified time, a list in writing, signed by him, of the names of all persons occupying such building or land and of their respective arts, professions, trades, callings, offices or appointments.

Power of Chairman to call on owners or occupiers for lists of persons liable to tax on arts, &c.

62. The Chairman may, in like manner, require—

Power of Chairman to call on employers, &c., for similar lists.

(i) every employer *of labour*,

(ii) *every* head or secretary of *a public or private* office or of a firm or company *and*,

(iii) *every secretary, owner or manager of a club, hotel, boarding-house or of residential chambers,*

to forward to him, within a specified time, a list in writing, signed by such employer, head, secretary, *owner or manager*, of the names of all persons employed by him, or *employed* in such office, firm or company, *or resident in such club, hotel, boarding-house, or chambers, as the case may be*, together with a statement of the respective salaries of *the* persons *so employed and of the arts, professions, trades, callings, offices and appointments of the persons so resident. The Chairman may also, in like manner, require such employer, head, secretary, owner or manager* to furnish such particulars relative to any Company of which *he is* the agent as may be required by the Chairman for the purposes of this Act.

2. TAXES ON BUILDINGS AND LANDS.

63. (1) If the Municipal Council notify, under Section 50, that *a* tax shall be levied on buildings *or* lands *or both* in the Municipality, the Chairman shall impose such tax on all buildings *or* lands, *or both*, excepting (*a*) light-houses, piers, wharves, jetties, choultries, hospitals, dispensaries *and other* buildings *or lands, to the extent to which they are* used for *public*, charitable *or religious* purposes (*b*) burial and burning grounds *and* (*c*) *buildings or lands belonging to the Municipal Council.*

Taxes on buildings and lands.

Exceptions.

(2) *Except as provided in sub-section (3) of this section and in Section 63-A, the said tax shall be levied at such rate or rates, not exceeding in any case ten per centum on the annual value of the buildings or lands or both upon which it is imposed, as the Municipal Council may have notified under Section 50.*

Rates at which said taxes may be levied.

(3) *In the case of*—

(*a*) lands *not occupied by buildings and not appurtenant to any building or attached thereto for use therewith as a garden or pleasure-ground or for the pasturage of animals kept for private use, and*

(*b*) *lands* occupied by native huts,

the Chairman may, subject to the approval of the Municipal Council, impose *a tax on such lands* at an annual rate, not exceeding four annas for every eighty square yards *thereof*, in lieu of the *tax referred to in sub-section (2).*

In certain cases rate may be fixed with reference to area.

(4) *When lands occupied by native huts are taxed in accordance with the provisions of sub-section (3), no tax shall be imposed under this section upon the huts standing thereon.*

In such cases no tax to be levied on huts.

(5) The Chairman shall exempt from tax under *sub-section (2)* any building or land the annual value whereof is *not more* than six rupees, if it be the owner's sole property liable to tax under this *section.*

Property valued at Rs. 6 a year and under to be exempted.

63-A. *With the sanction of the Governor in Council, the Municipal Council may substitute, in any portion of the Municipality, for the tax leviable on buildings at a percentage on their annual value, a rate calculated according to the area covered by such buildings. This rate shall be determined by the Municipal Council with the approval of the Governor in Council and may vary with reference to the situation and description of the buildings.*

Levy of tax on buildings at rate calculated on area covered.

64. (1) The tax imposed *upon buildings or lands* under Sections *63 and 63-A* shall be payable by the owners *thereof* in two equal *half-yearly* instalments.

Tax payable in half-yearly instalments.

(2) *Subject to the provisions of sub-section (1) of Section 73*, the instalment for each half-year shall be payable *within thirty days after the commencement of that half-year, unless a revision petition has been presented to the Chairman as hereinafter provided, in which case the payment may be postponed until fifteen days after the disposal of such petition.*

Instalments when due.

65. (1) The gross annual rent at which a building or land might reasonably be expected to let from month to month or from year to year shall, for the purposes of assessment under this Act, be deemed to be the annual value of such building or land.

Annual value of buildings and lands how to be ascertained.

(2) The value of a building or land so estimated shall not include the value of any furniture or machinery therein or thereon.

Value not to include furniture or machinery.

66. (1) *When the Municipal Council has notified that a tax shall be levied under Section 63 or 63-A, the Chairman shall assess the amounts payable in respect of all property liable to the tax. The assessment books shall show* in distinct columns, *in respect of all property assessed to the tax—*

Chairman to assess amounts payable and enter certain particulars in assessment books.

(i) the name of the owner *thereof;*

(ii) the name of the occupier *thereof;*

(iii) the designation *thereof, if any;*

(iv) the name of the division and street, if any, in which it is situated *and any survey or other* number *which it bears;*

(v) *the annual value thereof, or the area thereof, or the area and description thereof, as the case may be; and*

(vi) the amount of tax assessed thereon.

(2) *The assessment books shall be completely revised by the Chairman at least once in every five years and the Chairman may amend them at any time by inserting therein, or removing therefrom, any property or by altering the amount of tax leviable in respect of any property.*

Periodical and occasional revision of assessment books.

(3) *Every general assessment under sub-section (1) and every general revision of the assessment books and every amendment thereof under sub-section (2) shall, subject to the provisions of Section 73, have effect from the beginning of the year following that in which it is made.*

Date from which assessments and revisions to have effect.

67. *(Present assessments to be taken as made under this Act) Repealed.*

68. When the name of the owner or occupier is not known, it shall be sufficient to designate him in the said books, and in any notice or other proceeding under this Act, as the "owner" or the "occupier" of the property on which the tax is assessed, without further description.

Owner or occupier to be designated as such if name unknown.

69. *When assessment books have been for the first time prepared, and whenever they have undergone a general revision, the Chairman shall, before the close of the year in which the said books have been so prepared or revised, notify* by beat of drum and by *a notice published* in the District Gazette that, on a specified date, not being less than thirty days from the *date of the later of such notifications,* he will *be prepared to consider revision petitions presented to him within the said period of thirty days.*

Date on which revision petitions will be heard to be notified in certain cases.

69-A. (1) *In every case in which property is for the first time assessed, and in every case in which the tax payable in respect of property is increased otherwise than in consequence of a general enhancement in the rate at which the tax is leviable, the Chairman shall intimate by special notice to the owner or occupier of such property that he will be prepared to consider any revision petition which may be presented to him in respect of such assessment or increase within thirty days after the date of service of the said notice. In the case of an increase of tax, the special notice shall further contain a brief statement of the reasons therefor.*

Special notice of date for hearing revision petitions to be given in certain cases.

(2) *Nothing contained in this section shall apply to persons affected by a direction given by the Municipal Council under sub-section (2) of Section 52.*

Exception.

69-B. *Any person may at any time, not being less than thirty days before the end of a year, move the Chairman by revision petition to reduce the tax to which he is liable for the forthcoming year, on the ground that the property in respect of which the tax is imposed has undergone a material deterioration in value since the general assessment or last general revision of the assessment books.*

Petitions for revision on certain grounds may be made at any time.

69-C. *When a revision petition is presented to the Chairman, the Chairman shall, unless the date upon which petitions will be considered has already been publicly notified under Section 69, intimate to the petitioner the date upon which his petition will be considered, and no petition shall be disposed of unless the petitioner has been given a reasonable opportunity to appear, either in person or by authorized agent, and to represent his case.*

Petitioners to have reasonable opportunity to represent case.

69-D. (1) *Immediately after the disposal of a revision petition, the Chairman shall inform the petitioner or his authorized agent, either orally or in writing, of the orders passed thereon and shall direct him to pay the amount fixed on revision within fifteen days.*

Disposal of revision petitions.

(2) *The assessment books shall be corrected with reference to the Chairman's orders in revision and such correction shall not be deemed to be an amendment within the meaning of sub-section (3) of Section 66.*

70. *(Persons to be allowed to inspect assessment books)* and **71.** *(Amendment of assessment books) Repealed.*

72. (1) *If* any building has been vacant for *not less than* sixty consecutive days in *a* half-year, the Chairman shall, *on demand by the owner, refund* so much, not exceeding one-half, of the tax *paid* for that half-year as is proportionate to the number of days during which such building has been vacant.

Refund on account of vacant buildings.

(2) *Every demand for a refund under this section shall be made during the half-year in respect of which the refund is sought or in the following half-year, and not afterwards;* and no person shall be entitled to such *refund* unless *he,* at or about the time that the *building became* vacant, *gave* notice of such vacancy to the Chairman.

73. (1) When any building is built, rebuilt or enlarged, the owner shall give notice thereof to the Chairman within fifteen days from the date of completion of such building,

Notice to be given of buildings newly built or rebuilt.

rebuilding or enlargement, or from the date of occupation of such building, whichever date happens first. *The Chairman shall, on receipt of the said notice, assess the tax leviable in respect of the building, and the instalment for the half-year in which the assessment is made shall be payable within thirty days after the date of service of the notice issued under Section 69-A, or within fifteen days after the disposal of any revision petition which may be presented under Section 69-C; provided that, if such date of completion or occupation falls within the last two months of a half-year, no tax or enhanced tax, as the case may be, shall be levied in respect of the building for that half-year.*

Procedure after receipt by Chairman of notice.

(2) When any building is *completely* demolished *or destroyed*, the owner thereof *may* give notice to the Chairman of such demolition or *destruction;* and, until such notice is given, such owner shall be liable, at the discretion of the Chairman, to payment of all taxes which would have been leviable had such building not been demolished *or destroyed. If the said notice is given within the first two months of a half-year, no tax shall thereafter be levied in respect of the building and any tax which may have been levied for that half-year shall be refunded.*

Remission or refund when building destroyed.

74. (*New assessment books need not be prepared every year*) *Repealed.*

3. WATER AND DRAINAGE TAX.

75. (1) If the Municipal Council notify, under Section 50, that *a* water *and drainage* tax shall be levied on buildings *or* lands *or both, at a percentage on their annual value*, such tax *shall be levied* at the rate *or rates so notified but not exceeding in any case six and-a-half per centum on the annual value of the buildings or lands or both upon which the tax is imposed. All the provisions of Sections 63, 63-A, 64, 65, 66, 68, 69, 69-A, 69-B, 69-C, 69-D, 72 and 73 shall, mutatis mutandis, apply to the water and drainage tax; provided that the rate levied under sub-section (3) of Section 63, on account of the water and drainage tax, shall not exceed two annas six pies for every eighty square yards and that the rate levied under Section 63-A, on account of the same tax, shall be fixed with due regard to the difference between the maximum percentages prescribed in sub-section (2) of Section 63 and in this section.*

Levy of water and drainage tax.

(2) The Governor in Council may, from time to time, by Notification, exempt any part of a Municipality from the payment of the water *and drainage* tax or any part thereof and may also in like manner, from time to time, cancel such exemption.

Power to exempt any part of a Municipality from water and drainage tax.

76. (*Water may be cut off on neglect to pay tax and expense recovered*) *Repealed.*

4. TAX ON VEHICLES WITH SPRINGS, PALANQUINS, AND ANIMALS.

77. (1) If the Municipal Council notify, under Section 50, that a half-yearly tax shall be levied on the vehicles and animals kept or let out for hire *within* the Municipality, the Chairman shall impose such tax at the rates specified in such Notification on the vehicles and animals mentioned in the said notification.

Tax on vehicles and animals.

Provided that the Chairman may exempt from taxation under this section, any vehicle used solely for the conveyance of children.

(2) The amount payable for each half-year shall be payable by any person in whose possession or custody or control any such vehicle or animal may be found so soon as it has been for *fifteen* days in such half-year kept or let out for hire within the Municipality.

Tax, when due.

(3) No person by reason of transfer of ownership shall be liable under this section *in any Municipality* in respect of any vehicle or animal for which a license relating to the half-year in which ownership was transferred has already been given in the manner hereinafter provided in *the same* Municipality.

Exemption in certain cases.

78. The tax payable under the preceding section shall not be imposed on—

General exemptions.

(i) *Vehicles and animals* belonging to Government *and used for military purposes;*

(ii) Vehicles and animals belonging to the Municipal Council;

(iii) Animals exempt from Municipal tax under Section 25 of the Indian Volunteers Act, 1869;

(iv) Vehicles and animals *kept within the Municipality for use in the discharge of their out-door duties therein by such* members of the Police Force *as are employed on such duties or by such* servants of the Municipality *similarly employed as the Municipal Council may, with the approval of the Governor in Council, designate; provided that not more than* one vehicle and two animals for each such member or servant *shall be exempt under this clause from taxation;* and

(v) Vehicles and animals kept solely for sale by builders and dealers, or vehicles and animals which have not, during the half-year, been used.

79. The Chairman may, subject to the approval of the Municipal Council, compound, for any period not exceeding one year, with Livery Stable-keepers and other persons keeping vehicles and animals for sale or hire, for a certain sum to be paid in respect of such vehicles and animals in lieu of the taxes specified in Schedule B.

Chairman may compound with Livery Stable-keepers and others.

80. The Chairman or any officer authorized by him in that behalf shall send to every person supposed to *have become* liable to the payment of the tax payable under Section 77 a printed table in the form contained in Schedule C or to the like effect, to be filled up with such information respecting the vehicles and animals kept by him as the Chairman considers necessary for the assessment of the tax.

Blank forms to be sent to persons liable to tax.

81. Such form shall be filled up with such information in writing, and signed and dated, and returned within one week of its receipt to the Municipal Office by the person to whom it has been sent.

Forms to be filled up and returned.

82. If any person to whom a form has been sent under Section 80 omits, within one week of its receipt, to fill *it* up, *and to* date, sign and return it to the Municipal Office, *or if he*

If form not returned or payment not made, notice to pay to be served.

returns the said form so filled up, dated and signed but omits, within the said period, to pay the tax for which he is liable, the Chairman *shall serve on* such person a *notice requiring him to pay within fifteen days from the service of such notice the sum for* which he is believed to be, *or is*, liable under Section 77.

On payment of tax, Chairman to give license.

83. On receiving the amount of the tax payable in respect of any vehicle or animal, the Chairman, or some person duly authorized by him in that behalf, shall give to the person paying the same a license for such vehicle or animal for the period in respect of which the money has been received.

Licensee bound to produce his license.

84. (1) Every person who has received such license shall, at all reasonable times during the said period, produce such license when required to do so by the Chairman or any person duly authorized in writing by him to demand its production.

Penalty.

(2) Every person failing to comply with such requisition shall be liable to a fine not exceeding Rs. 5.

5. TAX ON CARTS AND OTHER VEHICLES WITHOUT SPRINGS.

Tax on carts, &c.

85. (1) If the Municipal Council notify, under Section 50, that a half-yearly tax shall be levied on carts and other wheeled vehicles without springs kept *or let out for hire* within the municipality, *the owner of every such cart or vehicle shall register the same and pay the tax due on account thereof upon such date as the Chairman may notify under sub-section (3)*

Registry and numbering of carts, &c.

(2) Such carts and other vehicles shall be registered in the Municipal Office with the name and residence of the owner, and shall bear the number of such registration in such manner as the Municipal Council direct.

Registration half-yearly.

(3) The registration of carts and other vehicles shall be made and the numbers assigned half-yearly upon such days as the Chairman shall notify.

Exception.

(4) This section shall not apply to *vehicles belonging to Government and used for military purposes*, to vehicles belonging to the Municipal Council *or to vehicles kept solely for sale by builders and dealers.*

Person becoming intermediately possessed, to register.

86. Any person becoming possessed, within the limits of the Municipality, of any such cart or vehicle which has not been registered for the then current half-year shall, within *twenty* days of so becoming possessed, register the same; and the Chairman shall grant a certificate of registration in every such case on payment of the tax, for the current half-year.

No person bound to register unless he has possession for fifteen days.

86-A. No person shall be bound to register any cart or other vehicle which has been owned by him or has been in his possession for less than fifteen days in any half-year.

87. (*Register to be open to inspection*) *Repealed.*

Effect of omitting to keep number affixed.

88. Whoever omits to affix, and to keep affixed, to any such cart or other vehicle the registration number prescribed in Section 85 shall be deemed to have failed to register the same.

Unregistered cart, &c., liable to seizure.

89. The Chairman, or any person duly authorized by him in that behalf, may at any time seize and detain any cart or vehicle not registered as required by Section 85, provided the same be not employed at the time of seizure in the conveyance of any passengers or goods.

Procedure after seizure of vehicle.

90. (1) If the cart or *other* vehicle seized *under Section 89* be not claimed within ten days from the date of seizure, *the Chairman may direct that* such cart or vehicle *shall* be sold by *public* auction and *that* the proceeds *of the sale shall be* applied to the payment of (i) the tax due *on the cart or other vehicle sold*, (ii) *such penalty not exceeding the amount of the said tax as the Chairman may direct and* (iii) *a sum of one rupee on account of* charges incurred *in connection with the* seizure, detention and sale.

(2) *If the owner of the cart or other vehicle seized under Section 89 appear within ten days from the date of seizure and claim the same, it shall be returned to him on payment of* (i) *the tax due thereon*, (ii) *such penalty not exceeding the amount of the said tax as the Chairman may direct and* (iii) *a sum of eight annas on account of charges incurred in connection with the seizure and detention.*

6. TOLLS ON VEHICLES AND ANIMALS ENTERING MUNICIPAL LIMITS.

Tolls on vehicles and animals entering Municipal limits.

91. (1) If the Municipal Council notify, under Section 50, that tolls shall be levied upon the vehicles and animals entering the Municipal limits, such tolls shall be levied at the rates mentioned in the Notification.

Chairman may compound with persons living outside Municipal limits.

(2) The Chairman may, subject to the approval of the Municipal Council, compound for any period, not exceeding one year, with persons living outside the Municipality for a sum to be paid in lieu of all tolls payable by them under the provisions of this Act, and shall issue licenses for the vehicles or animals of such persons.

No tolls to be levied in certain cases.

(3) No tolls shall be levied for the passage of vehicles or animals—

(*a*) *belonging to the Municipal Council;*

(*b*) conveying troops, military stores and baggage, Military and Police officers *in uniform*, municipal *servants* on duty, *or* persons or property in the custody *of such officers or servants; or*

(*c*) licensed or registered by the Municipal Council, during the period for which they have been so licensed or registered.

Toll-bars and farming of tolls.

92. (1) The Municipal Council shall construct toll-bars and gates and gate-keepers' stations, and may place the collection of such tolls under the management of such toll-collectors as may appear to them proper, or may farm out such tolls on such terms and subject to such conditions as they may deem fit.

(2) The tolls authorized by this section shall be leviable only on vehicles and animals entering Municipal limits through the toll-bars, gates or stations constructed under sub-section (1).

Tolls where leviable.

(3) *A table of the tolls leviable shall be put up at* every toll-bar, gate, or station, *by the Municipal Council; such table shall be* legibly written or painted in English words and figures and in the Vernacular language of the district.

Table of tolls to be exhibited.

93. If any person shall, with any carriage, cart or animal, go off or pass from any road on which a toll-bar, gate or gate-keeper's station has been constructed under the provisions of Section 92 through or over any land adjoining thereto, such land not being owned or occupied by such person and not being a public road, with intent to evade the payment of any toll leviable under the provisions hereinbefore contained, such person shall be liable to a fine not exceeding Rs. 50 and shall also pay the amount of the toll and costs of prosecution.

Penalty for evading tolls.

94. No more than one payment of toll shall be demanded in any one Municipality in respect of any vehicle or animal in any one period of twenty-four hours counted from sunrise to sunrise, and, on such payment being made, a receipt shall be granted by the person appointed to collect the toll *on behalf of the Municipal Council or, if the tolls have been farmed out, of the toll-farmer; such receipt shall be in such form* as the Municipal Council may from time to time prescribe.

No more than one payment in twenty-four hours.

95. (1) *If the toll leviable is not paid* on demand, the person appointed to collect it *as aforesaid* may seize *and detain such portion of the appurtenances or load of the vehicle or animal in respect of which the toll, or any portion thereof, is due as will, in his opinion, suffice to defray the amount so due, and, in the absence of such appurtenances or load, may seize and detain the said vehicle or animal.*

In case of non-payment of toll, vehicle, &c., may be seized.

(2) *All property seized under sub-section* (1) *shall be sent at once to the Chairman or to such person as may have been authorized by him to receive and sell property so seized, and the Chairman or person authorized as aforesaid shall forthwith give notice to the owner of the property seized, or, if the owner is not known or is not resident within the Municipality, to the person who was in charge of the said property at the time when it was seized,* that, after the expiration of two days, exclusive of Sunday, from the date of *of service of such notice,* he will sell the *said* property by auction at a place to be specified in the notice.

Notice of intended sale.

96. (1) If, at any time before the sale has begun, the person *to whom notice has been given as provided in sub-section* (2) *of Section* 95, *or the owner of the property seized,* tenders to the Chairman or other person *authorized as aforesaid a sum sufficient to cover* (*a*) all expenses *incidental to the seizure and detention of the property and* (*b*) *the amount due on account* of the toll, the property seized *shall be forthwith released.*

Sale shall be stopped if payment tendered.

(2) If no such tender is made, the property may be sold, and the proceeds of such sale shall be applied in payment of such toll and the expenses incidental to the seizure, detention and sale.

Sale-proceeds to discharge toll and expenses.

7. TAX ON SERVANTS.

Levy of tax on servants.

96-A. *If the Municipal Council notify, under Section 50, that a monthly tax shall be levied upon private menial and domestic male servants, the Chairman shall impose such tax at the rate specified in such notification upon all employers of such servants who have not paid during the then current year, and who are not liable to pay, any of the taxes specified in clauses (i), (ii) and (iii) of Section 47.*

Tax, when due.

96-B. *The tax on servants shall be payable in each month for each servant employed for not less than five days in such month and, if it remains unpaid at the end of the said period of five days, the Chairman shall serve upon the employer a notice requiring him to pay the sum due within three days from the date of such service.*

Chairman may require secretaries of clubs, &c., to furnish lists of servants.

96-C. *The Chairman may, by notice, require every secretary, owner or manager of a club, hotel or boarding-house or of residential chambers to forward to him, periodically or at any time, a list in writing, signed by such secretary, owner or manager, of the private menial and domestic male servants employed by every person resident in such club, hotel, boarding-house or chambers.*

Refund of tax, when claimable.

96-D. *Every person who has paid any sum under Section 96-B and who, during the course of the same year, pays, in the same Municipality, any of the taxes specified in clauses (i), (ii) and (iii) of Section 47 shall be entitled to a refund of the sum paid on account of the tax on servants.*

Governor in Council to decide what is a hill-station.

96-E. *In case of doubt, the Governor in Council shall have power to decide whether a Municipality is a hill-station within the meaning of the second proviso to Section 47.*

8. APPEALS.

Appeals to the Municipal Council in respect of taxes.

97. (1) *No* appeal shall lie to the Municipal Council *in respect of the imposition of taxes except* against—

(i) *assessments made by the Revenue officer in charge of the Division under Section 52-A;*

(ii) *the Chairman's proceedings* under Section 54;

(iii) *the Chairman's order upon a revision petition presented under Section 69-C;*

(iv) *the imposition by the Chairman of* any tax on any vehicle or animal *or of the tax on servants.*

Council may cancel Chairman's orders.

(2) *The Municipal Council may, of their own motion or otherwise, cancel or modify any order passed by the Chairman reducing or remitting a tax.*

Form of appeal.

98. The appeal shall be made in writing, and shall set forth concisely and under distinct heads the grounds of objection to the decision or other proceedings appealed against and shall be heard and disposed of by the Municipal Council.

Limitation as to appeal.

99. No appeal *to the Municipal Council* shall be heard—

(i) unless it be presented at the Municipal office—

(*a*) within fifteen days from the date of the service of the notice referred to in Sections 56 *and 82; or*

(*b*) *within fifteen days from* the date *upon which* the tax *became payable under Sections 64, 73, 85 or 86 ; or*

(*c*) *within three days from the date of the service of the notice referred to in Section 96-B ;* and

(ii) unless (except when the *Chairman* otherwise directs *on the ground of poverty*) the tax *in respect of which the appeal is presented has been* deposited *at the Municipal office* on or before the day upon which the appeal is presented.

Assessment books to be corrected in accordance with orders of Council.

100. *The assessment books maintained under Section 52 shall be corrected in accordance with any orders passed by the Municipal Council on an appeal presented under Section 97 and such correction shall not be deemed to be an amendment within the meaning of sub-section (3) of Section 66.* In the event of the amount of any tax being decreased or remitted by the Municipal Council, the Chairman shall grant a refund accordingly.

If tax decreased, refund to be made.

Assessment, &c., when to be final.

101. The assessment or demand of any tax, when no appeal is made as hereinbefore provided, and the adjudication of an appeal by the Municipal Council, shall be final.

9. COLLECTION OF TAXES.

Before distraint, bill to be presented in certain cases.

102. (1) When any tax *in respect of which no notice has been served or direction given as provided in Sections 56, 69-D, 82 and 96-B is due from any person, the Chairman shall serve* upon *such* person a bill *for* the sum due, *before he proceeds to enforce* the provisions of Section 103.

(2) Such bill *shall be signed by the Chairman and* shall contain—

(i) a statement of the period and a description of the occupation, property or thing for which the tax is charged ; *and*

(ii) a notice of the liability incurred in default of payment.

Recovery of sum due by distraint.

103. (1) If *the amount due on account of any* tax is not paid within fifteen days from the service of *the* notice or bill *or the giving of the direction prescribed in Section 56, 69-D, 82 or 102, as the case may be, or within three days from the service of the notice prescribed in Section 96-B,* and if the person from whom the tax is due *has* not *shown* cause to the satisfaction of the Chairman why the same should not be paid, the Chairman may recover, *by the distraint and sale of the moveable property of the defaulter,* the amount *due on account of the tax,* together with *the warrant fee and the distraint fee leviable under Sections 104 and 108, respectively, and with such further sum as will satisfy the probable expenses incidental to the detention and sale of the property so distrained.*

Prosecution in default of distraint.

(2) *If, for any reason, the distraint, or a sufficient distraint, of the defaulter's property is impracticable, the Chairman may prosecute the defaulter before a magistrate.*

Council may also sue.

(3) Nothing herein contained shall preclude the Municipal Council from suing *in a Civil* Court for *any amount due to them under this Act.*

Warrant for distraint.

104. *In order to the distraint and sale of property under sub-section (1) of Section 103, the Chairman shall issue a* warrant in the form *prescribed* in Schedule E or *in some similar form ; and, for each such warrant, a warrant fee of two annas shall be leviable.*

Procedure in making distraint.

105. The officer charged with the execution of *the* warrant shall, *before making the distraint, demand payment of the tax due and of the warrant fee leviable under Section 104. If, thereupon, the said tax and fee are paid, no distraint shall be made, but, if not, the said officer shall—*

(i) *seize such moveable property as he may think necessary ;*

(ii) make an inventory of the property seized ; *and*

(iii) give to the person in possession *of the property seized* at the time of seizure a notice in the form *prescribed* in Schedule F or *in some similar form.*

Conditions of distraint and sale.

106. Whenever under the provisions of this chapter any property is distrained, seized or sold in consequence of the non-payment of any tax, toll or fee due, such distraint, seizure and sale shall be effected subject to *the provisions of Section* 271 *of the Code of Civil Procedure and to* the conditions, exceptions and exemptions hereinafter provided.

Exceptions.

(i) The following property shall not be liable to distraint :—

(*a*) the necessary wearing apparel of the defaulter, his wife and children,

(*b*) the tools of artisans, and

(*c*) where the defaulter is an agriculturist, his implements of husbandry and such cattle as may, in the opinion of the person making the distraint, be necessary to enable the defaulter to earn his livelihood.

Limit.

(ii) The *distraint* shall not be excessive, that is to say, the property distrained shall be, as nearly as possible, proportionate to the amount due *on account of the tax, the warrant fee and distraint fee and the probable expenses incidental to the detention and sale of the said property.*

Sale of distrained property.

107. (1) If the *amount* due by the defaulter *on account of the tax, the warrant fee and distraint fee and the expenses incidental to the detention of the property* is not paid within the *period of seven days* mentioned in the notice *given under Section 105,* and if the *distraint* warrant is not suspended by the Chairman, the property seized or a sufficient portion thereof shall be sold by public auction under the orders of the Chairman, who shall apply the proceeds *of the sale to the* payment of the *amount* due *on account of the tax, the warrant fee and distraint fee and the expenses incidental to the detention and sale of the property, and shall return to the person in whose possession the property was at the time of seizure any property or sum which may remain after the sale and the application of the proceeds thereof as aforesaid. If the proceeds of the sale are insufficient for the payment of the amount due on account of the tax, the warrant fee and distraint fee and the expenses incidental to the detention and sale of the property, the Chairman may again proceed as provided in sub-section (1) of Section 103 in respect of the sum remaining unpaid.*

(2) When the property seized is subject to speedy and natural decay, the Chairman *may* sell *it at any time before the expiry of the said period of seven days*, unless the amount due *is sooner* paid.

Sale of perishable article.

(3) *The Chairman shall consider any objections to the distraint of any property which are made within the said period of seven days and may postpone the sale pending investigation thereof. If the Chairman decides that the property attached was not liable to distraint, he shall return it or, if it has already been sold under sub-section (2), the proceeds of the sale thereof to the person appearing to be entitled thereto and may again proceed as provided in sub-section (1) of Section 103; and all fees and expenses connected with the first distraint and sale shall be recoverable from the defaulter, if it shall appear to the Chairman that he wilfully permitted the distraint of property which to his knowledge was not liable to distraint.*

Objections to sale to be considered.

108. (i) *Distraint* fees shall be payable under this Act at such rates, not exceeding those mentioned in Schedule G, as may be from time to time determined by the Municipal Council.

Distraint fees.

(ii) Such fees shall not be held to include the *expenses incidental to the detention of any property* distrained under this Act.

109. The property of a person in default under Section 103 may be distrained wherever the same may be found within the municipality.

Property of defaulter, wherever found, may be distrained.

110. If the *tax* due on account of any building or land remains unpaid *at the end of the period mentioned in Section 103*, the Chairman may, provided *that* the *said tax* has not been due for more than one year, *require* the occupier for the time being of such building or land *to pay the amount within a specified period; and, if the occupier fails to comply with this requisition*, the Chairman may *distrain and sell* any *moveable* property found on the premises, *and the provisions of Sections 104, 105, 106, 107 and 108 shall, mutatis mutandis, apply to all distraints and sales effected under this section; but no occupier shall be liable to prosecution under Section 103 or to a civil suit, in respect of any sum recoverable from him under this section, unless he has wilfully prevented distraint or a sufficient distraint.*

Occupier may be called on to pay for owner.

Occupier not to be liable to prosecution or suit in such case.

111. *Every* person who *is* prosecuted under Section 103 shall be liable, on *proof to the satisfaction of the Magistrate that he wilfully or negligently omitted to pay the amount due by him or that he wilfully prevented distraint or a sufficient distraint*, to pay a fine not exceeding twice the amount *which may be due by him on account of* (*a*) the tax *and the warrant fee, if any, and* (*b*), *if distraint has taken place, the distraint fee and the expenses incidental to the detention and sale, if any, of the property distrained;* and *he* shall also pay *the said amount* and the costs of the prosecution.

Penalty on conviction before Magistrate.

Provided that, in the case of any tax due under Section 77 where the form referred to in Section 80 has not been duly returned to the municipal office, the amount *of tax found under this section to be due shall not be less than the amount specified in the notice served under Section* 82.

112. (*Recovery of arrears of taxes, &c., due at commencement of this Act*) *Repealed.*

CHAPTER IV.

PURPOSES TO WHICH THE FUNDS RAISED UNDER THIS ACT MAY BE APPLIED.

113. The funds raised under this Act shall, subject to such rules and restrictions as the Governor in Council may, from time to time, prescribe, be applicable within the Municipalities in which they are raised, *or, with the special sanction in each case of the Governor in Council, without the said Municipalities*, to the following purposes; that is to say:—

Purposes to which the funds raised under this Act may be applied.

(i) The construction, repair, and maintenance of streets, bridges, and other means of communication.

(ii) The construction and repair of hospitals, dispensaries, lunatic asylums, poor houses, choultries, markets, drains, sewers, *latrines*, water-works, tanks and wells, the payment of all charges connected with the objects for which such buildings have been constructed, the training and employment of medical practitioners and vaccinators, the sanitary inspection of towns and villages, the application of the Indian Contagious Diseases Act, the registration of births and deaths, the lighting of the streets, the cleansing of the streets, tanks and wells and other works of a similar nature *and the taking of a census.*

(iii) The diffusion of education, and, with this view, the construction and repair of school-houses, the establishment and maintenance of schools, either wholly or by means of grants-in-aid, the inspection of schools, and the training of teachers.

(iv) Other measures of public utility calculated to promote the safety, health, comfort, or convenience of the people.

(v) The payment of salaries, leave allowances, pensions, gratuities and compassionate allowances to servants employed by the Municipal Council.

(vi) The payment of all expenses specially provided for in this Act or specially sanctioned with the approval of the Governor in Council, by the Municipal Council, but not included in the preceding clauses of this section, *and the payment of refunds sanctioned by the Municipal Council.*

114. If the expenditure incurred for any of the purposes described in the last preceding section by any Municipal Council in any Municipality or by any authority constituted under the Madras Local *Boards* Act, 1884, or other similar law for the time being in force, is calculated to benefit the inhabitants of any other Municipality, the Municipal Council of the latter Municipality may, with the sanction of the Governor in Council, contribute a reasonable sum towards such expenditure; or the Governor in Council may direct the said Municipal Council to show cause, within a month after the receipt of the order containing the direction, why such sum shall not be paid. If the Municipal Council fail to

Contribution to other local authorities.

show such cause within the said period to the satisfaction of the Governor in Council, he may direct the said Municipal Council to pay such sum and it shall be paid accordingly.

115. The Governor in Council may, at any time, with the consent of the Municipal Council, transfer to such Municipal Council the management of any institution or the execution of any work not provided for by this Act, and it shall thereupon be lawful to such Municipal Council to undertake the management of such institution or the execution of such work. Provided that in every such case the funds necessary for such management or execution shall be placed at the disposal of the Municipal Council by the Governor in Council.

Objects not provided for by this Act.

116. The Governor in Council may, by a notification from time to time, exempt any Municipality from the operation of any one or more of the following sections contained in this chapter and may at any time in like manner modify or cancel such exemption.

Exemption from this Chapter.

1. EDUCATION.

117. The Municipal Council shall, so far as the funds at their disposal may admit, make provision for the instruction in schools of all children of school-going age, resident within the limits of the Municipality, for whose instruction provision shall not otherwise have been made.

The Municipal Council to make provision for the public instruction of children,

118. The Municipal Council may provide instruction—

(i) either by schools maintained wholly from the Municipal Fund, or

by maintaining schools,

(ii) by means of grants-in-aid to private schools from the said fund in accordance with such rules as may from time to time be prescribed by the Governor in Council, or

or by grants-in-aid,

(iii) by contributing towards the cost of Government schools, or

(iv) by more than one of such means.

119. The Municipal Council may, with the previous sanction of the Governor in Council, maintain, either wholly from the Municipal Fund or by grants-in-aid therefrom, primary schools to which admission may be wholly or partly free for any class of the inhabitants which, in the opinion of the Municipal Council, is by reason of poverty unable to pay the fees leviable in schools maintained by the Municipal Council, whether wholly from the Municipal Fund or by grants-in-aid therefrom.

and may maintain or aid schools where admission is free to a class or classes.

120. If at any time it seems advisable to the Governor in Council that a grant-in-aid should be made to any school maintained solely for the instruction of the children of any particular class of the inhabitants of any Municipality, he may direct the Municipal Council of such Municipality to make such grant to such school; and the Municipal Council shall make it accordingly; provided that the Governor in Council shall not so direct until the Municipal Council shall have had an opportuuity of submitting their views on the subject to Government.

The Governor in Council may direct that aid be given to a school intended for a particular class.

121. The instruction to be provided by the Municipal Council shall be of such standards as may from time to time be prescribed by the Governor in Council.

The standard of public instruction to be provided by the Municipal Council.

122. (1) The Municipal Council shall levy in every school maintained by them wholly from the Municipal Fund fees in accordance with such rates as may from time to time be prescribed by the Governor in Council; provided that if the Municipal Council are satisfied that the parent or guardian of any child, resident in the Municipality, is by reason of poverty unable to pay for the primary education of such child, they may pay the whole or part of the fees payable for the primary education of such child, but they shall not compel the parent or guardian of such child to send such child, in consideration of the said relief, to any particular school.

The Municipal Council shall levy fees in such schools,

and may pay the fee for any child;

but shall not name the school to which the child shall go.

(2) The proceeds of all fees levied by the Municipal Council as aforesaid shall be expended by the Municipal Council for the provision of instruction by means of schools.

The proceeds of fees shall be spent on schools.

123. (*The Municipal Council may aid the construction of buildings for other schools*) *Repealed.*

124. The Municipal Council may also provide, wholly from the Municipal Fund, or by means of grants-in-aid therefrom,

The Council may provide for other educational matters.

(i) for the inspection of schools maintained by them, whether wholly from the Municipal Fund or by grants-in-aid therefrom;

(ii) for the training of teachers for schools *maintained or aided from Municipal funds.*

(iii) for the instruction and training of persons for the practice of medicine, or of vaccination, or of any technical or industrial calling; and

(iv) for the maintenance of public libraries, reading-rooms, gymnasia, or any other institutions connected with the diffusion of education, which may be approved by the Governor in Council.

2. MEDICAL RELIEF.

125. (1) The Municipal Council shall provide and maintain either from endowments or from the Municipal Fund or by grants-in-aid therefrom, in accordance with such rules as may from time to time be prescribed by the Governor in Council, a hospital or dispensary where the sick poor of the Municipality shall be entitled to receive medical and surgical advice and treatment free of charge; and the Municipal Council shall provide and maintain more than one such hospital or dispensary if the Governor in Council directs them to do so. Provided that the Governor in Council shall not so direct until the Municipal Council shall have had an opportunity of submitting their views on the subject to the Government.

Provision of hospitals and dispensaries.

(2) But the Municipal Council shall not be bound to provide or maintain any such hospital or dispensary when, in the opinion of the Governor in Council, sufficient provision has otherwise been made for the treatment, free of charge, of the sick poor of the Municipality.

Municipal Council not bound to provide, if sufficient provision already made.

126. The Municipal Council shall provide every hospital or dispensary provided or maintained by them with all necessary drugs, instruments, apparatus, furniture, and appliances on a scale approved by Government, and, when in the opinion of the Municipal Council provision for in-patients may be necessary, they shall also provide a sufficient number of cots, bedding, clothing, furniture and diet for such in-patients.

Such hospital or dispensary to be supplied with medicines, &c.

127. (1) Any inhabitant of the Municipality, who is not a fit object of public charity, may, subject to such rules as the Municipal Council, with the approval of the Governor in Council, may from time to time prescribe, obtain medical or surgical advice and treatment from any hospital or dispensary maintained by the Municipal Council from endowments or from the Municipal Fund; provided that any charges incurred by the Municipal Council in the medical or surgical relief of persons other than the sick poor of the Municipality or those unable to pay a medical attendant shall be reimbursed by such persons.

Persons other than paupers may obtain treatment.

(2) The Municipal Council shall employ a Medical Officer for any hospital or dispensary maintained by them from endowments or from the Municipal Fund.

Employment of Medical Officer.

128. The Municipal Council may also permit the treatment in the hospitals or dispensaries maintained by them from endowments or from the Municipal Fund of any person not resident in the Municipality.

Treatment of strangers.

3. VACCINATION.

129. Every Municipal Council shall make provision for the gratuitous vaccination of all persons residing within the Municipality,

Provision for vaccination.

(i) by employing an adequate staff of duly qualified vaccinators, and

(ii) by making suitable provision for, and defraying the charges of, maintaining a supply of vaccine lymph, and such public vaccinating stations as may be necessary.

130. The Governor in Council may, by a written license, authorise any medical practitioner or other person to perform the operation of vaccination and may at any time suspend or cancel any such license.

Licensed vaccinator.

131. (1) No fee or remuneration shall be charged by any public vaccinator for any vaccination performed or certificate given under this Act.

No fee to be charged for vaccination by any public vaccinator or for certificates.

Provided that the Chairman may, upon application by any person and upon the payment by him of such fee as the Municipal Council may have prescribed, direct a public vaccinator to perform vaccination, or to make an inspection as hereinafter provided, at the private residence of such person.

But fee may be levied for visit to private house.

(2) *If the application mentioned in the proviso to sub-section (1) is made in respect of a female who, according to the customs of the country, does not appear in public,*

Vaccination of gosha females.

the same shall be complied with and no fee shall be charged in respect of such compliance.

132. (1) The parent or guardian of any child successfully vaccinated may require from the public vaccinator, a certificate to the effect that the child has been successfully vaccinated, and the public vaccinator shall furnish such certificate.

Certificate of vaccination.

(2) If the public vaccinator is of opinion that a child which has been three times unsuccessfully vaccinated is insusceptible of successful vaccination, he shall deliver to the parent or guardian of such child a certificate to that effect.

Certificate when child is insusceptible of vaccination.

(a) Compulsory Vaccination.

133. (1) The Governor in Council may, by notification, declare that vaccination shall be compulsory in any Municipality from a date to be specified in such notification, and may from time to time, in like manner, cancel or modify such declaration.

Governor in Council may declare vaccination compulsory.

(2) On the publication of the said notification, the Municipal Council shall cause to be proclaimed by beat of drum and by notification in the District Gazette, that vaccination is compulsory in such Municipality.

Municipal Council to proclaim that vaccination is compulsory.

134. The parent or guardian of any unprotected child who is six months old but is under ten years of age, and who has resided within the limits of such Municipality for a period of six months after such proclamation, shall take or cause it to be taken to a vaccinator or shall procure its vaccination by a vaccinator. *The Chairman may, in such Municipality, direct the vaccination of any child under six months of age when it is exposed to infection in consequence of residence in a house infected by small-pox.*

Unprotected child to be vaccinated.

135. (1) The vaccinator shall, if he finds such child in a state unfit for vaccination, deliver to its parent or guardian a certificate to the effect that the child is in a state unfit for vaccination.

Vaccinator to certify if child unfit.

(2) A certificate granted under this section showing the unfitness of a child for vaccination shall remain in force for such period, not exceeding three months, as shall have been stated therein; and, on the termination of that period, the parent or guardian of such child shall take the child, or cause it to be taken, to a vaccinator to be vaccinated, or procure its vaccination at his own house by a vaccinator, and shall subsequently cause it to be inspected in the manner hereinafter provided.

Effect of such certificate.

Provided that, if the child is still found to be in a state unfit for vaccination, the certificate shall be renewed.

Renewal of such certificate.

136. The vaccinator shall, if he finds the child to be in state fit for vaccination, vaccinate the child and deliver to its parent or guardian a memorandum stating the date on which the vaccination has been performed and the date on which the child is to be inspected in order to ascertain the result of the operation.

Vaccinator to vaccinate child, if fit.

137. (1) The parent or guardian of every child which has been vaccinated under the last preceding section shall, on the date of inspection stated in the memorandum, take the child, or cause it to be taken, to a vaccinator for inspection, or shall procure its inspection by a vaccinator; and such vaccinator shall then append to the memorandum a certificate stating that the child has been inspected and the result of such inspection.

Inspection after vaccination.

(2) When it is ascertained, at the time of inspection under this section, that the vaccination has been successful, a certificate shall be delivered by the vaccinator to the parent or guardian of such child to that effect; and such child shall thereafter be deemed to be protected.

Procedure when vaccination is successful.

(3) When it is ascertained that the vaccination has been unsuccessful, the parent or guardian shall, if the vaccinator so direct, cause the child to be forthwith again vaccinated, and shall subsequently cause it to be inspected in the manner provided in sub-section (1) of this section.

Procedure when vaccination is unsuccessful.

(4) If the vaccinator is of opinion that a child which has been three times unsuccessfully vaccinated is insusceptible of vaccination, he shall deliver to the parent or guardian of such child a certificate to that effect; and the parent or guardian shall thenceforth not be required to cause the child to be vaccinated.

Certificate of insusceptibility.

138. (1) The Chairman, or some person or persons authorised by him in that behalf, shall ascertain *which* children under the age of ten years within the Municipality are unprotected; and if the Chairman or any person authorized by him has reason to believe that the parent or guardian of any unprotected child is bound by the provisions hereinbefore contained to procure the vaccination *or inspection* of such child and has omitted so to do, he shall go to the house of such parent or guardian and there make inquiry, and shall, if the fact is proved to his satisfaction, forthwith deliver to such parent or guardian, or cause to be affixed to his house, a notice requiring that the child be vaccinated or *inspected*, as the case may be, at a time and place to be specified in the notice.

Notice to parent or guardian of unprotected child, &c.

(2) If such notice is not complied with, the Chairman or such person shall send a report on the matter to the Magistrate, who shall summon the parent or guardian of the child and demand his explanation, and shall, if such explanation is not satisfactory, *sentence* such parent or guardian to *pay a fine not exceeding fifty rupees and such parent or guardian shall be liable to a further fine not exceeding ten rupees for every day during which the said notice remains uncomplied with.*

If notice is disobeyed, Magistrate may impose fine;

(3) *If the Magistrate finds the explanation given by the parent or guardian of the child to be satisfactory, he shall make an order in writing directing such parent or guardian to comply with the notice given under sub-section (1) before a date specified in the order, and if, on such date, the said order has not been obeyed, the Magistrate shall again summon the parent or guardian to appear before him and shall proceed as before.*

or may direct compliance with notice before given date.

(4) *No penalty shall be imposed under this section, if it is proved that the parent or guardian has demanded the use of animal vaccine lymph and that such lymph has not been available.*

No penalty where animal lymph demanded but not available.

139. (*Provision as to person who does not appear in public*) *Repealed.*

(*b*) *Penalties.*

140. Whoever, after a notification has been issued under Section 133 (1), not being a vaccinator under this Act, wilfully signs or makes a certificate purporting to be a certificate granted under this Act, shall be liable to a fine not exceeding Rs. 500.

Penalty for signing a certificate by unauthorized vaccinator.

141. Whoever, being a vaccinator, wilfully signs, or makes, or procures the signing or making of, a false certificate, or, being bound to grant a certificate under this Act, refuses or neglects to grant the same, shall be liable to a fine not exceeding Rs. 100.

Penalty for signing a false certificate or refusing to grant certificate.

142. In every Municipality inoculation is hereby prohibited; and

Prohibition of inoculation.

no person who has undergone the operation of inoculation shall enter any Municipality before the lapse of forty days from the date of inoculation without a certificate from a medical practitioner, of such class as the local Government may from time to time by written order authorize to grant such certificates, stating that such person is no longer likely to produce small-pox by contact or near approach.

Inoculated persons not to enter any Municipality within given period without certificate.

Whoever contravenes the provisions of this section shall be liable to simple imprisonment for a term not exceeding three months, or to a fine not exceeding Rs. 200, or to both.

Penalty for such entry.

4. WATER-SUPPLY.

143. (1) The Municipal Council shall, so far as the funds at their disposal may admit, provide a sufficient supply of water fit for the domestic use of the inhabitants of the Municipality.

The Municipal Council to provide water-supply.

(2) All public water-courses *and* springs, *and all public* tanks, reservoirs, cisterns, fountains, wells, stand-pipes and other water-works existing at the time of the coming into operation of this Act or afterwards made, laid or erected, and whether made, laid or erected at the cost of the Municipal Council or otherwise, and also any adjacent land (not being private property) appertaining *thereto*, shall be under the control and direction of the Municipal Council.

Public tanks, &c., to be under the control of the Municipal Council.

(3) The Governor in Council may, from time to time, by Notification, limit or define such control and direction and may exclude from the provisions of this section any source of water-supply and any water-works being the property of Government, and may in like manner cancel or modify such Notification.

Governor in Council may limit such control.

144. (1) The Municipal Council may direct, with the sanction of the Governor in Council, the construction of such works as they may deem fit for bringing water into the Municipality, and may provide channels, tanks, reservoirs, cisterns, wells, fountains, stand-pipes and other works as they may deem fit for the use of the inhabitants.

Construction of new works.

(2) The Municipal Council may cause existing public channels, tanks, reservoirs, cisterns, wells, fountains, stand-pipes and other works used for the supply of water to be maintained and supplied with water;

Maintenance of existing works for supply of water.

or they may close any such works and substitute other such works, and may cause them to be maintained and supplied with water.

Works may be closed and others substituted.

145. Whenever the Governor in Council has sanctioned any works without the limits of any Municipality for bringing water into such Municipality, the Municipal Council and their servants may exercise *all the powers which, by this Act, they may exercise within the Municipality* (*a*) in the construction, maintenance and repair of such works throughout the line of country in which such works are situated or through which they are to run, and, (*b*) with the sanction of the Governor in Council,

Powers of the Municipal Council when constructing water-works without the Municipality.

(i) over any lake, *tank* or reservoir from which a supply of water for the use of the Municipality is derived and over all lands within *one mile* of the high water level of any such lake, *tank* or reservoir; and

(ii) *over any water-course from which a supply of water for the use of the Municipality is derived, within one mile above, and one-half of a mile below, any point at which water is taken for such use.*

146. (1) The Municipal Council, in laying down any pipes for the water-supply of the Municipality, may, if they consider it necessary, carry such pipes through, across or under any street or any place laid out or intended for a street, or under any building or through any cellar or vault or into, through or under any enclosed or other land whatsoever.

Powers of Municipal Council in laying down pipes.

(2) The Municipal Council shall, in every case in which they deal with private property under this section, give reasonable notice of their intention so to do to the owner of such property, and shall pay to him reasonable compensation for so dealing with the property.

Notice to owner of private property and compensation for dealing with it.

147. (1) The Municipal Council may arrange *with the owner or occupier of any building or land* for the supply of water *thereto* in such quantities, *on such terms, and subject to such conditions*, as they *may think fit: provided that no payment shall be demanded for water supplied for domestic purposes.*

Supply of water to private premises.

(2) The Municipal Council may at any time, for sufficient reason, limit the amount of water to be so supplied whenever they consider it necessary.

Council may limit supply.

(3) The works necessary for such supplies and all future repairs, extensions and alterations of such works shall, in every case, be conducted by the Municipal Council, or under their orders, and the expense thereof shall be defrayed by such owner or occupier.

Cost of supply works to be borne by owner or occupier.

(4) A supply of water for domestic purposes shall not include a supply of water for horses or for washing vehicles, where such horses or vehicles are kept for sale or hire, or a supply for any trade, manufacture or business, or for fountains or swimming baths, or for any ornamental or mechanical purpose, or for purposes of irrigation.

What are not domestic purposes.

148. (1) The Chairman, or any person authorized in that behalf by him, may, *at any time between sunrise and sunset and after giving one hour's notice to the occupier of any building or land supplied with water under sub-section (1) of Section 147*, enter *into or* upon *such* building or land and examine the condition of any pipes, works, and fittings, and ascertain if there be any waste or misuse of water supplied thereto by the Municipal Council.

Power to enter premises.

(2) If the Chairman or such other person is without reasonable cause refused admittance to such building or land for the purpose aforesaid, or is prevented without reasonable cause from making such examination, or *if it appears to the Chairman that*, pending repair, *waste of water cannot be otherwise prevented*, the Chairman may stop the supply of water to such building or land.

If obstructed, or to prevent waste, Chairman may stop water.

149. The owner or occupier of any building or land, in which water supplied under this Act is wasted or misused from negligence or other circumstances under the control of the said owner or occupier, or *is* used in excess of the quantity fixed under Section 147, or *is* used for any *purposes* other than those agreed on, or in whose building or land the pipes, works, and fittings for the supply of water are found to be out of repair to such an extent as to cause waste of water, and who, having knowledge thereof, omits to give reasonable notice thereof to the Chairman, shall be liable to a fine not exceeding Rs. 20 for every such neglect, misuse, breach or omission, and shall also pay such costs of the prosecution as shall be awarded.

Penalty for waste or misuse of water.

149-A. *If any person who has been supplied with water under sub-section (1) of Section 147 neglects to pay any sum due from him on account of the water and drainage tax levied under Section 75 or any sum due from him under Section 147, or is convicted of an offence punishable under Section 149, the Chairman may stop the supply of water to him by cutting off any pipe laid down for the purpose of such supply or by such other means as he thinks fit and may recover the amount of the outlay incurred in cutting off the supply from the person in consequence of whose neglect or conviction the supply was stopped.*

Chairman may cut off water in case of neglect to pay water-tax, &c.

150. (1) Whoever trespasses upon land belonging to the Municipal Council, along which the water-supply channel is conducted, or the buildings or premises connected with the water-supply, shall be liable to a fine not exceeding Rs. 20.

Penalty for trespassing on channel land, &c.

(2) If any such person refuses to leave such land, buildings or premises, on being requested to do so by any servant of the Municipal Council, or by any one authorized in that behalf by the Municipal Council, such person shall be liable to a further fine not exceeding Rs. 50, and may be removed from such land or buildings or premises by such servant or other person.

Penalty for refusing to leave land, &c., trespassed upon.

151. Whoever

(i) unlawfully breaks, injures, or causes damage to, any public channel, tank, reservoir, cistern, well, fountain, standpipe or other work, connected with the water-supply, or without due authority opens or removes any lock, cock, or pipe belonging to, or under the management or control of, the Municipal Council, or,

Damaging works.

(ii) unlawfully draws off, or takes, water from any water-works belonging to the Municipal Council or under their management or control,

Diverting water.

shall, for every such offence, be liable to a fine not exceeding Rs. 20, and a further fine not exceeding Rs. 10 for each day during which the offence is continued after notice in that behalf.

Penalty.

(a) *Fouling of Water.*

152. Whoever, being the occupier of any place where any offensive trade or manufacture is carried on, does any act *which causes the defilement of* the water in any *public water-course or spring, or in any* tank, reservoir, well, cistern, aqueduct or other work *which belongs* to, or *is* under the control of, the Municipal Council, shall be liable to a fine not exceeding Rs. 500, and to a further fine, not exceeding Rs. 100, for every day during which the offence is continued after twenty-four hours' notice from the *Chairman*.

Water fouled by offensive trades.

Penalty.

153. (1) The *Chairman*, or any person duly authorized by *him* in that behalf, may, after twenty-four hours' notice in writing, lay open and examine any pipe or work belonging to any person mentioned in the preceding section or under his management or control.

Chairman may examine pipes.

(2) If, upon such examination, it appears that any such water has been fouled by anything proceeding from or contained in the pipes or works examined, the expenses of such examination shall be paid by the person to whom such pipes or works belong, or under whose management or control they are.

If water fouled, expense of examination to fall on owners.

(3) If, upon such examination, it appears that such water has not been so fouled, then such expenses and all damages occasioned to any building, land, pipe or work by the examination shall be paid by the Municipal Council.

If water not fouled, expense to be paid by Municipal Council.

154. The Municipal Council may set apart *public springs, tanks, wells and other places, and parts of public water-courses, for drinking purposes or for bathing or for washing animals or clothes, respectively*, or for any other purpose *calculated to promote* the health, cleanliness, comfort or convenience of the inhabitants.

Council may set apart tanks, &c, for certain purposes.

155. Whoever

(i) bathes in, or in any other manner *defiles*, the water in any place set apart *either* by the Municipal Council, or, in the case of private property, by the owner thereof, for drinking purposes; or

Penalty for using tank, &c., so set apart, for purposes other than those intended.

(ii) *deposits any offensive or deleterious matter in the dry bed of any place set apart as aforesaid for drinking purposes, or*

(iii) washes clothing in *any* place set apart *as aforesaid* for *drinking or* bathing; or

(iv) washes any *animal, or any* cooking utensil, or wool, skins or other foul or offensive substance, *or deposits any offensive or deleterious matter, in any* place set apart *as aforesaid* for bathing or washing clothes;

(v) *allows* the water *from* a sink, sewer, drain, engine or boiler, or *any* other offensive matter belonging to him or flowing from any building or *land* belonging to, or occupied by, him, *to pass into any place set apart as aforesaid for drinking, bathing or washing clothes;*

shall be liable to a fine not exceeding Rs. 20 for *every such* offence.

(b) *Private Water-courses, Wells, &c.*

156. (1) The *Chairman* may, by notice, require the owner of, or the person having control over, any private *water-course, spring*, tank, well or other place, the water of which is used for drinking, *bathing or washing clothes*, to keep and maintain the same in good repair and to clean the same, from time to time, of silt, refuse or decaying vegetation, and may also require him to protect *the same* from pollution by surface drainage in such manner as *the Chairman* may think fit.

Power to require private well, &c., to be cleansed,

(2) And whenever the water of any *such water-course, spring*, tank, well, or *other place* is proved to the satisfaction of the Municipal Council to be unfit for drinking, *bathing or washing clothes, as the case may be*, the Municipal Council may, by notice, require the owner or person having control thereof to desist from so using such water or permitting others to so use it, and if, after such notice, *such* water is used by any person for drinking, *bathing or washing clothes, as the case may be*, the Municipal Council may require the owner or person having control thereof to close such well, either temporarily or permanently, or to enclose or fence such *water-course, spring*, tank, well or *other place*, in such manner as they may direct, so that the water thereof may not be *so* used.

or closed if unfit for use.

5. STREETS.

157. (1) The Municipal Council shall, from time to time, so far as the funds at their disposal may admit, repair the public streets and bridges and maintain them in good order.

Maintenance and repair of streets.

(2) The Municipal Council may make and maintain foot-ways for the use of passengers in any street, and may place on the sides of such foot-ways such fences and posts as may be needed for the protection of foot-passengers.

Foot-ways.

158. (1) The Municipal Council may, by a resolution passed at a Meeting lay out and make new public streets, and may construct bridges and tunnels, and may turn, divert or close any public street, and may widen, lengthen, enlarge or otherwise improve any such street.

Power to make and improve streets and close them, &c.

Provided that the Municipal Council shall make reasonable compensation to the owners and occupiers of any land or buildings which are required for or affected by any such purposes.

(2) In laying out or making a street, or in turning, diverting, widening, lengthening, enlarging or otherwise improving a street, the Municipal Council may, in addition to the land necessary for such street and the foot-ways thereof, purchase also the land necessary for the buildings to form or improve the said street.

Power to take land adjoining new streets for building purposes.

159. The *Chairman* may, by an order in writing, temporarily close any street for repairs, or to carry out any work connected with drainage, water-supply, or lighting, or any of the purposes of this Act; provided that such work shall be completed and such street re-opened for traffic with all reasonable speed.

Chairman may temporarily close any street.

160. No person shall take up or make any alterations in the pavement or other material, or in the fences or posts of any public street in the Municipality without the written permission of the Municipal Council or without lawful authority.

Interference with public streets, &c.

161. (1) Every person intending to lay out and make a new street shall make an application in writing to the Municipal Council for a license to do so.

Private persons laying out new streets to give notice.

(2) Such application shall be accompanied by plans and sections showing—

Notice to be accompanied by plan.

(i) the intended level, direction and width of such street,

(ii) the means of drainage, and

(iii) the height and dimensions of the buildings to be erected on each side.

(3) If the Municipal Council approve of such level, direction, width, means of drainage, height and dimensions, and if such intended new street appears to them to be expedient, they shall, within *two months* after the receipt of such application, give a written license to lay out such street; or if they disapprove of such level, direction, width, means of drainage, height or dimensions, or if such intended street appears to them to be inexpedient, they shall issue an order in writing to the applicant, within *two months* after receipt of such application, refusing to give a license for making such intended new street.

Subject to approval of the Municipal Council.

(4) *On receipt of* such license, *or if, within the said period of two months, the Municipal Council has not issued an order refusing to give a license,* the applicant may proceed *to lay out and make* the intended new street in accordance with the *particulars specified in his application and the accompanying plans and sections.*

When applicant may proceed to make street.

162. If any street (not being a public street) or any part thereof is not levelled, paved, metalled, flagged, channelled and drained to the satisfaction of the Municipal Council, they may, by notice to the owners or occupiers of the land or buildings fronting or abutting upon such street or part thereof, require them to carry out, within a time to be specified in such notice, any work which, in the opinion of the Municipal Council, ought to be carried out in such street or part thereof.

Paving, &c., of private streets.

163. (1) After such street has been so levelled, paved, metalled, flagged, channelled and drained, on the requisition of the Municipal Council, or by the Municipal Council, as provided *in Section* 264, at the expense of the owners or occupiers, such street shall, on the requisition of the owners thereof, be declared by the Municipal Council to be a public street and shall thenceforth be a public street.

Such private street shall, on the requisition of the owners, be declared to be public street.

(2) The Municipal Council may agree with the person or persons in whom the property in any street is vested to take over the property therein, and *shall*, after such agreement, declare, by notice, put up in any part of such street, that the same has become a public street. Such street shall thereupon vest in the Municipal Council, and shall thenceforth be dealt with in the manner provided for public streets.

Other private streets may be declared to be public streets.

164. The Municipal Council may, upon such terms as they think fit, allow any building to be set forward for improving the line of any public street in which such building is situated.

Buildings may be set forward for improving line of streets.

165. (1) When any building, or any part thereof, which projects beyond the regular line of a public street or beyond the front of the buildings on either side thereof, has been taken down in order to be rebuilt or altered, the Municipal Council may require such building or part thereof to be set back to the line of the street or of the adjoining buildings.

Buildings projecting beyond line of street to be set back.

(2) The Municipal Council shall make reasonable compensation to the owner of any such building for any damage which he may thereby sustain.

Compensation to owners of such buildings.

166. The Municipal Council may by notice require

(i) the owners or occupiers of lands or buildings skirting public streets or roads to construct, alter, maintain and keep free from all obstruction culverts

Owners and occupiers to construct culverts.

of such sufficient plan, size and material as the Municipal Council may direct, over the side channels or ditches at the entrances to such land or buildings;

(ii) the owner *or occupier* of *any* building in any public street to put up and maintain proper troughs and pipes for catching and carrying the water from the roof and other parts of such building, and for discharging the same in such manner as the Municipal Council may allow; and

Troughs and pipes to be fixed to buildings.

(iii) the owners *or* occupiers of all buildings or premises adjoining a public thoroughfare to keep the external walls of such buildings or premises in proper repair to the satisfaction of the Municipal Council,

External walls to be kept in proper repair.

and the Municipal Council shall fix in such notice a period for the execution of such work.

(a) Projections and Obstructions.

167. (1) No wall, fence or other obstruction or encroachment in any public street, *and no wall or fence bounding, or abutting on, any public street*, shall be erected without the written permission of the Municipal Council, nor shall any door, gate, bar, or window be made without such permission so as to open outward on any public street.

Obstructions and bounding walls not to be made without permission.

(2) If any door, gate, bar, or window be made so as to open outwards on any public street, the Municipal Council may, by notice, require the owner or occupier of the premises to which the same is attached, to cause the same to be altered, within a time to be specified in such notice, so as not to open outwards.

Owner or occupier to alter doors, &c., opening outwards.

168. (1) The Municipal Council may cause any projection, encroachment, or obstruction made against or in front of any building or land in any public street, to be removed or altered as they think fit.

Removal of existing projections, &c.

(2) The Municipal Council shall give notice of such intended removal or alteration to the owner or occupier of the building or land against or in front of which such projection, encroachment, or obstruction has been made, thirty days before such alteration or removal is begun.

Notice of removal.

(3) If such projection, encroachment or obstruction shall have been lawfully made, the Municipal Council shall make reasonable compensation to every person who suffers damage by such removal or alteration.

Compensation when to be made.

169. (1) *Every person* intending to put up any verandah, balcony, sun-shade, weather-frame, or the like, to project over the pyals and pavements in front of *any building or land in a public street* or over *such* street, shall apply in writing to the Municipal Council for a license to do so.

Owners and occupiers to apply for license to put up verandahs, &c.

(2) The Municipal Council may in their discretion grant a license in writing to erect such projection, provided that it does not extend over the street to a distance exceeding

Municipal Council may grant license.

five feet from the line of frontage and is not of a height above the street of less than seven feet, and provided, also, that no license shall be granted if the projection is likely to cause public inconvenience.

170. Notwithstanding anything hereinbefore contained, the *Chairman* may by a license allow any temporary erections in a street on occasions of *fairs*, festivals and ceremonies.

Permissibility of temporary erections on occasions of festivals, &c.

171. Every person intending to build or take down any building, or to alter or repair the outward part of any building where any street or foot-way is likely to be obstructed or rendered inconvenient by means of such work, shall, before beginning the same, obtain a license in writing from the *Chairman* so to do, and shall cause sufficient hoarding or fences to be put up, in order to separate the building where such works are being carried on from the street or footway, and shall maintain such hoarding or fences in good condition, to the satisfaction of the *Chairman*, during such time as the public safety or convenience requires, and shall cause the same to be sufficiently lighted during the night.

License to be obtained and hoarding to be set up during repairs.

The same to be lighted during night.

172. (1) The Municipal Council shall, during the construction or repair of any street, drain or other premises vested in them, take proper precaution for guarding against accidents, by shoring up and protecting the adjoining houses, and shall cause such bars, chains or posts to be fixed across or in any street in which any such work is going on as they deem necessary in order to prevent the passage of vehicles or animals *or to* avert danger.

Precaution against accidents.

Bars to be erected across streets during repairs.

(2) The Municipal Council shall cause every such street, drain, or other work, during the construction or repair thereof, to be sufficiently lighted and guarded during the night.

To be lighted and guarded at night.

(3) Whoever takes down, alters or removes, any such bar, chain or post, or extinguishes any such light, without the authority of the Municipal Council, shall be liable to a fine not exceeding Rs. 20.

Penalty for removing bar or light.

173. No person shall *make any hole* or cause any other obstruction, in any street, without the written permission of the *Chairman*. *If such permission is granted, the person making such hole or obstruction shall, at his own expense, cause the same to be sufficiently fenced or otherwise enclosed until the hole is filled up or otherwise made secure or until the obstruction is removed, as the case may be, and shall, similarly, cause the same to be sufficiently lighted at night. If any person contravenes the provisions of this section, the Chairman may fill up the hole or remove the obstruction or cause the same to be lighted, as the case may be, and may recover the cost of so doing from such person.*

Holes and other obstruction in streets not to be made without Chairman's permission.

173-A. *If any obstruction is caused in a public street by the fall of trees, buildings or fences, the occupier of the building or land concerned shall, within twelve hours of the occurrence of such fall or within such period as the Chairman may allow,*

Debris of fallen houses, &c., to be removed by occupier.

clear the street of such obstruction; and, if the said occupier fails so to do, the Chairman may remove the obstruction, and may recover the cost of so doing from the owner or occupier. The occupier may recover from the owner all reasonable costs incurred by him under this section.

(*b*) *Names of Streets.*

174. (1) The Municipal Council may, from time to time, cause to be put up or painted in English and a Vernacular language of the district on a conspicuous part of some building, or place, at or near each end, corner or entrance of every street, the name by which such street is to be known.

Names of streets.

(2) Whoever destroys, pulls down, damages or defaces any such name, or puts up any name different from that put up by order of the Municipal Council, shall be liable to a fine not exceeding Rs. 20.

Penalty for defacing, &c.

(*c*) *Watering and Lighting Streets.*

175. (1) The Municipal Council may cause the streets to be watered, and for that purpose may provide such works and engines as they think necessary.

Streets may be watered,

(2) The Municipal Council may cause the streets to be lighted, and for that purpose may provide such lamps and works as they think necessary.

and lighted.

(*d*) *Fences and Hedges.*

176. The Municipal Council may by notice require the owner *or* occupier of any land, to *construct and* maintain sufficient fences for *such land*, or to trim the hedges *thereof* so that they may not exceed such height from the level of the adjoining roadway as the Municipal *Council* may from time to time determine, and to trim all trees which, by overhanging any public street, obstruct the passage or cause damage thereto, within a time to be specified in such notice.

Power to call on owner or occupier to maintain fences, or trim hedges and trees

6. BUILDINGS.

177. The Municipal Council may erect buildings on any vacant land vested in them, and may lease the same on such terms as they deem fit.

Power to erect buildings on vacant ground.

178. The Municipal Council, or other person authorized by them in writing, may erect or fix to the outside of any building such brackets for telegraphic or telephonic wires or for lamps as they may deem necessary.

Power to erect or affix to buildings, brackets, &c.

179. The external roofs, verandahs, pandals and walls of buildings erected or renewed after the coming into operation of this Act, shall not be made of grass, leaves, mats or other such inflammable materials except with the written permission of the Municipal Council.

Roofs and external walls of buildings not to be made of inflammable materials.

180. (1) Every person intending to *construct* or *re-construct or extend* a *well or a* building *(other than a mere wall)* shall, *six weeks* before beginning to *construct*, *re-construct or*

Application to be made if well or building is to be constructed.

extend it, make an application in writing to the Municipal Council for a license to *do so*.

(2) Such application shall be accompanied by *such particulars as the Municipal Council may require under by-laws framed in this behalf, and shall further be accompanied*,—

What is to accompany such application.

(i) *in the case of buildings, by*

(*a*) a *plan or* statement showing the dimensions of the building and the levels at which *it is intended to lay* the foundation and lowest floor; and

(*b*) a statement *showing* the means of ventilation and drainage and the privies which it is intended to provide; *and*

(ii) *in the case of wells, by a statement showing the dimensions of the well, the manner in which it is to be fenced and, if the well is to be used for drinking purposes, the means which it is intended to take to prevent the pollution of water.*

(3) *Subject to the provisions of sub-section* (*4*), the Municipal Council shall, *within six weeks after receipt of the said application, give a license for the construction, reconstruction or extension of the well or building in respect of which the application is made.*

Orders to be passed in six weeks.

(4) *If the Municipal Council see reason to object, in respect of a building,* (*a*) *to the proposed levels of the foundation or lowest floor,* (*b*) *to the proposed means for ventilation or drainage,* (*c*) *to the proposed latrine accommodation, or* (*d*) *to any particular given in respect of such building under by-laws framed as aforesaid; or, if they see reason to object, in respect of a well,* (*a*) *to the proposed fencing,* (*b*) *to the proposed means of protection from pollution, or* (*c*) *to any particular given in respect of such well as aforesaid; they shall specify in the license the alterations in such levels, means, accommodation, fencing or particular which they consider to be necessary and the person to whom the license is granted shall be bound to carry out such alterations.*

Council may refuse to grant license unless certain conditions complied with.

(5) *On receipt of the said license, or if, within the said period of six weeks, the Municipal Council have not granted a license, the applicant may proceed to construct or reconstruct or extend, as the case may be, the building or well, in accordance with the particulars, plan (if any) and statement which accompanied his application.*

When applicant may proceed with work.

181. The *Chairman* may at any time stop the *construction, re-construction or extension* of any building *or well*, if *he considers* that *such construction, re-construction or extension endangers* human life, *or if it has been undertaken or is being carried out in contravention of the provisions of Section 180.*

Chairman may stop construction, &c., of building or well.

181-A. *No hut or shed shall be built within fifty yards of any range, group or block of five or more huts or sheds without the permission in writing of the Municipal Council.*

Prevention of crowding of huts.

The Municipal Council may refuse to grant permission or may require that such hut or shed shall be—

(*a*) *built in such a position as they consider necessary for the purpose of ventilation and conservancy;*

(*b*) *provided with such number of privies and with such means of drainage as they consider necessary;*

(c) *built at such a level as will admit of drainage; and*

(d) *provided with a basement or plinth at least two feet above the level of the nearest public street or road.*

Council may direct removal of hut built without permission.

181-B. *If any such hut or shed be built without the permission of the Municipal Council or otherwise than as required by the Council, the Municipal Council may give notice to the owner thereof or of the ground upon which the same is built or is being built, by affixing a notice to some conspicuous part of the hut or shed, to take down and remove the same within one month or to effect such alterations as the Municipal Council may deem necessary.*

(a) Numbers on Houses.

Numbers on buildings.

182. (1) The *Chairman* may, from time to time, affix a number in a conspicuous place to the outer door or side of any building, or at the entrance of the enclosure thereof fronting the street.

Penalty for defacing.

(2) Whoever destroys, pulls down, damages or defaces any such number shall be liable to a fine not exceeding Rs. 5.

(b) Ruinous or Deserted Buildings and Dangerous Places.

Chairman shall provide temporarily for safety of ruinous buildings, &c.

183. (1) If any building or tree or thing attached thereto *appears* to the *Chairman* to be likely to fall or to be in any *other* way dangerous to the *safety of any person* or to *the security of any* building, *he* shall immediately cause such building, tree or thing to be fenced *or otherwise secured* in such manner as *he thinks* necessary *and may recover the cost of so doing from* the *owner or occupier of the premises to which such building, tree or thing belongs.*

Council may order owner or occupier of such building to take further step.

(2) *The Municipal Council may also* give notice to the owner or occupier of the premises to which such building, tree or thing belongs, requiring *him, within* a time to be specified in such notice, to take such *further* order with such building, tree or thing as they *think necessary.*

Power to require owner to secure, enclose, &c., deserted buildings and lands.

184. If any building or land, by reason of abandonment, disuse, disputed ownership, or other cause, remains untenanted and thereby becomes a resort of idle and disorderly persons, or, in the opinion of the Municipal Council, in any manner becomes a nuisance, the Municipal Council, after due inquiry, may give notice to the owner, or to the person claiming to be the owner, if he be known and resident within the Municipal limits, requiring the persons concerned therein, whoever they may be, to secure, enclose, clear or cleanse the same within a time to be specified in such notice, and shall also cause such notice to be put on the door or some conspicuous part of the building or land.

Dangerous places to be repaired or enclosed.

185. If any building, tank, well, or hole, or other place, whether on public or private ground, is, for want of sufficient repair, protection or enclosure, dangerous to the public health or safety, the Municipal Council may, by notice, require the owner or occupier of such place or of the land on which such building, tank, well or hole is situated to cause the same to be repaired, protected or enclosed, so as to prevent danger therefrom, within a time to be specified in such notice.

Council may take action if no owner or occupier.

185-A. *If, after reasonable enquiry, it appears to the Municipal Council that there is no owner or occupier to whom notice can be given under Sections 183, 184 or 185, as the case may be, they may themselves take such order with the property mentioned in those sections as may appear to them to be necessary and may recover the expense incurred by them by the sale of such property (not being land) or of any portion thereof.*

(c) Unwholesome Buildings and Lands.

Council may direct cleansing and clearing of filthy buildings and lands.

186. (1) The Municipal Council may, by notice, require the owner or occupier of any building or land, which is in their opinion in a filthy, or unwholesome state, or which is overgrown with *trees or with wild croton*, prickly-pear, wattle, lantana or *other* noxious vegetation, to cleanse, clear, or otherwise put the same in a proper state within a time to be specified in such notice.

Council may require occupier of filthy building to limewash the same.

(2) The Municipal Council, or any person generally or specially authorized by them in writing in this behalf, may, by notice addressed to the occupier of any such building, direct all or any part thereof to be internally and externally limewashed or otherwise cleansed in the manner and within a time to be specified in such notice.

(d) Removal of Buildings.

Power of Municipal Council in case of overcrowded buildings, &c.

187. (1) Whenever the Municipal Council consider that any block of buildings in the Municipality is, by reason of the manner in which such buildings are crowded together or of the want of drainage or ventilation and the impracticability of cleansing, attended with risk of disease to the occupiers thereof or to the inhabitants of the neighbourhood, they may cause a notice to be fixed to some conspicuous part of such block, requiring the owners or occupiers thereof, or, at the option of the Municipal Council, the owner of the land on which such buildings are erected, within a reasonable time to be specified in such notice, to execute such works or take such action as the Municipal Council deem necessary for the prevention of such risk.

Notice to be affixed requiring owner or occupier to execute works, or take action.

Municipal Council may, with sanction of Government, pull down buildings.

(2) If such owners or occupiers neglect to execute such works or take such action within the time specified, the Municipal Council may, with the sanction of the Governor in Council, cause such works to be executed or such action to be taken in respect of such buildings, and may, if necessary, cause such buildings or any of them to be pulled down.

Compensation to be made in respect of buildings pulled down.

(3) In cases where under this section a building is pulled down, the Municipal Council shall make to the owner or occupier thereof a reasonable compensation.

7. OFFENSIVE AND DANGEROUS TRADES.

188. (1) *At any time, not being less than sixty days before the end of a year, the Municipal Council may notify by beat of drum and by notice in the District Gazette that, after the commencement of the following year, no place shall be used for any one or more of the purposes specified in the following clauses (a) to (q), unless a license authorizing such use has been obtained from the Chairman:—*

If Council so direct, certain trades shall not be exercised without license.

(a) for depositing or washing soiled clothes; or
(b) for boiling paddy, camphor or oil; or
(c) for melting tallow or sulphur; or
(d) for storing, *or otherwise dealing with, manure*, offal, blood, bones, rags, hides, fish, horns or skins; or
(e) for washing or drying wool or hair; or
(f) *for making fish-oil; or*
(g) as a soap-house, dyeing-house, *dyeing*-yard, oil-mill, *oil*-press, brick-*kiln*, pottery-*kiln* or lime-kiln; or
(h) as a sago manufactory, distillery, *manufactory of artificial manure* or other manufactory from which offensive or unwholesome smells arise; or,
(i) as a gunpowder manufactory or manufactory of fire-works; or
(j) for the storage of explosive or combustible materials; or,
(k) for purposes which are *likely* to be dangerous to *human* life *or* health or *to* property; *or*
(l) as a livery-stable, veterinary infirmary, cart-stand or cattle-shed or *as* horse-lines; *or*
(m) as a public halting place; or
(n) *for keeping* together twenty *or more* sheep or goats or ten *or more* pigs or head of cattle; or
(o) *for the preparation of flour or articles made of flour; or*
(p) *as a manufactory of ice or of aërated waters; or*
(q) for the sale or storage of *timber*, firewood, thatching materials, hay, grass, straw, *fibre* or coal, *or of milk or dairy produce.*

Provided that no license shall be required for the storage of *timber*, firewood, thatching materials, hay, grass, straw, *fibre* or coal, *or of milk or dairy produce*, for private use, in such quantities and under such restrictions for safety as the Chairman may direct.

Licenses to be applied for thirty days in advance.

(2) *After the issue of a notification under sub-section (1), the following provisions shall apply in respect of all places used for any of the purposes mentioned in the notification, namely:—*

(i) *every person intending to newly open any such place shall, not less than thirty days before opening it, apply to the Chairman for a license to do so;*

(ii) *the owner or occupier of every place falling under clauses (a) to (p) of sub-section (1) and the occupier of every place falling under clause (q) of that sub-section who intends to continue to use it for any of the said purposes shall, not less than thirty days before the expiry of a year, apply to the Chairman for a license to continue to so use it during the following year.*

Chairman may grant, refuse or cancel license.

(3) The Chairman may, *at* his discretion, grant any license applied for under this section *either unconditionally* or subject to such rules as to supervision and inspection and *to* such conditions as to *conservancy* and other matters as he thinks proper; or he may refuse *to grant any such license. He* may *also* at any time suspend, cancel *or modify any* license *which has been granted under this section.*

Licenses expire at end of year.

(4) *Every license granted under this section shall expire at the end of the year in which the place in respect of which the license has been granted is newly opened, or at the end of the year for which it has been granted, as the case may be; unless, for special reasons, the Chairman considers that it should expire at an earlier date, when it shall expire at such earlier date as may be specified therein.*

When applicant may use place without license.

(5) *If the Chairman neglects to pass orders upon an application for a license under this section and to communicate the same to the applicant within thirty days after the receipt of the application, the applicant may open the place in respect of which the application was made or, as the case may be, may continue to use the same during the year for which the license was sought; and the said place shall be held to be duly licensed for the year during which it was opened or for which the license was sought, as the case may be.*

Orders of Chairman subject to appeal.

(6) Every order *passed by the Chairman under this section attaching conditions to the grant of a license or* refusing, suspending, cancelling *or modifying a* license shall be in writing and shall state the grounds on which it proceeds, and any person aggrieved by such order may, within one month after *receipt* of such order, appeal to the Municipal Council who shall pass such orders thereon as they deem fit.

Penalty for using place without license.

189. Whoever, without such license, or after a license has been refused, cancelled or suspended, uses or permits to be used any place for any of the said purposes, or infringes any of the conditions under which such license is granted, shall be liable to a fine not exceeding Rs. 100, and to a further fine, not exceeding Rs. 10, for every day after conviction during which the offence is continued.

(a) *Provision of cart-stands, etc.*

Council may provide cart-stands, &c.

190. (1) The Municipal Council may, from time to time, provide places for the purpose of being used as cart-stands, *public landing-places* or public halting-places, and may levy fees for the use thereof.

If fee for use of cart-stand, &c., not paid, property may be seized.

(2) *If, upon demand by the person authorized to collect, on behalf of the Municipal Council, fees for the use of any such cart-stand, landing-place or halting-place, any person has refused or neglected to pay the prescribed fee, the provisions of Sections 95 and 96 shall, mutatis mutandis, apply.*

Table of fees to be put up.

(3) *A statement, in English and a vernacular language of the district, of the fees prescribed by the Municipal Council for the use of cart-stands, public landing-places and public halting-places shall be put up in a conspicuous part of every place where they are leviable.*

8. SLAUGHTER-HOUSES, ETC.

191. (1) The Municipal Council shall provide a sufficient number of places for the purpose of being used as public slaughter-houses, and may levy a fee on each animal slaughtered therein, at rates not exceeding Re. 1 for every head of cattle, and As. 2 for every sheep, goat or pig.

Municipal Council to provide slaughter-houses.

(2) No place in any Municipality shall be used as a slaughter-house or for the slaughtering of any animal intended for food, or for selling or storing for sale *any flesh intended for food*, unless a license for such use thereof has been previously obtained from the Chairman.

Slaughter-houses and butchers' shops to be licensed.

(3) No cattle, sheep, goat or pig shall be slaughtered within the Municipality except in a public or licensed slaughter-house.

No animal to be slaughtered except in slaughter-house.

(4) The Chairman may permit the slaughtering of any animal in such place or places as he thinks fit on occasions of festivals and ceremonies or as a special measure.

or except during festivals.

192. Whoever slaughters, or permits to be slaughtered, cuts up or skins, or permits to be cut up or skinned, any cattle, sheep, goat, or pig, at any place within the Municipality other than a public or licensed slaughter-house or place, except with the written permission of the Chairman, or whoever dries, or permits to be dried, any skin, in such a manner as to cause a nuisance, shall be liable to a fine not exceeding Rs. 20 for each animal or skin.

Penalty for slaughtering except at a slaughter-house or drying skins so as to cause nuisance.

193. The provisions of Sections 188, 189, 191 and 192 shall not apply to places used by Government for the purposes mentioned in the said sections.

Government places exempted.

9. MARKETS.

193-A. *The Municipal Council may declare any place ordinarily used for the sale of meat, fish, fruit, grain, vegetables or other perishable articles of food, or for the sale of live stock or poultry, to be a market; provided that no such declaration shall be made in respect of any single shop or of any group of shops not being more than three in number and that any such declaration may at any time, but subject to the provisions of sub-section (2) of Section 194, be cancelled by the Municipal Council.*

Council may declare a place to be a market.

(*a*) *Public Markets.*

194. (1) The Municipal Council may charge such rents and fees as they may deem fit for the use of, or right to expose goods for sale in, *public* markets and for the use of shops, stalls, sheds, pens and standings therein.

Municipal Council may charge rents and fees for use of public markets.

(2) The Municipal Council may, with the sanction of the Governor in Council, close any such market or any part thereof.

Municipal Council may close public markets with sanction of Government.

(3) The *Chairman* may expel from any such market any person who, or whose servants, may be convicted of disobeying any by-law made for the regulation and control of such market, and may prevent such person, by himself or his servants, from further carrying on any trade or business in such market, or occupying any stall, shop or other place therein, and may determine any lease or tenure which such person may have in any such stall, shop or other place.

Power to expel persons breaking regulations, and to determine lease.

195. Whoever, without the permission of the Municipal Council, sells or exposes for sale any article within a public market shall be liable to a fine not exceeding Rs. 20 for each offence.

Penalty for selling in public market without permission.

(*b*) *Private Markets.*

196. (1) *No place shall be used as a private market, unless the Municipal Council have granted a license to so use it.*

Private markets to be licensed.

(2) *Applications for licenses to a newly open, or to continue to use, private markets shall be made by the owners thereof not less than thirty days before they open them or before the commencement of the year during which they intend to continue to use them, as the case may be.*

Applications for licenses to be made thirty days in advance.

(3) *The Municipal Council may, at their discretion, grant any license applied for under this section either unconditionally or subject to such rules as to supervision and inspection and to such conditions as to conservancy and other matters as they think proper; or they may refuse to grant any such license. They may also at any time suspend, cancel or modify any license which has been granted under this section.*

Council may grant, refuse or cancel licenses.

(4) *When a license to open a market is granted or when a license is refused, suspended, cancelled or modified under this section, the Municipal Council shall cause a notice of such grant, refusal, suspension, cancellation or modification, in English and a vernacular language of the district, to be posted in some conspicuous place at or near the entrance to the place in respect of which the license was sought.*

Notice of grant, &c., of license to be posted up.

(5) *Every license granted under this section shall expire at the end of the year in which the market in respect of which the license has been granted is newly opened, or at the end of the year for which it has been granted, as the case may be.*

Licenses to expire at end of year.

(6) *If the Municipal Council neglect to pass orders upon an application for a license under this section and to communicate the same to the applicant within thirty days after the receipt of the application, the applicant may open the place in respect of which the application was made or, as the case may be, may continue to use such place during the year for which the license was sought; and the said place shall be held to be duly licensed for the year during which it was opened or for which the license was sought, as the case may be.*

When market may be used without license.

197. *Every person who* sells, or exposes for sale, any article in *an unlicensed private market* shall be liable to a fine not exceeding twenty rupees and to a further fine not exceeding ten rupees for *each* day after conviction during which he sells, or exposes for sale, therein any article.

Penalty for selling in unlicensed private market.

Explanation.—A market is unlicensed within the meaning of this section, if the license for the use thereof has expired or has been cancelled or suspended.

198. (*Owner to apply for license yearly*) and **199** (*Penalty where license has been refused*) *Repealed.*

Private markets to be properly drained, &c.

200. Every owner, farmer or occupier of any *private* market shall

(i) construct such *approaches, entrances, passages, gates*, drains and cess-pits therein as the Municipal Council direct;

(ii) cause such market to be roofed and paved with such materials and in such manner, and provided with such latrines and urinals, of such description and in such position and number, as the Municipal Council direct;

(iii) provide for such supply of water to such market as the Municipal Council direct; and

(iv) make such alterations in the stalls, passages, shops, doors, or other parts of the said market or place as the Municipal Council direct.

Penalty for default to drain, &c.

201. (1) If such owner, farmer or occupier, after notice given to him by the Municipal Council directing him to carry out within a period to be specified in the notice any of the measures provided in the last preceding section, fails to comply with such notice, the Municipal Council may suspend, withhold or refuse the license until the notice shall have been complied with; and any person opening or keeping open any such market after such withholding, suspension or refusal shall be liable to a fine not exceeding Rs. 20 for every day during which such market or place is so opened or kept open.

Penalty for not keeping private market properly, or for not abating nuisance, or for obstructing.

(2) Any owner, farmer, occupier, agent or manager in charge of any *such* market, or of any shop, stall, shed or other place therein, who keeps the same so that it is a nuisance, or who does not cause anything that is a nuisance to be at once removed to a place to be notified by the Municipal Council, shall be liable to a fine not exceeding Rs. 20 for each offence.

Power to close private market.

202. The Municipal Council or any officer duly authorized by them in that behalf may close any *private* market *in respect of which no license has been applied for, or any private market* the license for which has been refused, withheld, or suspended.

(c) General.

Municipal Council may prohibit sale in street.

203. (1) The Municipal Council may, from time to time by notification, by beat of drum and by publication in the District Gazette, prohibit the sale, or exposure for sale, of any articles in or upon any specified public street or part of such street, and may, in like manner, cancel, suspend or modify such prohibition.

(2) Whoever, after such notification, sells, or exposes for sale, any articles in any such street against the terms of such notification shall be liable to a fine not exceeding Rs. 10.

Chairman may enter and inspect places for sale or storage of articles of food or drink.

204. (1) The *Chairman*, or any person appointed by *him* in writing for that purpose, may at all reasonable times enter into and inspect any place used for the sale, either wholesale or by retail, or for the storing, of articles of human food or drink intended for sale, or wherein

such articles may be detained, and may examine any such articles which are therein.

Such articles if unwholesome may be detained and produced before Magistrate.

(2) If it appears to the *Chairman* or such person that any such articles are unfit for human food or drink, he may detain the same, and *may cause them to be produced before any Magistrate.*

Magistrate may order the same to be destroyed.

(3) If the Magistrate finds that such articles are unfit for human food or drink, he shall order the same to be destroyed, or so disposed of as to prevent their being exposed for sale or used for human food or drink.

Magistrate may return articles if in good condition, and order compensation for loss, &c.

(4) If the Magistrate finds that the articles so detained were fit for human food or drink, he may make an order *directing the Chairman* to return such articles, or such portion thereof as may be in good condition, to the owner, or to the person in whose possession such articles were found, and to pay to him *from the Municipal Fund* such reasonable amount as the Magistrate considers will compensate such owner or person for any loss or depreciation that may have been caused by such detention.

Inspection of weights and measures.

205. The *Chairman*, or any persons appointed by *him* in that behalf, may examine and test the weights and measures used in markets and shops in the Municipality with a view to the prevention and punishment of offences relating to such weights and measures under Chapter XIII of the Indian Penal Code.

Certain persons may be expelled from market.

205-A. *The person in charge of a public or private market shall expel therefrom any person suffering from leprosy or any infectious or contagious disease who sells or exposes for sale therein any article or who, not having purchased the same, handles any article exposed for sale therein, and he may expel therefrom any person who is creating a disturbance therein.*

10. LATRINES, ETC.

Latrines and urinals to be provided.

206. (1) The Municipal Council shall, so far as the funds at their disposal may admit, provide a sufficient number of public latrines and urinals, and shall cause the same to be kept in proper order and to be daily cleansed.

Licensing of public latrines.

(2) No latrine shall be kept in the Municipality for public use without the license of the Municipal Council.

(a) Private Latrines, etc.

Latrines for private houses.

207. (1) The Municipal Council may, by notice, require

(i) the owner or occupier of every building to provide a latrine or alter any existing latrine in accordance with the direction contained in such notice, for the use of persons employed in or about, or occupying, such building, and to keep the same in a clean and proper manner, and

(ii) every owner or occupier of the ground on which any block of six or more huts stands to provide and maintain such latrines as the Municipal

Council may prescribe in such notice for the use of the inhabitants of such huts, within a time to be specified in such notice.

(2) Such latrines shall be sufficiently shut out and screened from the view of persons passing by or residing in the neighbourhood.

to be enclosed.

208. The Municipal Council may, by notice in writing, require any person employing workmen, laborers or other persons exceeding twenty in number, to provide and maintain for them in proper order latrines and urinals, to be approved by the Municipal Council, in such number as they may consider necessary.

Latrines, &c., for laborers.

Whoever fails to comply with such requisition within a reasonable time to be specified in such notice shall be liable to a fine not exceeding Rs. 20, and to a further fine, not exceeding Rs. 5, for every day after conviction during which such offence is continued.

209. The Chairman may, subject to the approval of the Municipal Council, contract with the owner or occupier of any building or land to *construct or repair any drain, privy, sink-pit or cess-pool therein or thereon, upon* such terms and subject to such conditions as the Chairman may think fit.

Chairman may contract to construct drains, &c.

11. DRAINS, ETC.

210. (1) All drainage works in *the* Municipality shall be constructed *and conserved* under the *directions* of the Municipal Council.

Drainage works to be constructed under the direction of the Municipal Council.

(2) The Municipal Council, in making sewers or other drainage works, may, if needful, carry any sewer or drainage work through, across or under any street, garden or other place, or into or under any building, cellar or vault.

Powers of Municipal Council in making public sewers.

(3) Whenever it is necessary to carry a sewer or other drainage work through, across or under any private property, the Municipal Council shall give notice to the owner or occupier of such property, and the Municipal Council shall pay reasonable compensation for any injury done to such property by any such sewer or drainage work.

Notice to owner of private property, and compensation for injury thereto.

(4) The Municipal Council may maintain and, from time to time, repair and, as they see fit, enlarge, alter, arch over or otherwise improve all or any of the sewers and drainage works vested in them by this Act; and may discontinue, close up, or destroy such of them as they deem unnecessary.

Municipal Council may maintain, repair, alter or close sewers.

211. No person shall, without the written permission of the Municipal Council, make any drain into a public sewer or drain, or stop up, divert, obstruct or in any way interfere with, any public drain or sewer, whether the same passes through public or private ground.

Public drains not to be altered without permission.

212. No building shall be newly erected over any sewer or drain, or any part of any sewer or drain, vested in the Municipal Council by this Act, or upon any ground which has been covered, raised or levelled, wholly or in part, by street sweepings or other rubbish, without the written permission of the Municipal Council.

Buildings over sewers, &c., not to be erected without consent of the Municipal Council.

213. *Subject to the provisions of Section 209,* no drain, privy or cesspool shall be constructed without the written permission of the Municipal Council.

No drains, &c., to be made without permission.

213-A. *The Municipal Council of any Municipality wherein there is a system of general drainage may, by notice, require the owner of any building or land or the owners of any group of buildings or lands, to construct a drain of such description as the Municipal Council may direct, so as to connect such building or land, or such group of buildings or lands, with any other drain or with any place set apart by the Municipal Council for the disposal of sewage or drainage. Provided that—*

Where general drainage-system exists, Council may require, subject to certain provisos, that private persons shall construct drains.

(i) *no requisition shall be made under this section on any person who is entitled under sub-section (5) of Section 63 to claim exemption from the taxes on buildings and lands;*

(ii) *no person or persons shall be required under this section to carry a drain to a distance of more than one hundred feet beyond the extreme limits of the building or land, or group of buildings or lands, which it is intended to drain by means thereof;*

(iii) *no person or persons shall be required under this section to expend upon a drain a sum exceeding five times the amount payable annually by him or them under Section 63 on account of the building or land or group of buildings or lands, as the case may be, which it is intended to drain by means of such drain; and, if any sum in excess of the said amount is expended, the excess shall be borne by the Municipal Council.*

Explanation.—In the case of buildings and lands exempt from taxation under sub-section (1) of Section 63, the amount which would be payable under Section 63, if such buildings and lands were not so exempt, shall be deemed to be the amount payable on account thereof for the purposes of the third proviso to this section.

213-B. *For the purpose of ventilating any drain or cesspool, the Municipal Council may erect, or may affix to the outside of any building, such pipes as they think necessary. Such pipes shall be carried to a height of not less than six feet above the highest parts of all adjacent buildings and shall be so constructed as to cause no inconvenience or annoyance to persons dwelling in the neighbourhood.*

Council may erect ventilating pipes.

214. (1) All branch drains, as well within as without the lands or buildings to which they belong, and all private latrines, privies and cesspools within the Municipality shall be under the survey and control of the Municipal Council, and shall be altered, repaired, cleansed and kept in proper order at the

Branch drains, privies, &c., to be under control of Municipal Council and to be kept in order at cost of owners.

cost of the owners of the lands and buildings to which the same belong, or for the use of which they are constructed or continued.

(2) The Municipal Council may, by notice, require the owner of any land or building to which any such latrine, drain, privy, or cesspool belongs, *to close or demolish it, or* to alter *or* repair *it* in *such* manner *as* the Municipal Council *may think necessary*, within a time to be specified in such notice.

Municipal Council may require owner to repair, &c., any drain or privy.

215. (1) If, upon inspection by the Chairman or other officer authorized by him in that behalf, it appears that such latrine, drain, privy or cesspool is not in good order, or that it has been constructed after the coming into operation of this Act or of the Towns Improvement Act, 1871, in the Municipality and contrary to the provisions thereof, the expenses of such inspection shall be paid by the person to whom such latrine, drain, privy, or cesspool belongs.

When expense of inspection to be borne by owner.

(2) If such latrine, drain, privy, or cesspool be found to be in proper order and not to have been constructed contrary to the provisions of this Act or the Towns Improvement Act, 1871, the Chairman or officer as aforesaid shall cause the ground to be closed and made good as soon as may be, and the expenses of opening, closing and making good such latrine, drain, privy, or cesspool shall, in that case, be defrayed by the Municipal Council.

When such expense to be borne by Municipal Council.

12. GENERAL SANITARY REGULATIONS.

The Council to arrange for the removal of night-soil, rubbish, &c.

216. The Municipal Council shall, *so* far as the funds at their disposal *permit, make arrangements for*—

(*a*) *the regular sweeping and cleansing of the streets;*

(*b*) *the regular removal from latrines and private houses of night-soil, the carcasses of animals and other offensive matter; and*

(*c*) *the regular removal from dust-bins and private houses of dust, ashes, kitchen-refuse and other similar inoffensive matter;*

and, with this object, they shall, so far as the funds at their disposal permit, provide—

(i) *depôts for the deposit of street-sweepings, of night-soil, the carcasses of animals and other offensive matter, and of dust, ashes, kitchen-refuse and other similar inoffensive matter;*

(ii) *covered vehicles or vessels for the removal of night-soil and other offensive matter;*

(iii) *vehicles or other suitable means for the removal of the carcasses of large animals and of dust, ashes, kitchen-refuse and other similar inoffensive matter; and*

(iv) *dust-bins for the temporary deposit of dust, ashes, kitchen-refuse and other similar inoffensive matter.*

Council may order provision of night-soil receptacles.

217. (1) The Municipal Council may, by *notification*, require all occupiers of buildings within the Municipality or any part thereof, *with whom no contract for removal of night-soil or other offensive matter has been made under Section 218*, to provide, within a *period* to be specified in such *notification*, movable receptacles of a kind to be *similarly* specified, for the temporary deposit of night-soil or other offensive matter *and may, further, require that such receptacles shall be* in readiness, screened from public view, for the removal of the contents thereof, *free of charge*, by the Municipal servants, *at such time or times daily as the Municipal Council may think proper.*

(2) *After the expiration of the period specified in the said notification, the Municipal Council shall provide receptacles for all persons who have failed to comply with the notification and may recover the cost thereof from such persons. Provided that the Municipal Council shall, in the case of all occupiers of buildings the annual value whereof is not more than six rupees, supply the said receptacles at the cost of the Municipal Fund.*

On failure to comply, Council shall provide at cost of occupier.

218. *The Chairman may contract with the occupier of any building or land to remove night-soil from latrines or cesspools therein or thereon, or to remove any other offensive matter or rubbish generally from such building or land, on such terms as to times and periods of removal and other matters as, to the said Chairman, seem suitable and on payment of fees at such rate or rates as the Municipal Council may have prescribed.*

Cleansing of private latrines, &c.

219. *Every person who,* after *due* provision has been made *under Section 216 by the Municipal Council for the deposit and removal of the same,*

Penalty for improper disposal of filth, &c.

(i) deposits *night-soil, the carcasses of animals or other offensive matter, or dust, ashes, kitchen-refuse or other similar inoffensive matter* in any street, or *on the* verandah of any building, or on any *unoccupied* ground *alongside any* street, or on any public quay, jetty, or landing-place, or on *the bank of a water-course or tank*, or, without the consent of the owner or occupier thereof, *in or on* any private *property; or*

(ii) *deposits night-soil, the carcasses of animals or other offensive matter in any dust-bin or in any vehicle not intended for the removal of the same; or*

(iii) *deposits any matter other than night-soil or other offensive matter in any vehicle or vessel intended for the removal of night-soil and other offensive matter;*

shall be liable to a fine not exceeding ten rupees for each *such* offence.

Provided that no person shall be liable to such fine by reason *that he has mixed* dry-earth, *sand*, ashes *or any other substance* with night-soil or other offensive matter for the purpose of deodorizing *or disinfecting* it.

Penalty for failure to deposit night-soil in receptacle.

220. *Every person who, after a receptacle has been provided as required in Section 217, fails to deposit therein all night-soil and* other offensive matter *or to keep the same in readiness, screened from public view, at the times fixed by the Municipal Council*, or deposits in such receptacle any matter *other than night-soil or other offensive matter*, shall, *subject to the proviso to Section 218*, be liable to a fine not exceeding ten rupees for each *such* offence.

221. Every occupier of a building or land who keeps, for more than twenty-four hours, or otherwise than in a proper receptacle, any night-soil or other offensive matter in such building, or *on* the roof thereof, or in any out-building *or* yard, *or on any* pavement or verandah attached or belonging to such building, or on such land, shall be liable to a fine not exceeding twenty rupees for each *such* offence and *to* an additional fine, not exceeding five rupees, for every day, after conviction for such offence, during which the offence is continued.

Penalty for keeping night-soil, &c., on premises.

Provided that it shall be lawful for the Magistrate by whom a person is convicted of an offence under this section, in lieu of imposing a fine, to direct that, for a period to be fixed by him, but not exceeding one year, the Municipal Council shall arrange to remove night-soil and other offensive matter from the building or land concerned and that the said person shall pay to the Municipal Council, in return for the performance by them of this duty, such fees as may appear to the Magistrate to be suitable.

Magistrate may direct that culprit shall accept Municipal service.

222. Every occupier *of a building or land* who allows the water *from* any sink, drain, privy or stable or any other offensive liquid-matter to *flow out of such building or land into any portion of a street except a drain* or *to flow out of such building* or *land* in such a manner as *to cause an* avoidable nuisance *by the soakage of the said water or other liquid-matter into the* ground at the side *of a drain forming a portion of a street* shall be liable to a fine not exceeding ten rupees for each *such* offence.

Penalty for allowing outflow of offensive liquid.

223. Whoever, in the removal of night-soil or other offensive matter, uses any cart or receptacle not having a covering proper for preventing the escape of the contents thereof or of the stench therefrom, or *intentionally or negligently* spills any such offensive matter in the removal thereof, or does not carefully sweep and clean every place in which any such offensive matter has been spilled, or places or sets down in any public place any night-soil or offensive matter whether in a vessel closed or open, shall be liable to a fine not exceeding Rs. 20 for each offence.

Penalty for using any cart without cover in the removal of night-soil, &c.

224. Whoever puts or causes to be put any earth, dirt, ashes, garden, kitchen or stable refuse, broken glass, earthenware, rubbish or night-soil into any sewer or drain belonging to the Municipal Council or into any drain communicating therewith, shall be liable to a fine not exceeding Rs. 20 for each offence.

Penalty for throwing rubbish, &c., into sewers or drains.

225. (*Nuisance by child*) *Repealed.*

225-A. *Whoever feeds any animal which is kept for dairy purposes or which may be used as food for human consumption on night-soil, dung or stable-refuse and whoever permits any such animal to be so fed, shall be liable to a fine not exceeding fifty rupees.*

Penalty for feeding animal on dung, &c.

226. (1) Whenever the Municipal Council consider that any building is so overcrowded as to be, or to be likely to become, dangerous or prejudicial to the health of the inhabitants, the Municipal Council may cause proceedings to be

Municipal Council may take steps to abate overcrowding of buildings.

taken before a Magistrate to abate such overcrowding, and the Magistrate shall thereupon make such order as he thinks fit.

(2) Any person permitting such overcrowding after the date of such order shall be liable to a fine not exceeding Rs. 10 for each day after such date during which such overcrowding continues.

Penalty for neglect of Magistrate's order.

227. The Municipal Council *shall maintain in a cleanly condition* all wells, *tanks and reservoirs which are* not private property *and may fill them up or drain them when it appears necessary so to do.* Provided that *no such well, tank or reservoir shall be filled up with any material except building-débris, or* clean soil, gravel or sand.

Municipal Council to maintain certain wells, &c., in good order.

228. (1) The Municipal Council may, by notice, require the owner of any tank or well to cleanse, fence, repair or fill it up, if on inspection it appears likely to be dangerous, or *to* prove injurious to the *public health.*

Council may direct owners to cleanse or fill up tanks and wells,

(2) Or they may, by notice, require the owner or occupier of any land or premises to drain off, or otherwise remove, any stagnant water from such land or premises or from any tank or well attached thereto, if they consider that such stagnant water is injurious to health or offensive to the neighbourhood.

and to drain off stagnant water.

(3) Such notice may specify the mode in which such cleansing, filling up, repairing, fencing or drainage, or each of such works, is to be effected and the time within which specified portions thereof must be done.

Order may specify mode in which work to be done.

229. Whoever, not being an officer of Government in the discharge of his duty, or not being provided with a license from the Chairman or from some officer of Government having authority to grant the same, removes earth, sand or other material from, or deposits any matter, or makes any encroachment or obstruction, in or upon, any land or river, estuary, canal, back-water or water-course within the Municipality (not being private property) shall be liable to a fine, not exceeding *twenty rupees,* for every such offence, *and to a further fine, not exceeding ten rupees, for every day after conviction, during which the offence is continued.*

Person removing sand, &c., from public river, &c., without authority, liable to penalty.

229-A. *Whoever, within any Municipality, keeps pigs so as to be a nuisance, shall be liable to a fine not exceeding ten rupees and to a further fine, not exceeding five rupees, for every day after conviction for such offence during which the offence is continued.*

Penalty for keeping pigs so as to be a nuisance.

230. (1) The Municipal Council may, and if so directed by the District Magistrate shall, from time to time, cause to be notified by beat of drum or otherwise that pigs and dogs found straying within certain limits will be destroyed.

Stray pigs and dogs.

(2) Pigs and dogs found straying within such limits after such notification may be destroyed by any person in such manner as the Magistrate of the district may from time to time direct.

May be destroyed.

(a) Prevention of Infectious Diseases.

Chairman to have power of entry for purpose of preventing spread of disease.

231. (1) The Chairman, or any officer duly appointed by him in writing in this behalf, may enter, at any time, after two hours' notice, into any building or premises in which any dangerous infectious disease is reputed or suspected to exist, for the purpose of inspecting such building or premises.

(2) No such inspection shall be made except in the hours between sunrise and sunset.

Disinfection of houses, &c.

(3) If the Chairman is of opinion that the cleansing or disinfecting of a building or premises, or of a part thereof, or of any articles therein likely to retain infection, would tend to prevent or check the spread of any dangerous infectious disease, he may, by notice, require the occupier to cleanse or disinfect the same within a time to be specified in such notice. Provided that, *if the Chairman considers that immediate action is necessary or that* the occupier is, *by reason of* poverty or otherwise, unable effectually to *comply with his requisition, the said Chairman may himself cause such building, premises or articles to be cleansed or disinfected, and, for this purpose, may cause such articles to be removed from such building or premises; and the expenses incurred by the Chairman under this sub-section shall be recoverable from the said occupier unless he was, by reason of poverty, unable effectually to comply with the said requisition.*

Penalty for selling, &c., infected article.

231-A. *Every person who, without previous disinfection of the same, gives, lends, sells, transmits or otherwise disposes of anything which has been exposed to the infection of a dangerous infectious disease, shall be liable to a fine not exceeding fifty rupees.*

Provided that nothing in this section shall be deemed to apply to a person who transmits anything, with proper precautions, for the purpose of having the same disinfected.

Chairman to notify places for washing and disinfecting.

232. (1) The Chairman *shall*, from time to time, notify places at which articles of clothing or bedding or other articles which have been exposed to infection from any dangerous infectious disease may be washed *or disinfected.*

Infected articles may be destroyed.

(2) The Chairman may direct the destruction of bedding, clothing or other articles likely to retain *such* infection, and *shall, on demand,* give compensation for the articles destroyed.

Penalty.

(3) Whoever washes such clothing or bedding or other articles at any place other than those set apart for such purposes under sub-section (1) of this section, shall be liable to a fine not exceeding Rs. 50.

President may order removal of patients to hospital.

233. When a hospital or place for the reception of persons suffering from any dangerous infectious disease is provided within the limits of any Municipality, the Chairman may, on a certificate signed by a medical practitioner, *arrange for, or* direct, the removal to such hospital or place of any person suffering from a dangerous infectious disease, who is, in the opinion of such medical practitioner, without proper lodging or accommodation, or who is lodged in a room occupied by more than one family.

Penalty for travelling in public conveyance while suffering from disease.

233-A. *Every person suffering from a dangerous infectious disease who, without proper precaution against spreading such disease, causes himself to be conveyed in a public conveyance and every person in charge of or accompanying a patient so conveyed, and*

every person knowing himself to be suffering from any dangerous infectious disease who enters a public conveyance without previously notifying to the owner or driver that he is so suffering,

shall be liable to a penalty not exceeding fifty rupees, and to an additional fine of such amount as the Magistrate shall deem sufficient to cover the loss and costs which the owner or driver must incur for the purpose of disinfecting such conveyance.

The amount of any additional fine so imposed shall be awarded by the Magistrate to the owner or driver of the said conveyance. Provided that, if the fine is imposed in a case which is subject to appeal, no such award shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal be presented, before the decision of the appeal.

At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any sum which the plaintiff shall have received under this section.

Owner, &c., of public conveyance not bound to carry person suffering from disease.

233-B. *No owner or driver of a public conveyance shall be required to convey any person suffering as aforesaid, without payment or tender of a sum sufficient to cover such loss and costs as aforesaid, anything in any Act relating to public conveyances for the time being in force to the contrary notwithstanding.*

Penalty for letting infected house.

233-C. *Every person knowingly letting a house or other building or part of a house or building in which any person has been suffering from a dangerous infectious disease, without having such house or other building or part thereof and all articles therein liable to retain infection disinfected to the satisfaction of a medical practitioner, as testified by such officer's certificate, shall be liable to a penalty not exceeding two hundred rupees.*

For the purpose of this section a hotel or lodging-house keeper shall be deemed to let part of his house to any person admitted as a guest into his hotel or lodging house.

(b) Disposal of Corpses.

Municipal Council to provide burial and burning grounds.

234. (1) The Municipal Council *shall* provide a sufficient number of convenient and fitting places for burial *and* burning grounds, either within or without the limits of the Municipality.

Burial-grounds, &c., outside Municipality to be governed by Act and by-laws.

(2) Whenever the Municipal Council have provided any such place beyond the Municipality, all the provisions of this Act and all by-laws framed under this Act for the management of such places within the Municipality shall apply to such place.

Burial and burning grounds to be registered.

235. (1) Every owner or person having the control of any place used at the date of the coming into operation of this Act as a burial-ground or burning-ground shall, if such

place be not already registered, apply to the Municipal Council to have such place registered.

(2) If it appears to the Municipal Council that there is no owner or person having the control of any such place, the Municipal Council shall assume such control and direct it to be registered, or may, with the sanction of the Governor in Council, cause it to be closed.

If no owner, Municipal Council may register or close.

236. No new burial-ground or burning-ground, whether public or private, shall be opened, or used, after the coming into operation of this Act, unless a license has been granted by the Municipal Council at a meeting.

No burial or burning ground to be opened without license

237. A book shall be kept at the Municipal Office in which places registered under Section 235, or licensed under the last preceding section, shall be recorded.

A book to be kept of places registered.

238. Whoever in any Municipality buries or burns, or causes or suffers to be buried or burnt, any corpse in any unregistered or unlicensed vault, grave, burial or burning ground or other place, private or public, shall be liable to a fine not exceeding Rs. 100.

Penalty for burying or burning in unlicensed or unregistered place.

239. The person having control of a burial-ground or burning-ground shall give information to any person appointed by the Municipal Council in that behalf of all burials and burnings which take place in or on such ground.

Notice to be given to Municipal Council of burials, &c.

240. (1) If the Municipal Council are satisfied that any registered or licensed burial or burning ground is in such a state as to be, or to be likely to become, dangerous to the health of persons living in the neighbourhood thereof, or that any such place is overcrowded with graves,

Where burial or burning grounds are dangerous to health—

and, in the case of a public burial or burning ground, that another convenient place duly authorized for burial or burning, as the case may be, has been provided for the persons who would ordinarily make use of such place,

and another convenient place is provided—

they may, with the previous sanction of the Governor in Council, issue a notice that it shall not be lawful, after a period of not less than two months, to be named in such notice, to bury or burn any corpse in or on such first-mentioned burial or burning ground.

Notice may issue not to bury or burn.

(2) Every such notice shall be published in the District Gazette and in the Municipality by beat of drum.

Notice to be published.

(3) Whoever, after the expiration of such period, buries or burns, or causes or permits to be buried or burnt, any corpse contrary to the terms of the notice, shall be liable to a fine not exceeding Rs. 100.

Penalty for burying, &c., contrary to notice.

241. Whoever

(i) buries, or causes to be buried, any corpse, or part of a corpse, in a grave, whether dug or constructed of masonry or otherwise, in such manner that the surface of the coffin, or the surface of the body where no coffin is used, is at a less depth than five feet from the surface of the ground; or

Depth of grave.

(ii) builds, or digs, or causes to be built or dug, any grave in any burial-ground at a less distance than two feet from the margin of any other existing grave; or

Distance between graves.

(iii) without the sanction in writing of the Municipal Council, or an order in writing of a Magistrate, re-opens a grave already occupied; or

Re-opening graves.

(iv) brings, or conveys, or causes to be brought or conveyed, a corpse, or part thereof, to any burial or burning ground, and does not cause the burial or burning of the same to commence within six hours after its arrival at such burning-ground; or

Burial and cremation.

(v) when burning, or causing to be burnt, a corpse or part of a corpse in any burning ground, permits the same or any part thereof to remain without being completely reduced to ashes; or

Cremation to be complete.

(vi) permits the cloths, or other articles connected with the burning of such corpse, to remain at or near such ground without being completely reduced to ashes; or

Cloths, &c., to be burned.

(vii) carries a corpse or part of a corpse through any street not decently covered; or

Corpses to be decently covered.

(viii) while carrying a corpse or part of a corpse within the Municipality, leaves the same in or near any street, for any purpose whatever; or

Leaving corpse on highway.

(ix) removes, otherwise than in a closed receptacle, any corpse or part of a corpse kept or used for the purpose of dissection;

Removal of corpse kept for dissection.

shall for each offence be liable to a fine not exceeding Rs. 50.

Penalty.

242. All grave-diggers and other attendants at a public burial or burning ground shall be licensed by the Municipal Council, and any person acting as such without such license shall be liable to a fine not exceeding Rs. 5. Such license may be withdrawn or cancelled at the discretion of the Municipal Council.

Grave-diggers to be licensed.

13. REGISTRATION OF BIRTHS AND DEATHS.

243. The Municipal Council shall keep in their office a register of all births and deaths in the Municipality, and for this purpose they may divide the Municipality into such districts as they think fit, and shall appoint a person to be Registrar of Births and Deaths within the Municipality, or, in the case of the division of the Municipality into districts, for every district they shall appoint a person to be Registrar of Births and Deaths in such district.

Municipal Council to keep register of births and deaths and appoint Registrars.

244. (1) Every Registrar shall reside within the Municipality or district of which he is Registrar, and shall cause his name, with the addition of Registrar of Births and

Registrars to live in their districts.

Deaths for the Municipality or district for which he is so appointed, written in English and in the Vernacular language of the district, to be placed in some conspicuous place on or near the outer door of his dwelling-house.

(2) The Municipal Council shall cause to be printed and published a list containing the name and place of abode of every such Registrar of Births and Deaths in the Municipality.

List of Registrars and their residence to be published.

245. The Municipal Council shall cause to be prepared and printed a sufficient number of Register Books for making entries of all births and deaths which take place in the Municipality according to such forms and instructions as may, from time to time, be prescribed by the Governor in Council.

Municipal Council to have Register Books prepared.

246. Every Registrar shall inform himself carefully of every birth and of every death which happens in the Municipality or his district after the coming into operation of this Act, and shall learn and register, as soon as conveniently may be after the event, without fee or reward, the particulars required to be registered, according to the forms prescribed as aforesaid, touching every such birth and death, as the case may be, which has not been already registered.

Registrar to inform himself of and register every birth and death.

All such entries shall be made consecutively from the beginning to the end of the book.

247. (1) The father or mother of every child born in the Municipality, or, in the case of the death, illness, absence or inability of the father and mother, some person who was present at, or in attendance during, the child-birth, shall, within one week next after the day of every such birth, give, or cause to be given, information to the Registrar, according to the best of his or her knowledge and belief, of the several particulars required to be known and registered touching the birth of such child.

Information of birth to be given within the week.

(2) Some one of the persons present at the death, or in attendance during the last illness, of every person dying in the Municipality, or in case of the death, illness, inability or default of all such persons, the occupier of the building, or, if the occupier be the person who has died, some person living in the building in which such death has happened, shall within twenty-four hours give information to the Registrar, according to the best of his knowledge and belief, of the several particulars required to be known and registered touching the death of such person.

Information of death to be given.

248. (1) In the case of persons being born or dying in any hospital, it shall be the duty of the Medical Officer in charge forthwith to send a notice to the Registrar of the occurrence of any birth or death in the hospital under his charge.

Where persons die in Hospital, Medical Officer in charge to send notice to Registrar.

(2) Every person who conducts or performs the funeral ceremonies of any person who has died within the municipality shall, whenever required, furnish to the Registrar such information as he possesses as to the said several particulars.

Persons performing funeral to give information.

248-A. *At any time within one year after the birth of a child, any adult relative of the child may require the Registrar to enter in the Register of births the name of such child.*

Entry of name of child.

249. (1) Every person who has given the information contained in any register of Births or Deaths under this Act shall sign in the Register his name, description and place of abode, *or*, if he cannot write, shall put his mark in the Register to his name, description and place of abode; *and whoever refuses or neglects so to sign or mark shall be liable to a fine not exceeding five rupees.*

Persons giving information to sign or mark the Register.

(2) The Registrar shall forthwith give, free of all charge, to the person who gives information of the birth of a child, an extract under his hand from the Register relating to such birth.

Registrar to give extract.

(3) In the case of a person being born or dying in any hospital, the registration of the birth or death shall be deemed to be completed by the entry, in the Register, of the written notice received from the Medical Officer in charge of the said hospital prescribed in Section 248, without the signature of the Medical Officer to the entry in such Register.

But, in case of persons born or dying in hospital, register complete on entry of Medical Officer's notice.

(4) Any person may, at all reasonable times, on payment of a fee of eight annas for each visit, search, in the presence of the Registrar, any Register of Births and Deaths, and may, *on payment of a further fee of eight annas*, require the Registrar to give him an extract under his hand from such Register relating to any birth or death registered therein.

Search of Birth and Death Registers.

(5) *The Registrar shall have the custody of the Registers of Births and Deaths for the Municipality or district thereof for which he has been appointed; and all extracts therefrom given under this section shall be certified by him as provided in Section 76 of the Indian Evidence Act, 1872, and may be produced in proof of the entries of which they purport to be copies.*

CHAPTER V.

MISCELLANEOUS.

250. (1) The Governor in Council may, from time to time, frame forms for any proceeding of a Municipal Council for which he considers that a form should be provided, and make rules not inconsistent with this Act—

Power of Governor in Council to frame forms and make rules.

(*a*) with respect to the appointment of Municipal Councillors by election as to the following matters :—

(i) the qualifications of electors and of the candidates for appointment by election, and the removal and disqualification of Municipal Councillors or candidates;

(ii) the division of the Municipality or of a part thereof into wards and the number of Municipal Councillors proper for each ward;

(iii) the provision, if any, to be made for the special representation of any classes of the community;

(iv) the registration of electors;

(v) the nomination of candidates, the time of election and the mode of recording votes;

(vi) *the conduct of enquiries relating to elections; and*

(vii) any other matters regarding the system of representation and election which it may seem expedient to provide for;

(*b*) with respect to the appointment by election of Chairmen;

(*c*) as to the *qualifications*, appointment, fining, suspension, *reduction* and dismissal of the servants of the Municipal Council;

(*d*) as to the pensions, gratuities, and compassionate allowances of such servants;

(*e*) as to the matters mentioned in Sections 113, 121 and 122;

(*f*) as to the conditions under which grants-in-aid shall be paid from the Municipal Fund for purposes of education and medical relief;

(*g*) as to the conditions on which property vested in the Municipal Council may be transferred by sale, mortgage, lease, exchange, or otherwise;

(*h*) as to the intermediate office or offices, if any, through which correspondence between the Municipal Council and the Governor in Council or officers of the Government shall pass;

(*i*) as to the preparation of plans and estimates for works which are to be partly or wholly constructed at the expense of the Municipal Council;

(*j*) as to the accounts to be kept by the Municipal Council, and as to the manner in which such accounts shall be audited and published;

(*k*) as to the estimates of receipts and expenditure, returns, statements and reports to be submitted by the Municipal Councils;

(*l*) as to the mode in which the officers of Government shall advise and assist Municipal Councils in carrying out the purposes of this Act; and,

(*m*) generally, for the guidance of the Municipal Councils and public officers in all matters connected with the carrying out of this Act.

Power to summon witnesses of persons conducting election enquiries.

(2) *All persons who have been authorized by the Governor in Council under sub-section (1) to conduct enquiries relating to elections shall have, for the purposes of such enquiries, the same powers in regard to the issue of summonses for the attendance of witnesses and the production of documents as are conferred upon Revenue officers by Madras Act III of 1869 (An Act to empower Revenue officers to summon persons to attend at their cutcherries for the settlement of matters connected with Revenue administration) and the provisions of Sections 2, 3, 4 and 5 of that Act shall apply to summonses issued and to persons summoned by virtue of the powers conferred by this section and all persons to whom summonses are issued by virtue of the said powers shall be legally bound to obey such summonses.*

Rules and forms to have the force of law.

(3) *The* rules *made* and *the* forms framed by the Governor in Council under this section shall have the force of law.

251. (1) The Municipal Council shall furnish, for the sanction of the Governor in Council, a statement or estimate showing the probable receipts and the expenditure which it is proposed by the Municipal Council to incur during the next year, and the items in respect of which it is proposed to incur such expenditure, and may also furnish a supplemental estimate providing for any modifications which they may deem it advisable to make in the distribution of the amount to be raised and expended in the year then current for the purposes of this Act.

Annual estimate of expenditure to be submitted to the Governor in Council.

(2) The Governor in Council may pass such orders as he shall think fit upon the original or supplemental estimate so submitted to him, and such orders shall be binding upon the Municipal Council, and shall be carried out by them so far as the means at their disposal will permit.

Governor in Council to pass orders on estimate.

252. The Municipal Council shall furnish an Annual Report to the Governor in Council of their Proceedings and statements, in detail, of all the works executed by them and of all sums received and expended by them. Such Annual Report shall be published in the District Gazette *at the cost of the Municipal Fund.*

An Annual Report of Proceedings, &c., to be submitted.

253. All schools and other institutions of an educational character, and all hospitals, dispensaries, vaccine stations, choultries and other institutions of a charitable character, maintained by the Municipal Council, and all registers, books, accounts, and other documents relating thereto shall, at all times, be open to the inspection of such officers as the Governor in Council may, from time to time, appoint in that behalf.

Inspection of Schools, &c., by Government Officers.

254. The Governor in Council may, from time to time, appoint such officers as may be required for the purpose of inspecting or superintending the operations of the Municipalities established under this Act, *or of any particular Municipality or Municipalities*, and also such secretaries, clerks, and other servants as may be necessary for the exercise of the powers vested in him, and the duties imposed on him, by this Act, and assign to them such salaries, if any, as he shall think reasonable; and the expense incurred by reason of such appointments shall be defrayed in rateable proportions out of the funds of the several Municipalities established under this Act *or out of the funds of the particular Municipality or Municipalities concerned.*

Appointment of Officers to superintend operations of Municipalities.

255. (1) The Municipal Council may, from time to time, make by-laws, and cancel or alter the same—

Municipal Council empowered to make By-laws.

(i) for regulating the time and mode of collecting the tolls and taxes mentioned in this Act;

(ii) for regulating the conduct of persons employed by them;

(iii) for the management of markets, slaughter-houses, *burial or burning grounds and* offensive trades; *for regulating or prohibiting the planting of trees; and, generally, for the management of* all matters connected with conservancy;

(iv) for securing cleanliness, safety and order in the streets;

(v) for carrying out all the purposes of this Act; and

(vi) generally, for securing the good government and well-being of the Municipality;

and may affix fines and penalties for the infringement of such by-laws.

Infringement of By-law.

(2) No by-law shall be repugnant to any law in force, and no fine for any one infringement of a by-law shall exceed Rs. 50, and, in case of a continuing infringement, no fine shall exceed Rs. 10 for every day after notice from the Municipal Council of such infringement.

Confirmation of By-laws.

(3) No by-law or cancelment or alteration of a by-law shall have effect until the same shall have been approved and confirmed by the Governor in Council.

By-laws to have the force of law.

(4) All by-laws, when they shall have been duly confirmed, shall have the force of law.

Publication of Rules or By-laws.

256. (1) The Governor in Council and Municipal Council shall, before making or altering any rules or by-laws under Section 250 or 255, publish, in such manner as may in his or their opinion be sufficient for giving information to persons interested therein, a draft of the proposed rules or by-laws and alterations, together with a notice specifying a date at or after which such draft will be taken into consideration, and shall, before making the rules or by-laws or alterations, receive and consider any such objection or suggestion which may be made in respect of such draft by any person interested therein before the date so specified.

Rules and By-laws not to have effect until after three months.

(2) Such rules or by-laws and alterations thereof, made by the Governor in Council or the Municipal Council under Section 250 or 255, shall be published in the Local Gazette of the district in English and a Vernacular language of the district and shall not come into operation (*unless the Governor in Council shall, for any special reason, otherwise direct*) until three months after they have been so published.

Copies of Acts, Rules, and By-laws to be sold at the Municipal Office at cost price.

257. Complete copies, in English and in a Vernacular language of the district,—

(i) of this Act, and

(ii) of all Rules framed by the Governor in Council under Clauses (*a*) and (*b*) of Section 250, sub-section (1), and in force for the time being, and

(iii) of all by-laws in force for the time being

shall be kept at the Municipal Office and shall be sold to the public at cost price.

Acts of Municipal Council, &c., not to be invalidated by informalities.

258. No act of a Municipal Council or of any Committee or of any person acting as a Chairman or Municipal Councillor shall be deemed to be invalid by reason only of some defect in the establishment of the Municipality or in the appointment of the Chairman or Municipal Councillor, or on the ground that they, or any of them, were disqualified for such office, or by reason of such act having been done during any vacancy in the Municipal Council.

Liability of members for loss, waste or misapplication.

259. Every Municipal Councillor shall be liable for the loss, waste or misapplication of any money or other property belonging to the Municipal Council, if such loss, waste

or misapplication is a direct consequence of his neglect or misconduct, and a suit for compensation may be instituted against him by the Municipal Council or by the Secretary of State for India in Council.

Penalty on Municipal Councillor or servant being interested in contract made with Municipal Council.

260. If any Municipal Councillor or servant of a Municipal Council is, otherwise than with the permission in writing of the Collector of the district, directly or indirectly interested in any contract made with the Municipal Council, he shall be deemed to have committed an offence under Section 168 of the Indian Penal Code:

Provided that no person shall, by reason of being a shareholder in, or member of, any company, be held to be interested in any contract entered into between such company and the Municipal Council, *unless he is a Director of such company.*

No action to be brought against Municipal Council, &c., without one month's notice.

261. (1) No action shall be brought against *the* Municipal Council, or *against* any *Municipal Councillor or servant*, or *against* any person acting under *the* directions *of the Municipal Council, or of a Municipal Councillor or servant, on account of* any *act* done, or purporting to be done, *in pursuance or execution or intended execution of* this Act, *or in respect of any alleged neglect or default in the execution of this Act*, until the expiration of one month after notice in writing *has* been delivered or left *either* at the office of the Municipal Council, or at the place of abode of such *Municipal Councillor or servant or of such* person, explicitly stating the cause of action, *the nature of the relief sought, the amount of compensation claimed* and the name and place of abode of the intended plaintiff; and, unless such notice be proved *to have been so delivered or left*, the court shall find for the defendant.

If tender of compensation made, award to be limited.

(2) If *the Municipal Council, Municipal Councillor or servant or other* person to whom notice is given *as provided in sub-section (1)* shall, before action is *commenced, have tendered* sufficient amends to the plaintiff, such plaintiff shall not recover more than the amount so tendered. *The plaintiff* shall *also* pay all costs incurred by the defendant after such tender.

Actions to be commenced within six months.

(3) *No* action *such as is described in sub-section (1) shall, unless it is an action for the recovery of immoveable property or for a declaration of title thereto*, be commenced *otherwise than* within six months next after the accrual of the cause of action.

Actions not to be brought against Chairman.

(4) *No action shall be brought against the Chairman on account of any act done in pursuance or execution or intended execution of this Act, or in respect of any alleged default on his part in the execution of this Act, if such act was done or if such default was made in good faith; but all such actions shall, so far as they are maintainable in a Court, be brought against the Municipal Council.*

Assessments, &c., not to be impeached.

262. (1) No assessment *or demand made, and no* charge *imposed*, under the authority of this Act shall be impeached or affected by reason of any *clerical error or by reason of* any mistake (*a*) in *respect of* the name, residence, place of business or occupation of any person, or (*b*) in the description of any property or thing or (*c*) in *respect of* the amount *assessed*,

demanded or charged; provided *that* the *provisions* of this Act have been, in substance and effect, complied with. And no proceedings under this Act shall, for *defect in* form, be quashed or set aside *by* any Court of Justice.

No suit for recovery of sums collected.

(2) No *suit* shall be brought in any Court to recover *any sum of* money *collected* under *the authority of* this Act or to recover damages *on account of* any assessment, *or collection of money*, made under *the said authority;* provided that the provisions of this Act have been, in substance and effect, complied with.

Distraint not unlawful for want of form.

(3) No *distraint* or sale under this Act shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account of any error, defect or want of form in the bill, notice, schedule, form, summons, notice of demand, warrant of *distraint*, inventory, or other proceeding relating thereto; nor shall such person be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him.

Special damage actionable.

Provided that every person aggrieved by such irregularity may recover satisfaction for any special damage sustained by him.

Consequence of failure to obtain license, &c., or breach of same.

263. If, under this Act, the license or written permission of the Chairman or the Municipal Council is necessary for the doing of any act in respect of any property, moveable or immoveable, public or private, and if such act is done (*a*) without such license or permission, or (*b*) in a manner inconsistent with the terms of such license or permission; then

(i) *the Municipal Council may, by notice, require the person so doing such act to alter, remove, or, as far as practicable, restore to its original state the whole, or any part, of such property, within a time to be specified in such notice; and, further,*

(ii) if no penalty has been specially provided in this Act for *so doing such* act, the person *so* doing *it* shall be liable, on conviction before a Magistrate, to a fine, not exceeding fifty rupees, for every such offence, and to a further fine, not exceeding ten rupees, for every day during which the said offence is continued after such conviction.

Failure to comply with notice.

264. (1) If a notice *has* been given under the provisions of this Act *to any person* requiring him to execute any work in respect of any property, moveable or immoveable, public or private, or to provide *or do or refrain from doing* anything, within a time specified in the notice, *and if such person fails* to comply with such notice; *then, subject to the provisions of Sections 213-A and 217,*

(*i*) *the Municipal Council may cause such work to be executed, or such thing to be provided or done, and may recover all reasonable expenses incurred by them on such account from the said person; and, further,*

(*ii*) if no penalty *has been* specially provided *in* this Act for *failure to comply with such notice, the said* person shall be liable, on conviction before a Magistrate, to a fine, not exceeding twenty rupees, for every such offence, and to a further fine, not exceeding ten rupees, for every day, after such conviction, during which such *notice remains uncomplied with.*

(2) The Municipal Council, *in causing, under sub-section* (1), *any work to be executed or any thing to be provided or done,* may *utilize any materials found on the property concerned or may sell them and apply the sale-proceeds* towards the payment of the expenses *incurred by them on this account.*

General penal clause.

264-A. *Every person who fails to do anything which he is required by this Act to do, or does any thing which he is required by this Act not to do, shall, if no penalty has been specially provided in this Act for failing to do or for doing such thing, be liable, on conviction by a Magistrate, to a fine, not exceeding twenty rupees, for every such offence and to a further fine, not exceeding ten rupees, for every day, after conviction, during which such offence is continued.*

Occupier may be required to pay rent to Council on default by owner.

265. (1) If the person to whom *the* notice *mentioned in Section 264 has* been given *is* the owner of the *property in respect of which it is given*, the Municipal Council may (whether any action or *other* proceeding has been brought or taken against such owner or not), require the person, *if any*, who occupies *such property, or any part thereof*, under such owner, *to pay to the Municipal Council, instead of to the owner, the rent payable by him in respect of such property, as it falls due, up to the amount recoverable from the owner under Section 264, or to such smaller amount as the Municipal Council may think proper; and any amount so paid shall be deducted from the amount payable by the said owner.*

(2) *For the purpose of deciding whether action should be taken under sub-section (1), the Municipal Council may require any occupier of property to furnish information as to the sum payable by him as rent on account of such property and as to the name and address of the person to whom it is payable; and such occupier shall be bound to furnish such information.*

Occupier, in default of owner, may execute works, and deduct expenses from his rent.

266. Whenever default is made by the owner of any building or land in the execution of any work required by the Municipal Council to be executed, the occupier of any such building or land may cause such work to be executed; and the expenses thereof shall be paid to him by the owner, or the amount may be deducted by the occupier from the rent from time to time becoming due from him to such owner.

Occupier may recover payment made on behalf of owner.

266-A. If *the occupier of any building or land makes, on behalf of the owner thereof, any payment for which, under this Act, the owner, but not the occupier, is liable,* such occupier may *recover the amount so paid by him,* by deducting the same from the rent payable by him *in respect of such building or land* to *such* owner.

Fees for certain licenses, &c.

267. (1) When any license, sanction, permission or registration is granted under the provisions of this Act, a fee may be charged for such license, sanction, permission or registration.

Rate of fee to be fixed by Council.

(2) The rates of the fees to be so charged shall be, from time to time, fixed by the Municipal Council, subject to the approval of the Governor in Council.

268. If any person, without the previous sanction of the Municipal Council, occupies any land belonging to such Municipal Council, he shall pay in respect of such occupation such sums as may be demanded from time to time by the said Municipal Council.

Payments for unauthorized occupation of lands.

269. All expenses incurred by the *Chairman or the* Municipal Council and *recoverable by him or* them, and all rents (*not being rents for vacant lands, or for buildings demised by the Municipal Council under Section 177*), fees, tolls and other payments due to *the Municipal Council* under the provisions of this Act, or under any by-law *made* under *Section 255, or under any contract made in accordance with Section 147, 209 or 218, shall, if there is no special provision for their recovery contained* in this Act, be recoverable as if they were taxes due to the Municipal Council under this Act.

Fees, &c., recoverable as taxes.

269-A. *No distraint shall be made, no suit shall be instituted and no prosecution shall be commenced under Section 103, in respect of any sum due to the Municipal Council under this Act, after the expiration of a period of three years from the date upon which distraint might first have been made, a suit might first have been instituted, or prosecution might first have been commenced, as the case may be, in respect of such sum.*

No distraint, suit or prosecution after three years.

270. If any property, movable or immovable, is sold under the provisions of this Act, and if there is a surplus, after the sum due to the Municipal Council shall have been deducted from the sale-proceeds, such surplus shall, if the owner of the property sold claims the same within six months from the date of the sale, be paid to him by the Municipal Council, but if no such claim is preferred within such time, the said surplus shall be *credited to the Municipal Fund; and no suit shall lie for recovery of any sum so credited.*

Surplus sale-proceeds to be credited to Municipal fund after six months.

271. (1) Every bill, notice, or form, regarding any valuation, measurement, assessment, tax, or any money due in respect of the same, or under this Act, shall, if practicable, be presented to, or served personally upon, the person to whom the same is addressed, or, if he cannot be found, may be left at his usual or last known place of abode or business with some adult member of his family, servant or agent, or may be sent by registered letter, or may be put upon some conspicuous part of his usual or last known place of abode or business, and shall thereby be deemed to have been duly presented or served.

Service of bills, notices, &c.

(2) If the place of abode or business of the owner of any building or land, in respect of which a tax is assessed or due, or in respect of which any work has to be executed, be unknown, or if the owner of any such building or land be not resident within the limits of the Municipality, every such bill, notice, or form, shall be deemed to be duly presented or served, if delivered to any adult occupier or put upon some conspicuous part of the building or land in respect of which the tax is assessed or due, or in respect of which such work has to be executed.

If place of abode be unknown, such notice may be affixed on land, &c.

(3) Any such bill, notice or form sent to any person by registered post shall be addressed to his usual or last known place of abode or business, and when so sent shall be held to have been duly served, unless and until the contrary be proved.

Bill, &c., sent by post duly served.

(4) Whenever in any bill, notice or form served under this Act, a period is fixed within which any tax or other sum is to be paid, or any work executed, or any thing provided, such period shall, *in the absence from this Act of any distinct provision to the contrary*, be calculated from the date of such service.

Period mentioned in notice to date from service of such notice.

272. (1) Whenever it is provided in this Act that any notice shall or may be served on, or any demand be made on, or any action be taken against, "the owner or occupier" of any building or land, such notice shall be served, or such demand made on, or action taken against, the owner in the first instance, and shall be served on, or made on, or taken against, the occupier, only when the owner cannot be found or is not resident within Municipal limits.

Owner to be proceeded against first, and in his absence the occupier.

(2) *Whenever, by this Act, an obligation is imposed upon the "owner or occupier" of any property, the obligation shall rest upon the owner in the first instance and upon the occupier, only when the owner cannot be found or is not resident within Municipal limits.*

Obligation to rest with owner in first instance.

273. (1) If the occupier of any building or land prevent the owner thereof from carrying into effect, in respect of such building or land, any of the provisions of this Act, after notice of his intention so to do has been given by the owner to such occupier, the Municipal Council, upon proof thereof, may give an order in writing, requiring such occupier to permit the owner to execute all such works with respect to such building or land as may be necessary for carrying into effect the provisions of this Act.

Proceedings in case of occupier opposing execution of Act.

(2) If, after the expiration of eight days from the date of the service of such order, such occupier continue to refuse to permit such owner to execute such works, such occupier shall, for every day during which he so continues to refuse, be liable to a fine not exceeding Rs. 50.

Penalty.

(3) Every such owner, during the continuance of such refusal, shall be discharged from any fine or penalty to which he might otherwise have become liable by reason of default in executing such works.

Owner absolved.

274. (1) The *Chairman or any person authorized by him in this behalf* may, with the consent of the occupier of any building or land, or after giving six hours' notice to such occupier, between sunrise and sunset, enter into and upon any building or land, either for the purpose of making any survey or inspection or for doing any other act necessary for carrying out the purposes of this Act, without being liable to any legal proceedings or molestation whatsoever on account of such entry or of anything done in any part of such building or land, in pursuance of this Act.

Power to enter upon lands for the purposes of Act.

(2) If any woman, who, according to the customs of the country, does not appear in public, is in the actual occupation of any building or part thereof into which any person, duly authorized in that behalf, has to enter for the purposes of this Act, such person shall inform such woman that she is at liberty to withdraw, and shall, after allowing reasonable time for such woman to withdraw, and giving her every reasonable facility to withdraw, enter such building or part thereof, using at the same time every precaution, consistent with these provisions, to prevent, when necessary, the clandestine removal of property.

Entry into zenana.

275. (1) The *Chairman or any person authorized by him in this behalf* may enter upon the land of any person adjoining to, or being within the distance of twenty yards of, any works authorized by this Act, for the purpose of depositing upon such land any soil, gravel, sand, lime, brick, stone or other materials, or for any other purposes connected with the carrying on of such works, without making any previous payment, tender, or deposit.

Power of Chairman to enter on lands adjacent to works.

(2) The *Chairman or the person authorized by him as aforesaid* shall cause as little damage as may be in the exercise of the powers *conferred by sub-section* (*1*), and *the Municipal Council* shall make compensation for such temporary occupation of, or temporary damage to, the said land to the owner and occupier thereof, and shall make compensation to the owner also for the permanent injury (if any) to such land.

Compensation for temporary occupation of land, or for injury thereto.

(3) Before the *Chairman or the person authorized by him as aforesaid makes* any such temporary use of land adjoining or lying near to any such work, *he* shall give seven days' notice of *his* intention to the owner and occupier of such land, and shall, if required by any such owner or occupier to do so, mark off by sufficient fences so much of the land as is required to be used as aforesaid from the other land adjoining thereto.

Previous notice to owner or occupier.

276. Whenever the *Chairman or the Municipal Council shall have* set apart any place for any purpose authorized by this Act, or *shall have prohibited* the doing of any act or thing in any place, *he or* they shall at once cause to be put up a notice in English and a Vernacular language of the district at or near such place. Such notice shall specify the purpose for which such place shall have been set apart, or the act or thing prohibited.

Notice for setting apart public places.

277. (1) Whoever

(i) obstructs or molests the Municipal Council, *or any Municipal Councillor* or any person employed by them *or him*, or any person with whom they *or he* have *or has* contracted, under the provisions of this Act, in the performance of their or his duty, or *prevents, or tries to prevent*, any person from doing anything which he is empowered, or required, to do by virtue of this Act, or

Penalty for obstructing Municipal Council, &c., in their duty.

(ii) removes any mark set up for the purpose of indicating any level or direction incidental to the execution of any work authorized by this Act,

shall be liable to a fine not exceeding Rs. 50.

(2) Whoever removes, destroys, defaces or otherwise obliterates any notice put up or exhibited by the Municipal Council, or under their orders, shall be liable to a fine not exceeding Rs. 50.

Penalty for removing or destroying notice.

278. The Municipal Council may make compensation, out of the Municipal Fund, to all persons sustaining any damage by reason of the exercise of any of the powers vested in the Municipal Council, *the Chairman or the Municipal* servants under and by virtue of this Act.

Compensation may be made out of the Municipal Fund.

279. Where any land, whether within or without the limits of a Municipality, is required for the purposes of this Act, the Governor in Council may, at the request of the Municipal Council, proceed to acquire it under the provisions of the Land Acquisition Act, *1894*, and, on payment by the Municipal Council of the compensation awarded under that Act, the land shall vest in the Municipal Council.

Acquisition of land under Act I of 1894.

Act I of 1894.

280. *No person shall be tried for any offence against the provisions of this Act or of any by-law made under Section 255 except upon complaint made by the Police or by the Municipal Council or by the Chairman or by a person expressly authorized in this behalf by the Municipal Council or the Chairman. But nothing herein contained shall affect the provisions of Section 191 of the Code of Criminal Procedure, 1882, in regard to the power of certain Magistrates to take cognizance of offences upon information received or upon their own knowledge or suspicion.*

No prosecution to be commenced by private person.

Act X of 1832.

281. If *any person*, through any act, neglect or default whereby he has become liable to a fine under this Act, *has caused* any damage to the property of the Municipal Council, *the said person* shall be liable to compensate the Municipal Council for such damage; and the Magistrate *before whom he is being prosecuted in respect of such act, neglect or default* shall, *upon application in this behalf by the Municipal Council*, assess the amount of such compensation.

Liability for damage to Municipal property.

282. (1) Every Police officer shall give immediate information to the Chairman or the servants of the Municipal Council of any offence committed contrary to the provisions of this Act or the by-laws made in pursuance thereof, and shall help them in giving effect to the provisions of this Act in such manner and at such times as may be necessary.

Police officers to report offences to Municipal Council.

(2) Any Police officer may arrest any person committing in his view any offence against any of the provisions of this Act, if the name and address of such person be unknown to him, and if such person decline to give his name and address, or if the Police officer shall have reason to doubt the accuracy of such name and address if given; and such person may be detained at the station-house until his name and address shall be correctly ascertained.

Power to Police to arrest persons committing offences in their view.

(3) Any Police officer, who omits or refuses to perform any duty imposed on him by this Act, shall be deemed to have committed an offence under Section 10, Act XXIV of 1859.

Penalty.

282-A. (1) *In the absence of a written contract to the contrary, every scavenger employed by a Municipal Council shall be entitled to one month's notice before discharge or to one month's wages in lieu thereof, unless he is discharged for misconduct or was engaged for a specified term and discharged at the end of it.*

Scavengers entitled to notice of discharge,

(2) *Should any scavenger employed by a Municipal Council, in the absence of a written contract authorizing him so to do, and without reasonable cause, resign his employment or absent himself from his duties without giving one month's notice to the Municipal Council, or neglect or refuse to perform his duties, or any of them, he shall be liable to imprisonment which may extend to two months.*

and liable to penalty for leaving without notice.

283. If any person who is required by the provisions of this Act or by any notice or other proceeding issued thereunder to furnish any information—

Penalty for omission to give information.

(i) omits to furnish the same, or

(ii) knowingly or negligently furnishes false information,

such person shall be liable to a fine not exceeding Rs. 100.

284. (1) Every person who,

(i) not being appointed or duly authorized to collect the taxes and tolls and other sums due to the Municipal Council under this Act, shall levy or demand any tax, toll or sum, or

Illegal collection of taxes and tolls.

(ii) shall unlawfully *or* extortionately demand or take any other or higher tax, toll or sum than the lawful tax, toll or sum, or

(iii) under color of this Act shall seize or sell any property, knowing such seizure *or* sale to be unlawful, or

(iv) in cases where he shall be entitled to recover from any person any portion of the tax paid by himself under this Act, shall demand or claim any higher portion than he is entitled to recover, or

(v) shall in any manner extort any money or any valuable thing from any person under color of this Act,

shall be liable to a fine not exceeding Rs. 500.

285. (*Prosecution before Magistrate*) *Repealed.*

286. (1) In case any fine, *compensation*, penalty or costs, imposed *or assessed by a Magistrate* under, or by virtue of, this Act or of any by-law made in pursuance thereof, shall not be forthwith paid, the Magistrate may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to a warrant of distress, unless the offender shall give security to the satisfaction of the Magistrate for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Offender may be detained in custody, or compelled to give security, if fine, &c., be not forthwith paid.

(2) If, upon the return of such warrant, it shall appear that no sufficient distress can be had whereon to levy such fine or sum of money and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of the Magistrate by the admission of the offender or otherwise that he has not sufficient property whereupon such fine or sum of money could be levied if a warrant of distress were issued, the Magistrate may, by warrant under his hand, commit the offender to prison, there to be simply imprisoned, according to the discretion of the Magistrate, for any term not exceeding one calendar month when the amount of such fine or sum of money shall not exceed Rs. 50, and for any term not exceeding two calendar months when the amount shall not exceed Rs. 100, and for any term not exceeding six calendar months in any other case; such commitment to be determinable in each of the cases aforesaid on payment of the amount.

If no sufficient distress can be had, or there be not sufficient property whereupon the fine, &c., can be levied, the offender may be imprisoned.

(3) The Magistrate by whom any fine, *compensation* or penalty is imposed by virtue of this Act shall award the whole of such fine, *compensation* or penalty to the Municipal Council to be by them applied to the purposes of this Act.

How fines and penalties are to be applied.

287. (*Prosecution*) *Repealed.*

288. The Governor in Council may from time to time, by notification, authorize any person to exercise any one or more of the powers vested in him by this Act, save and except those mentioned in Chapter I, and may at any time in like manner withdraw such authority.

Delegation of powers by the Governor in Council.

289. Every notification under this Act shall be published in the official gazette of the district to which the said notification applies, both in English and a Vernacular language of the district.

Notification to be published in District Gazette.

SCHEDULE A (SECTION 47).

TAX ON ARTS, PROFESSIONS, TRADES AND CALLINGS.

		Yearly.	
Class I.			
Every Company trading with a paid-up capital of five lakhs of rupees or upwards ...		Rupees	200
Class II.			
(a) *Every Company trading with a paid-up capital of one lakh of rupees or upwards*			
(b) *Every person holding any office or appointment, public or private, or employed in any capacity, whose pay, salary or pension amounts to Rs. 2,000 a month or upwards.*		,,	100
Class III.			
(a) *Every Company trading with a paid-up capital of less than one lakh of rupees*			
(b) *Every person holding any office or appointment, public or private, or employed in any capacity, whose pay, salary, or pension amounts to Rs. 1,500 a month or upwards, and every*		,,	75

Class III—continued.

	Yearly.
person falling under any of the following denominations whose income is estimated to amount to Rs. 1,500 a month or upwards :— (*i*) *Abkári Renters, Wholesale and Retail Traders and Manufacturers of every kind, Contractors, Ship-owners, Boat-owners, Auctioneers, and Commission Agents ;* (*ii*) *Bankers, Sowcars, Money-changers and Pawnbrokers ;* (*iii*) *Editors and Proprietors of Newspapers ;* (*iv*) *Dubashes, Under-writers, Brokers and other Dealers in Securities, Shares or Bills of Exchange ;* (*v*) *Practising Barristers, Solicitors, Attorneys, Pleaders, Vakils and Law Agents ;* (*vi*) *Practising Medical Practitioners of all kinds, including Hakims and Vaidiyans ;* (*vii*) *Dentists and Veterinary Surgeons ;* (*viii*) *Architects and Civil Engineers ;* (*ix*) *Owners and Farmers of Markets and Toll-farmers ;* (*x*) *Keepers of hotels, lodging-houses, boarding-houses or billiard-saloons ;* (*xi*) *Builders and Surveyors ;* (*xii*) *Owners of Mills, Warehouses, Printing-Presses, Oil-Presses, Cotton-Presses and other Presses and Factories of all kinds ;* (*xiii*) *Professional Artists, Photographers, Actors, Musicians and Dancers ;* (*xiv*) *Dealers in animals or vehicles ;* (*xv*) *Artisans.*	*Rupees* 75

Class IV.

Every person described in Class III whose pay, salary or pension amounts, or whose income is estimated to amount, to Rs. 1,000 a month or upwards	„ 50

Class V.

Every person described in Class III whose pay, salary or pension amounts, or whose income is estimated to amount, to Rs. 500 a month or upwards	„ 25

Class VI.

Every person described in Class III whose pay, salary or pension amounts, or whose income is estimated to amount, to Rs. 300 a month or upwards	„ 12

Class VII.

Every person described in Class III whose pay, salary or pension amounts, or whose income is estimated to amount, to Rs. 200 a month or upwards	„ 8

Class VIII.

Every person described in Class III whose pay, salary or pension amounts, or whose income is estimated to amount, to Rs. 100 a month or upwards	„ 4

Class IX.

Every person described in Class III whose pay, salary or pension amounts, or whose income is estimated to amount, to Rs. 50 a month or upwards	„ 2

Class X.

	Yearly.
Every person described in Class III whose pay, salary or pension amounts, or whose income is estimated to amount, to Rs. 30 a month or upwards	*Rupee* 1

NOTE.—*The above classification is subject to the following provisos, namely :—*

Proviso 1.—No owner of a Cotton-press shall be placed in any class below Class V.

Proviso 2.—No Wholesale Trader, Ship-owner, Banker, Dubash, Barrister, Solicitor, Attorney, Architect, Civil Engineer, Mill-owner or Factory-owner shall be placed in any class below Class VI.

Proviso 3.—No Abkári Renter (other than a mere liquor-shop keeper), Editor or Proprietor of a Newspaper, Under-writer, Broker or other Dealer in Securities, Shares or Bills of Exchange, and no First-grade Pleader, Medical Practitioner (other than a Hakim or Vaidiyan), Dentist or Veterinary Surgeon shall be placed in any class below Class VII.

Proviso 4.—No Boat-owner, Auctioneer, Sowcar, Second-grade Pleader, Vakil, Law-Agent, Owner or Farmer of a Market, Toll-farmer, Keeper of a hotel, lodging-house, boarding-house or billiard-saloon, and no Builder, Surveyor or Owner of a Warehouse or Press (other than a Cotton-press or Oil-press) shall be placed in any class below Class VIII.

SCHEDULE B (SECTION 47).

VEHICLES WITH SPRINGS, PALANQUINS, AND ANIMALS LIABLE TO TAXATION, WITH THE RATES OF TAXATION.

	Half-yearly. RS. A. P.
For every four-wheeled vehicle with springs *constructed to be* drawn by two or more horses	*10 0 0*
For every four-wheeled vehicle with springs *constructed to be* drawn by a horse, bull or bullock, or by two or more horses under thirteen hands, bulls or bullocks	5 0 0
For every two-wheeled vehicle with springs *constructed to be* drawn by one or more horses, bulls or bullocks ..	3 0 0
Every other vehicle with springs and every palanquin, *bicycle or tricycle*	3 0 0
For every elephant	12 0 0
For every camel	6 0 0
For every horse over thirteen hands	*5 0 0*
For every horse of or under thirteen hands	*2 0 0*
For every horse of or under eleven hands	*1 0 0*
For every bullock or bull	0 8 0
For every male buffalo	0 8 0
For every ass	0 4 0
For every dog	*0 8 0*

SCHEDULE C (SECTION 80).

To the Chairman of the Municipal Council of

FORM OF APPLICATION FOR LICENSE FOR VEHICLES AND ANIMALS.

I hereby certify that I have in my possession the Animals and Vehicles set forth in the list given hereunder and no others liable to tax under Schedule B of Act of 188 for the half-year ending the day of 18 .

No.	(*Description of Vehicles and Animals.*)	Tax for the Half-year. RS. A. P.
	Four-wheeled vehicle with springs *constructed to be* drawn by two or more horses	*10 0 0*
	Four-wheeled vehicle with springs *constructed to be* drawn by a horse, bull or bullock, or by two or more horses under thirteen hands, bulls or bullocks	5 0 0
	Two-wheeled vehicle with springs *constructed to be* drawn by one or more horses, bulls or bullocks	3 0 0
	Other vehicle with springs or palanquin, *bicycle or tricycle*	3 0 0
	Elephant	12 0 0
	Camel	6 0 0

(*Description of Vehicles and Animals.*)	Tax for the Half-yearly. RS. A. P.
Horse over thirteen hands	*5 0 0*
Horse of or under thirteen hands	*2 0 0*
Horse of or under eleven hands	*1 0 0*
Bullock or bull	0 8 0
Male buffalo	0 8 0
Ass	0 4 0
Dog	*0 8 0*

Date

Signature.

Residence.

SCHEDULE D (SECTION 47).

MAXIMUM RATES OF TOLLS PAYABLE ON ENTERING THE MUNICIPAL LIMITS.

	RS. A. P.
On every four-wheeled vehicle with springs	0 8 0
On every jatka, hackery or cart laden	0 4 0
On every jatka, hackery or cart not laden	0 2 0
On every other vehicle with springs and every palanquin, *bicycle or tricycle*	0 4 0
On every buffalo, bull, bullock, cow, or ass, laden or ridden *and on every* horse under thirteen hands	0 1 0
On every horse not under thirteen hands	0 2 0
On every elephant	1 0 0
On every camel	0 4 0

EXPLANATION (1) "*Laden.*"—An animal is not said to be laden when it is merely accoutred for the purpose of being laden or ridden.

Explanation (2).—*Tolls are leviable upon vehicles at the above rates irrespective of the means of traction employed and the payment of a toll in respect of any vehicle covers the animals engaged in drawing it.*

SCHEDULE E (SECTION 104).

DISTRAINT WARRANT.

To

(*Here insert the name of the officer charged with the execution of the Warrant.*)

Whereas of has not paid or shown sufficient cause for the non-payment of the sum of rupees due for the taxes mentioned in the margin for the 18 , although the said sum has been duly demanded from the said and *fifteen* (*or "three", as the case may be*) days have elapsed since *such demand was made*. This is to command you to distrain the goods and chattels of the said (*or as the case may be, any goods and chattels found on the premises referred to*) to the amount of the said sum of rupees, together with for warrant-fee and *distraint-fee*, making together *a sum of* , and such further sum as may be sufficient to defray the charges of taking, keeping and selling such *distraint*; and if, within seven days next after such *distraint*, the *amounts due on account of the said taxes and fees* shall not be paid, together with such further sum as may be sufficient to defray the charges of taking and keeping such *distraint*, to sell the said goods and chattels; and having paid and deducted out of the proceeds of the sale the *amount due on account of the said taxes and fees* rupees and the charges of taking, keeping, and selling such *distraint*, to return the surplus, if any, on demand, to the person whom you *found* in possession of the said goods and chattels. If sufficient *distraint* cannot be found of the goods and chattels of the said you are to certify the same to me together with this Warrant.

(L.S.)

Date

(Signature or Stamp of the Chairman of the Municipal Council.)

SCHEDULE F (SECTION 105).

FORM OF INVENTORY AND NOTICE.

(*State particulars of goods seized.*)

Take notice that I have this day seized the goods and chattels specified in the above inventory for the sum of rupees due for the taxes mentioned in the margin for the 18 ; and that, unless you pay into the office of the Municipal Council of the amount due, together with the *warrant-fee, the distraint-fee and the cost of taking and keeping the goods and chattels*, within seven days from the day of the date of this notice, the goods and chattels will be sold on the day of 18 , at the Municipal Office or at such other place as the Chairman may direct; *and that the goods and chattels may be sold at any previous date, if they are liable to speedy and natural decay.*

(Signature of the officer executing the Warrant of Distress.)

Date

SCHEDULE G (SECTION 108).

TABLE OF FEES PAYABLE ON DISTRAINTS UNDER THIS ACT.

Sums distrained for	Fees. RS. A. P.
Under 1 rupee	0 4 0
1 and under 5 rupees..	0 8 0
5 „ 10 „	1 0 0
10 „ 15 „	1 8 0
15 „ 20 „	2 0 0
20 „ 25 „	2 8 0
25 and under 30 rupees..	3 0 0
30 „ 35 „	3 8 0
35 „ 40 „	4 0 0
40 „ 45 „	4 8 0
45 „ 50 „	5 0 0
50 „ 60 „	6 0 0
60 „ 80 „	7 8 0
80 „ 100 „	9 0 0
100 and above 100 „	10 0 0

The above charge includes all expenses, except when peons are kept in charge of property distrained, in which case three annas must be paid daily for each man.

(By order.)

A. BUTTERWORTH,
Secretary to the Council.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 14th March 1895:—

No. 8 OF 1895.

A Bill to amend the Indian Volunteers Act, 1869.

XX of 1869.

WHEREAS it is expedient to amend the Indian Volunteers Act, 1869; It is hereby enacted as follows:—

Substitution of new section for section 8.

1. For section 8 of the said Act the following section shall be substituted, namely:—

Volunteers subjected to Army Act, 1881, so far as it applies to officers.

"8. Every member of a corps of volunteers shall, for all military offences of which he shall be guilty whilst on actual duty, be subject to the Army Act, 1881, so far as the same is applicable to officers, or consistent with the provisions of this Act.

44 and 45 Vict., c. 58.

"*Explanation.*—For the purposes of this and the following sections of this Act, volunteers shall be deemed to be on actual duty,—

(*a*) when they are being trained or exercised either alone or with any portion of the regular forces; or

(*b*) when they are attached to or otherwise acting as part of or with any regular forces; or

(*c*) when their corps is on actual military service; or

(*d*) when serving in aid of the civil power."

Amendment of section 12, Act XX of 1869.

2. In section 12 of the said Act, for the words "Articles of War" the words and figures "Army Act, 1881," shall be substituted.

Substitution of new section for section 16, Act XX, 1869.

3. Subject to section 7 of this Act, for section 16 of the said Act the following section shall be substituted, namely:—

Local limits of service.

"16. No member of a corps of volunteers other than naval volunteers, shall be bound, without his consent, to serve or proceed on duty beyond the limits of the civil district in which he was enrolled, or, where a corps consists of volunteers enrolled in more civil districts than one, beyond the limits of the territory comprised in those districts: and

no member of a corps of naval volunteers shall be bound, without his consent, to serve or proceed on duty beyond the limits of the port to which the corps belongs, such port being construed to include the city or town after which the corps is named, and its suburbs, and the navigable rivers, channels and fairways leading thereto."

Substitution of new sections for sections 19 and 20, Act XX of 1869.

4. For sections 19 and 20 of the said Act the following sections shall be substituted, namely:—

Not attending drill or parade or other minor military offences.

"19. If any member of such corps shall, without reasonable excuse, neglect to attend drill or parade at such times as may be appointed for that purpose, or shall be guilty of any neglect of duty, or other military offence, he shall be liable to pay such fine, not exceeding fifty rupees, as the commanding officer may impose, or (except in the case of a commissioned officer) to simple dismissal from the corps, by order of the said commanding officer:

Provided that no volunteer shall be dismissed from his corps, or otherwise punished by his commanding officer under this section, until his guilt shall have been established by evidence duly taken and recorded in the books of the corps, under the signatures of the commanding officer and adjutant of the said corps:

Provided also that every such sentence of dismissal shall be reported to, and shall be liable to revision by, the Local Government, which may either reverse, or substitute a sentence of fine for, the same, or pass such other order in the case as may in its opinion be just and proper.

Punishment for non-payment of fine.

"20. If any member of such corps shall neglect to pay any fine to which he shall be sentenced by a general court-martial or by a commanding officer within such time as shall be fixed by the commanding officer of the corps, he may be dismissed by the said commanding officer from the said corps, and every dismissal shall be recorded and reported to the Local Government."

5. In section 22 of the said Act, after the word "court-martial" each time it occurs the words "or commanding officer" shall be inserted, and after the words "President of such Court" the words "or by such commanding officer, as the case may be," shall be inserted.

Amendment of section 22, Act XX of 1869.

6. Subject to section 7 of this Act, after section 26 of the said Act the following sections shall be added, namely :—

Addition of new sections after section 26, Act XX, 1869.

"*Supplemental.*

"27. (*1*) In case of actual or apprehended emergency (the occasion being first declared by the Governor-General in Council and notified in the Gazette of India) the Governor-General in Council may call out any corps of volunteers for actual military service.

Calling out of volunteer corps for actual military service.

(*2*) All volunteers belonging to any corps so called out shall be bound, unless incapacitated by infirmity for military service, to assemble as the Governor-General in Council may direct, and to proceed according to orders within the limits hereinbefore specified; and, from the time of their corps being so called out, shall be deemed to be on actual military service.

(*3*) After a corps of volunteers has been called out for actual military service, the corps shall be deemed to be released from actual military service only after a notification in the Gazette of India declaring the occasion to have passed, and not sooner or otherwise :

Provided that the Governor-General in Council may at any time discharge any such corps from actual military service.

(*4*) Before a corps of volunteers is released from actual military service, provision shall be made by the Government for the return of the volunteers present therewith to their homes.

Power to make rules as to allowances to volunteers.

"28. (*1*) The Governor-General in Council may make rules for—

(*a*) the making of payments to, and the provision of supplies for, volunteers called out on actual military service; and

(*b*) the grant of pay, pensions, gratuities, allowances and rewards to them.

(*2*) The Governor-General in Council may apply such rules or any part of them to any volunteers who may have been called out by any Magistrate or other authority for the preservation of the pease :

and may in such case direct, any enactment notwithstanding, by whom the cost of the payments to be made and supplies to be provided under the rules shall be borne.

"29. Where a corps consists of volunteers enrolled in territories subject to more Local Governments than one, the Governor-General in Council may, by notification in the Gazette of India, declare what Local Government shall for all or any of the purposes of this Act be deemed to be the Local Government with respect to the corps."

Appointment of Local Government to act with respect to corps having members enrolled in more Provinces than one.

7. Nothing in the new section 16 substituted by section 3 of this Act or in the new section 27 added by section 6 of this Act shall apply to any volunteer who was enrolled before the commencement of this Act, unless he consents in writing to be bound by such new section 16 instead of by the section for which it is substituted, or by such new section 27, as the case may be.

Saving from new liabilities and 27 in case of volunteers enrolled before commencement of this Act.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to amend the Indian Volunteers Act, 1869, in those respects in which the experience of its operation during a quarter of a century has proved the Act to be defective.

2. *Section 1 of Bill.*—Section 8 of the Act of 1869, which subjects volunteers to military law, so far as it applies to officers, whilst on actual duty or parade, has been recast. Some definition of the expression "actual duty" has been found to be necessary, and an explanation based upon section 176 (*8*) of the Army Act, 1881, has therefore been added to the section The proviso, which exempts volunteers from the punishment of death, has been omitted, for it is obvious that (unlikely as the contingency may be) there are offences for which, if committed on active service, death would be the only suitable penalty.

3. *Section 2 of Bill.*—The expression "Articles of War" is now obsolete, and the reference thereto in section 12 of the Act has in consequence been altered, as in the proposed new section 8 above noticed, to a reference to the Army Act, 1881.

4. *Section 3 of Bill.*—Under section 16 of the Act, a volunteer is not, in the absence of anything to the contrary in the terms of the constitution of the corps to which he belongs, bound to serve beyond four miles from the place at which he was enrolled. This limit is much too restricted, especially in the case of certain naval, cavalry and railway corps. It is therefore provided in the Bill that the local limits of compulsory service shall ordinarily be the limits of the civil district in which the volunteer was enrolled, but that such local limits shall, (*1*) in the case of naval volunteers, be the limits of the port (including the adjacent city or town and its suburbs), and the navigable rivers, channels and fairways leading thereto, and (*2*) in the case of corps consisting of volunteers enrolled in more civil districts than one, be the limits of the territory comprised in those districts.

5. *Sections 4 and 5 of Bill.*—The opportunity of this Bill has been taken to recast section 19 of the Act, under which, as it at present stands, a member of a corps neglecting to attend drill or parades or committing other minor military offences can only be punished with fine after trial by a Regimental Court-martial. It is proposed to confer jurisdiction in such cases on the Commanding Officer of the corps and to empower him to award either dismissal or fine in the case of a conviction, subject to the proviso that every sentence of dismissal is to be reported to and liable to revision by the Local Government. The conferment of these powers of dismissal on Commanding Officers of volunteer corps in this country is in strict analogy to the law in England (see the Volunteer Act, 1863, section 21), where a Commanding Officer possesses like powers, subject only to such subsequent order or direction as may appear just and proper to Her Majesty. The English law has been found to work well, and there would seem no reason why similar provisions should not be equally efficacious in India. The amendments in sections 20 and 22 of the Act, which are also made by these sections of the Bill, are merely consequential on the recasting of section 19, in the manner above indicated.

6. *Section 6 of Bill.*—Proposed section 27 provides for the calling out of volunteers for actual

military service, for their discharge therefrom, and for provision being made by the Government for their return to their homes : and proposed section 28 will enable the Governor-General in Council to make rules for—

(*a*) the making of payments to, and the provision of supplies for, volunteers called out on actual military service; and

(*b*) the grant of pay, pensions, gratuities, allowances and rewards to them.

A draft of the rules which it is proposed to issue, if this Bill becomes law, is appended hereto for general information.

Under proposed section 28 the Governor-General in Council may apply the rules made in favour of volunteers called out on actual military service, or any part thereof, to volunteers who may have been called out by any Magistrate or other authority for the preservation of the peace, and may direct by whom the cost of the payments to be made and supplies to be provided under the rules so applied in favour of volunteers called out for the preservation of the peace shall be borne.

Proposed section 29, following section 2, subsection (*b*), Act III of 1888 (Police), and section 144, Act IX of 1890 (Railways), will enable the Governor-General in Council, if he sees fit, to appoint one Local Government only to be such Government with respect to any corps which has companies or troops in more provinces than one.

7. *Section 7 of Bill.*—On the principle that in all voluntary service it is but right that specific consent should precede the imposition of a new liability, provision is here made that volunteers already enrolled before the proposed amending Act comes into force may, as regards the local limits of compulsory service and the calling out of volunteer corps for actual military service, elect to abide by the law as it stood in the Act of 1869.

HENRY BRACKENBURY.

The 11th March 1895.

J. M. MACPHERSON,
Offg. Secy. to the Govt. of India, Legislative Dept.

APPENDIX.

DRAFT RULES UNDER PROPOSED SECTION 28.

Grant of pay, gratuities, pensions &c., to volunteers called out for military service.

When a volunteer corps is called out for actual military service, the following rules shall take effect—

(*a*) There shall be issued to the Commanding Officer a sum of Rs. 32 for the use of every officer, non-commissioned officer and volunteer belonging to, and assembling with, the corps except such of them as do not desire to receive the benefit thereof); and each such sum, or so much thereof as the Commanding Officer of the corps thinks fit, shall be laid out, under the direction of the Commanding Officer, in providing necessaries for such officer, non-commissioned officer and volunteer; and, within one month after issue thereof, an account shall be settled with each such officer, non-commissioned officer and volunteer respecting the application thereof, and any unapplied residue thereof shall be paid to him.

(*b*) Such officers, non-commissioned officers and volunteers shall, while on, or proceeding to, or returning from, actual military service, be entitled to receive pay, allowances and rations as under:—

In the case of Government servants.—If on leave, civil leave allowances *and* military pay and allowances of rank. If not on leave, the volunteer may draw either civil pay *or* military pay and allowances of rank, according to his option.

If not in Government service.—Pay and allowances admissible to the different ranks in the British Army corresponding with those held by them in the volunteers.

In all cases.—Rations in the same manner and on the same scale as authorised for British troops serving in the military district in which the volunteers are serving.

(*c*) On the release of the corps from actual military service, each officer, non-commissioned officer and volunteer present with the corps at the time of such release shall be paid Rs. 16 (except such of them as do not desire to receive the same) in addition to his pay and allowances.

(*d*) A commissioned officer of the volunteers, who, when on actual military service, shall be wounded in action, or shall have received an injury when in the execution of military duty otherwise than in action, shall be entitled to the same pension or gratuity as an officer of similar rank in the British Army would be entitled to under the Royal Warrant in force at the time being.

(*e*) A commissioned officer of volunteers, who, when on actual military service, shall be so wounded in action or injured when in the execution of military duty otherwise than in action as to be rendered permanently incapable of resuming similar employment to that in which he was engaged at the time when called out for actual military service, shall have the option of being placed for life upon the half pay of an officer of corresponding rank in the British service, as laid down in the Royal Warrant in force at the time being, instead of receiving any pension or gratuity to which he might be entitled under rule (*d*).

(*f*) The widow, children, mother or sisters of a commissioned volunteer officer, who, when on actual military service, has been killed in action or has died of wounds received in action within twelve months after having been wounded, or has died from illness which can be directly traced to fatigue, privation or exposure, incident to active operations in the field, within twelve months after being first removed from duty on account of such illness, provided that the illness be certified to have commenced during such active operations, shall be entitled to such pension or gratuity or compassionate allowances as the widow, children, mother or sisters of an officer of like rank in the British Army would be entitled to under the Royal Warrant in force at the time being.

(*g*) A volunteer non-commissioned officer or man, who, by reason of wounds or injuries received in action, or in the actual discharge of any military duty when on actual military service, shall be rendered partially or totally incapable of earning a livelihood, or in the same manner shall be rendered temporarily incapable of earning a livelihood, shall be entitled to such pension or gratuity as a non-commissioned officer or man of similar rank in the British Army would be entitled to under the Royal Warrant in force at the time being.

(*h*) If a married volunteer non-commissioned officer or man, when on actual military service, be killed in action or die of his wounds within twelve months after having been wounded, and leave a widow, she shall be entitled to a gratuity of one year's pay of his military rank at the rate which the volunteer was in receipt of at the time of his death or of his being discharged from actual military service. A gratuity of one-third of a year's pay of the military rank of the father at the time of his death shall be issued under similar conditions to each orphan child under sixteen years of age, whose mother is dead.

(*i*) If any person, becoming entitled under clauses (*d*), (*e*), (*f*), (*g*) or (*h*), of these rules to any pension, half pay, gratuity or compassionate allowances, be entitled under the rules of the Civil Service Regulations, or under special conditions of service, to pension, gratuity or compassionate allowances at higher rates, he or she shall be entitled to receive such higher rates instead of those named in the Royal Warrant.

(*k*) Nothing in these rules shall be held to interfere with any rights or privileges as to pensions or gratuities to which members of the Volunteer force or their families may be already entitled under the Regulations now in force.

(Republished by order of the Right Honourable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

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

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 14th March 1895:—

No. 9 OF 1895.

A Bill to provide for the establishment of bonded warehouses at places other than customs-ports, and to afford facilities for the bonding of salt in such warehouses.

WHEREAS it is expedient to provide for the establishment of bonded warehouses at places other than customs-ports, and to afford facilities for the bonding of salt in such warehouses; It is hereby enacted as follows:—

Title, construction and commencement.

1. (*1*) This Act may be called the Inland Bonded Warehouses and Salt Bonding Act, 1895.

(*2*) It shall be read with, and taken as part of, the Sea Customs Act, 1878: and VIII of 1878.

(*3*) It shall come into force at once.

Extent.

2. Sections 4 to 7, both inclusive, of this Act shall extend only to such parts of British India as the Governor-General in Council may from time to time, by notification in the *Gazette of India*, direct in this behalf.

Repeal.

3. (*1*) The Inland Bonded Warehouses Act, 1887, is hereby repealed. XXI of 1887.

(*2*) The reference to that Act in section 2, clause (*5*), of the Cotton Duties Act, 1894, shall be read as if it were made to this Act. XVII of 1894.

Inland bonded warehouses and law applicable thereto.

4. (*1*) Notwithstanding anything contained in the Sea Customs Act, 1878, the Chief Customs authority may from time to time, with the previous sanction of the Local Government, appoint a public or license a private warehouse at any place which is not a warehousing port, and may with the like sanction cancel such appointment or license. VIII of 1878.

(*2*) In reference to such a place and a warehouse appointed or licensed there at the provisions of the said Act with respect to the levy of customs-duties on goods brought in bond from one customs-port to another, and with respect to warehousing, shall be construed as if the place were a customs-port and a warehousing port, and the warehouse a public or a private warehouse, as the case may be, appointed or licensed thereat under that Act:

Provided that this sub-section shall not apply to salt removed under bond under the provisions of the next following section.

Conveyance of salt to inland bonded warehouses under bonds.

5. The Chief Customs-authority may, in accordance with such rules as may be prescribed in this behalf by the Local Government and notwithstanding the provisions of section 93 of the Sea Customs Act, 1878, permit salt removed from ship board or from a warehouse appointed or licensed under the Sea Customs Act, 1878, to be conveyed otherwise than in charge of an officer of Customs to a warehouse appointed or licensed under this Act, under a bond securing the subsequent payment of the duty leviable in respect of the salt so removed. VIII of 1878. VIII of 1878.

Form of bond.

6. Every bond executed in accordance with the provisions of the last preceding section shall be in the form hereto annexed, or, when such form is inapplicable or insufficient, in such other form as is from time to time prescribed by the Chief Customs-authority:

Provided that the time allowed by such bond for the payment of the duty leviable on the salt included therein shall not exceed the time within which it may reasonably be expected that the whole of such salt shall have passed into consumption, and shall in no case exceed six months.

Power to make rules.

7. The Local Government may, with the previous sanction of the Governor-General in Council, make rules consistent with the provisions of this Act regarding—

(*1*) the inspection by Government officers of warehouses appointed or licensed under this Act;

(*2*) the safe custody of salt in transit under the provisions of this Act;

(*3*) the removal of salt from a warehouse appointed or licensed under this Act;

(*4*) the nature of the security to be required from a person executing a bond in accordance with the provisions of this Act, and the place of payment of the sum recoverable under such bond; and

(*5*) generally such other matters as may be deemed necessary to secure the safety of the public revenue.

FORM OF BOND.

(*See Section 6.*)

No. 189

We, A.B., now of ; and C. D., of the same place, are jointly and severally bound to Her Majesty's Secretary of State for India in Council in the sum of Government rupees to be paid to the said Secretary of State in Council, for which payment we jointly and severally bind ourselves and our legal representatives.

(Date)

(Signed)

The above bounden , having applied to the officer in charge of the Custom-house at for and obtained permission to lodge in a warehouse appointed or licensed under the Inland Bonded Warehouses and Salt Bonding Act, 1895, and situated at , for a period of months the following goods, that is to say, maunds of salt imported by sea from on board of the ship and entered in the Custom-house books as No. of the Register of goods imported by sea;

The condition of this bond is that—

If the or their legal representatives shall observe all the rules prescribed under the said Inland Bonded Warehouses and Salt Bonding Act, 1895, to be observed by the owners of goods warehoused and persons obtaining permission to warehouse goods under the provisions thereof;

And if the said , or their legal representatives, shall pay to the officer in charge of the Custom-house at the port of or to the Collector of , all dues, including customs-duties or other lawful charges, which shall be demandable on the said salt or on account of penalties incurred in respect thereto, within from the date of this bond, together with interest on every such sum at the rate of six per cent. per annum from the date of demand thereof being made in writing by the said officer in charge of the Custom-house;

And if, within the term so fixed or such further period (if any) as may be granted by the Chief Customs-authority for the payment thereof, the full amount of all customs-duties and other lawful charges, penalties and interest demandable as aforesaid shall have been first paid on the whole of the said salt;

This obligation shall be void.

Otherwise, and on breach or failure in the performance of any part of this condition, the same shall be in force.

(Date)

(Signed) ( )

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to provide an easier system by which salt, imported by sea, may be removed for sale in the interior, without necessary prepayment of duty, the duty being secured by the execution of a bond.

The provisions of the Inland Bonded Warehouses Act, XXI of 1867, were mainly designed in connection with the salt trade, and the opportunity has been taken of removing that Act from the Statute-book and re-enacting it in combination with the proposals now made.

The proposed Act will be of immediate use in the Lower Provinces of Bengal only, but it may hereafter be found desirable to further extend its application. It has, therefore, been drafted in a permissive form.

J. WESTLAND.

The 12th March 1895.

J. M. MACPHERSON,
Offg. Secy. to the Govt. of India,
Legislative Dept.

(Republished by order of the Right Honourable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

FORT ST. GEORGE GAZETTE SUPPLEMENT.

TUESDAY EVENING, MARCH 26, 1895.

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

The following Report of the Select Committee on the Bill to give power to Companies to make certain alterations in the Instruments under which they are constituted, and to amend the Indian Companies Act, 1882, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 14th March 1895:—

We, the undersigned, Members of the Select Committee to which the Bill to give power to Companies to make certain alterations in the Instruments under which they are constituted, and to amend the Indian Companies Act, 1882, 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 Chief Commissioner, Coorg, No. 195, dated 31st January 1895 [Paper No. 1].
From Commissioner, Ajmere-Merwara, No. 88-690-V., dated 6th February 1895 [Paper No. 2].
From High Court, Calcutta, No. 252, dated 12th February 1895 [Paper No. 3].
From Resident, Hyderabad, No. 51, dated 16th February 1895, and enclosures [Papers No. 4].
From Chief Commissioner, Burma, No. 302-L.-4, dated 13th February 1895, and enclosures [Papers No. 5].
From Government, Bombay, No. 1446, dated 19th February 1895, and enclosures [Papers No. 6].
From Agent, Governor-General, Baluchistan, No 371-C., dated 18th February 1895 [Paper No. 7].
From Government, Bengal, No. 698-P., dated 22nd February 1895, and enclosures [Papers No. 8].
From Chief Commissioner, Central Provinces, No. 1277, dated 27th February 1895 [Paper No. 9].
From Government, Punjab, No. 308, dated 28th February 1895, and enclosure [Paper No. 10].
From Government, Madras, No. 438, dated 27th February 1895, and enclosures [Papers No. 11].
From Mr. C. W. Hope, Dehra Dun, dated 2nd March 1895 [Paper No. 12].
From Government, North-Western Provinces and Oudh, No. 232, dated 4th March 1895, and enclosures [Papers No. 13].
From Chief Commissioner, Assam, No. 27-L.L., dated 5th March 1895, and enclosures [Papers No. 14].

2. As the term "Court" has already been defined in one way in the Indian Companies Act, 1882, it appears inadvisable to define it in another way in this Bill, which, when it becomes law, is to be read as part of that Act. We have therefore substituted the term "High Court" for "Court" throughout the Bill, defining the term so as to make it clear that the Recorder is the High Court in the case of the town of Rangoon.

3. Under section 8 of the Indian Companies Act, 1882, the memorandum of association of a company has to state the part of British India in which the registered office of the company is proposed to be situate, and, though section 64 contemplates the possibility of a change in the situation of a registered office, the safer construction of the section would seem to be that it only authorizes the removal of an office from one place to another in the part of British India mentioned in the memorandum of association. It has been brought to our notice that this state of the law has caused serious inconvenience in certain cases, in which, owing to a change in the sphere of operations of a company or to other causes, the part of British India originally selected for the situation of the registered office is no longer suitable. We have therefore inserted a new clause in section 8 of the Bill making a change of the place of the registered office of the company from one part of British India to another an additional ground on which the Court may confirm a proposed alteration in the provisions of its memorandum of association.

4. As consequential on the amendment of section 8 just described we have introduced a new sub-section (2) in section 9, providing, where the registered office of a company is changed to a part of British India other than that in which the office is at which the company is registered, for the delivery of a certified copy of the order confirming such change to the Registrar of Joint Stock Companies in both such parts, and for the registration of the same by each of such Registrars, and further for the transfer by the Registrar of the part from which such office is transferred to the Registrar of the other part of all documents relating to the company registered in his office. As the papers relating to each company are, we understand, kept separately from those of other companies at registration offices, their transfer as proposed by us should be a simple matter.

5. To prevent the possibility of any question being raised on the point, we have added a sub-section (4) to section 9 prescribing a fee of Rs. 5 for every registration under the section.

6. We have extended the period prescribed by section 9 (1) for the delivery of the documents there specified to the Registrar of Joint Stock Companies for registration from fifteen days to three months, in order to make it correspond to the period fixed by section 10 as that after the expiry of

which, without registration, the proceedings become null and void, and we have added a proviso to the latter section giving persons interested a further time of grace amounting to one month within which to revive the order. This last provision will enable relief to be obtained in cases in which the failure to register may have been due to the conduct of the officers of the company or to other causes beyond the control of the general body of the shareholders, who may have been desirous all along that the order of the Court should be brought into practical operation by registration.

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

In English.

Gazette.	Date.
Gazette of India	12th January 1895.
Fort St. George Gazette	22nd January 1895.
Bombay Government Gazette	17th January 1895.
Calcutta Gazette	16th January 1895.
North-Western Provinces and Oudh Government Gazette	19th January 1895.
Punjab Government Gazette	24th January 1895.
Central Provinces Gazette	19th January 1895.
Burma Gazette	26th January 1895.
Assam Gazette	26th January 1895.
Coorg District Gazette	1st February 1895.
Sindh Official Gazette	2nd February 1895.

In the Vernaculars.

Province	Language.	Date.
Madras	Tamil	29th January 1895.
	Telugu	29th January 1895.
	Kanarese	29th January 1895.
	Malayalam	29th January 1895.
Bombay	Marathi	7th February 1895.
	Gujarathi	7th February 1895.
	Kanarese	7th February 1895.
North-Western Provinces and Oudh.	Urdu	19th January 1895.
Coorg	Kanarese	1st March 1895.
Sind	Sindhi	2nd February 1895.

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. WESTLAND.
ALEX. EDW. MILLER.
A. P. MACDONNELL.
PHEROZESHAH M. MEHTA.
P. PLAYFAIR.

The 13th March 1895.

No. II.

A Bill to give power to companies to make certain alterations in the Instruments under which they are constituted, and to amend the Indian Companies Act, 1882.

WHEREAS it is expedient to give to companies power to alter the provisions of the instruments under which they are constituted in certain cases; and whereas it is also expedient to amend section 65 of the Indian Companies Act, 1882; It is hereby enacted as follows :— VI of 1882.

Short title and commencement.

1. (*1*) This Act may be called the Indian Companies (Memorandum of Association) Act, 1895; and

(*2*) It shall come into force at once.

Sections 3 to 10 to be read with Act VI of 1882.

2. Sections 3 to 10 (both inclusive) shall be read with and taken as part of the Indian Companies Act, 1882. VI of 1882.

Definitions. [53 & 54 Vict., c. 62, s. 3 (*3*).]

3. In this Act, unless there is something repugnant in the subject or context,— [*Ib.*, s. 3 (*5*).]

(*1*) the expression "deed of settlement" includes any contract of copartnery or other instrument constituting or regulating a company and not being an Act of Parliament, a Royal Charter or Letters Patent;

(*2*) *the expression "High Court" means for the Town of Rangoon the Recorder and elsewhere the High Court as defined in the General Clauses Act, 1868.* of 1868.

Power for company to alter objects or form of constitution subject to confirmation by Court. [*Ib.*, s. 1 (*1*).]

4. Subject to the provisions of this Act, a company registered under the Indian Companies Act, 1882, may, by special resolution, alter the provisions of its memorandum of association or deed of settlement with respect to the objects of the company, so far as may be required for any of the purposes hereinafter specified, or alter the form of its constitution by substituting a memorandum and articles of association for a deed of settlement, either with or without any such alteration as aforesaid with respect to the objects of the company; but in no case shall any such alteration take effect until confirmed on petition by the *High* Court. VI of 1882.

Particulars as to which Court must be satisfied before confirmation. [*Ib.*, s. 1 (*2*).]

5. Before confirming any such alteration the *High* Court must be satisfied—

(*a*) that sufficient notice has been given to every holder of debentures or debenture stock of the company, and every person or class of persons whose interests will, in the opinion of the Court, be affected by the alteration; and

(*b*) that, with respect to every creditor who in the opinion of the Court is entitled to object, and who signifies his objection in manner directed by the Court, either his consent to the alteration has been obtained or his debt or claim has been discharged or has determined, or has been secured to the satisfaction of the Court:

Provided that the Court may, in the case of any person or class of persons, for special reasons, dispense with the notice required by this section.

[53 & 54 Vict., c. 62, s. (*3*).]

Power of Court when confirming to impose terms and make order as to costs.

6. An order confirming any such alteration may be made on such terms and subject to such conditions as to the Court may seem fit, and the Court may make such orders as to costs as it may deem proper.

[*Ib.*, s. 1 (*5*).]

Discretion conferred on Court.

7. The *High* Court shall, in exercising its discretion under this Act, have regard to the rights and interests of the members of the company, or of any class of those members, as well as to the rights and interests of the creditors, and may, if it shall think fit, adjourn the proceedings in order that an arrangement may be made to the satisfaction of the Court for the purchase of the interests of dissentient members; and the Court may give such directions and make such orders as it may think expedient for the purpose of facilitating any such arrangement or carrying the same into effect:

Provided always that it shall not be lawful to expend any part of the capital of the company in any such purchase.

[*Ib.*, s. 1 (*5*).]

Ground on which Court may confirm a proposed alteration.

8. The *High* Court may confirm, either wholly or in part, any such alteration as aforesaid with respect to the objects of the company if it appears that the alteration is required in order to enable the company—

(*a*) *to change the place of the registered office of the company from one part of British India to another; or*

(*b*) to carry on its business more economically or more efficiently; or

(*c*) to attain its main purpose by new or improved means; or

(*d*) to enlarge or change the local area of its operations; or

(*e*) to carry on some business or businesses which under existing circumstances may conveniently or advantageously be combined with the business of the company or

(*f*) to restrict or abandon any of the objects specified in the memorandum of association or deed of settlement.

[*Ib.*, s. 2 (*1*).]

Registration of order together with memorandum as altered or substituted memorandum and articles, and consequences thereof.

9. (*1*) Where a company has altered the provisions of its memorandum of association or deed of settlement with respect to *the place of its registered office or to* the objects of the company, or has altered the form of its constitution by substituting a memorandum and articles of association for a deed of settlement, and such alteration has been confirmed by the Court, a *certified* copy of the order confirming such alteration, together with a printed copy of the memorandum of association or deed of settlement so altered, or together with a printed copy of the substituted memorandum and articles of association (as the case may be), shall be delivered by the company to the Registrar of Joint Stock Companies within *three months* from the date of the order, and the Registrar shall register the same, and shall certify under his hand the registration thereof, and his certificate shall be conclusive evidence that all the requisitions of this Act with respect to such alteration and the confirmation thereof have been complied with.

(*2*) *When any such alteration as aforesaid involves a transfer of the registered office to a part of British India other than that in which the office is at which the company is registered, a certified copy of the order confirming such change shall be delivered by the company to the Registrar of Joint Stock Companies in each of such parts, and each of such Registrars shall register the same, and shall certify under his hand the registration thereof, and the Registrar for the part from which such office is transferred shall send to the Registrar for the other part all documents relating to the company registered in his office.*

(*3*) From the date of such registration (but subject to the provisions of this Act) the memorandum or deed of settlement so altered shall be the memorandum of association or deed of settlement of the company, or, as the case may be, such substituted memorandum and articles of association shall apply to the company in the same manner as if the company were a company registered under Part I of the Indian Companies Act, 1882, with such memorandum and articles of association, and the company's deed of settlement shall cease to apply to the company. VI of 1882.

(*4*) *For every registration under this section there shall be payable to the Registrar of Joint Stock Companies a fee of five rupees.*

Effect of failure to register within three months.

10. No such alteration as aforesaid shall have any operation until registration thereof has been duly effected under the last foregoing section, and, if such registration shall not have been effected within three months next after the date of the order of the Court confirming the alteration, such alteration and order and all proceedings connected therewith shall at the expiration of such period of three months become and be absolutely null and void:

Provided that the Court may, on sufficient cause shown, revive the order on application made within a further period of one month.

Amendment of section 65 of Act VI of 1882.

11. In section 65 of the Indian Companies Act, 1882, for the words "in such language or languages" the second time they occur the words "in the English language" shall be substituted. VI of 1882.

J. M. MACPHERSON,
Offg. Secy. to the Govt. of India,
Legislative Dept.

(Republished by order of the Right Honourable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bill introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 22.

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 11th July 1895:

No. 13 OF 1895.

A Bill to amend sections 632 and 652 of the Code of Civil Procedure.

WHEREAS it is expedient to amend sections 632 and 652 of the Code of Civil Procedure; It is hereby enacted as follows:

XIV of 1882.

Amendment of section 632, Act XIV, 1882.

1. In section 632 of the said Code, after the word "chapter" the words and figures "and in section 652" shall be added.

Amendment of section 652, Act XIV, 1882.

2. To section 652 of the said Code the following shall be added, namely:

"Notwithstanding anything in this Code contained, any High Court established under the said Act for establishing High Courts of Judicature in India may make such rules consistent with the Letters Patent establishing it to regulate its own procedure in the exercise of its original civil jurisdiction, as it shall think fit.

"All such rules shall be published in the local official Gazette, and shall thereupon have the force of law."

STATEMENT OF OBJECTS AND REASONS.

Section 652 of the Code of Civil Procedure, as it now stands, purports to require that any rules to regulate its own procedure made by a High Court, even although it be established by Royal Charter, shall be consistent with that Code. The Letters Patent of the High Courts at Fort William, Madras and Bombay appear, however, to recognise the practical expediency of leaving such High Courts some latitude in the direction of adapting the provisions of the ordinary law to meet their requirements. It has been found by experience that those provisions are not in all respects convenient in the case of original proceedings in those Courts, and the object of this Bill is, by an amendment of section 652 and an ancillary amendment of section 632, to bring the Code into perfect harmony with the provisions of those Letters Patent and to enable the High Courts referred to to regulate the exercise of their original civil jurisdiction accordingly.

ALEX. EDW. MILLER.

The 9th July 1895.

J. M. MACPHERSON,
Offg. Secy. to the Govt. of India,
Legislative Dept.

(Republished by order of the Right Honourable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

MADRAS RECORD OFFICE

Bill introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 22.

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 11th July 1895:

No. 11 OF 1895.

A Bill to amend the Indian Penal Code.

WHEREAS it is expedient to amend the Indian Penal Code; It is hereby enacted as follows:

XLV of 1860.

Addition to section 230 of Code.

1. (*1*) To section 230 of the said Code the following shall be added, namely:

"Any piece of metal which has at any time been the Queen's coin as above defined shall be deemed to be the Queen's coin for the purposes of this Chapter notwithstanding that it may have ceased to be used as money."

(*2*) To the illustrations appended to the said section the following shall be added, namely:

"(*e*) The 'Farukhabad rupee,' which was formerly used as money under the authority of the Government of India, is Queen's coin, although it is no longer so used."

STATEMENT OF OBJECTS AND REASONS.

As section 230 of the Indian Penal Code now stands, pieces of metal alleged to be "coin" and "Queen's coin" must be "used for the time being as money" in order to fall within the definitions there given. The Indian Coinage Act, 1870, enables the Governor-General in Council, by notification in the Gazette of India, to call in coins of any date or denomination, and it would not unlikely be held that coin of any denomination so called in was not "used for the time being as money," at any rate when after a space of time it became sufficiently scarce. With coin of this kind, however, fraud can be committed of exactly the same character as before the calling in, and the same reasons apply to prevention of the counterfeiting coin that is so called in as apply to the coin before being called in—until at least the coin ceases to have any but a numismatic value.

2. Farukhabad rupees, which were formerly in use and circulation as legal tender in Bengal, under the authority of the Government of India, were called in in 1887, and are therefore not covered by the definition as it stands. They are (or very recently were) not altogether out of use as money in some of the Native States. They were recently extensively manufactured in Bombay; and it is considered necessary to take legal power to stop this manufacture.

J. WESTLAND.

The 11th July 1895.

J. M. MACPHERSON,
Offg. Secy. to the Govt. of India,
Legislative Dept.

(Republished by order of the Right Honourable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bill introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 22.

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 11th July 1895:

No. 10 OF 1895.

A Bill to amend the Foreign Jurisdiction and Extradition Act, 1879.

WHEREAS it is expedient to amend the Foreign Jurisdiction and Extradition Act, 1879; It is hereby enacted as follows:

XXI of 1879.

1. To section 11 of the Foreign Jurisdiction and Extradition Act, 1879, the following shall be added, namely:

XXI of 1879.

Addition to section 11, Act XXI of 1879.

"The act of desertion from any body of Imperial Service Troops shall be deemed to be an offence in respect of which the Political Agent for the State to which such troops belong may issue a warrant under this section."

2. In section 12 of the said Act, after the words "and the accused person, when arrested, shall," the words "unless released on bail in accordance with the provisions of the next following section" shall be inserted.

Amendment of section 12, Act XXI of 1879.

3. After section 12 of the said Act the following sections shall be inserted, namely:

Insertion of new sections after section 12, Act XXI of 1879.

"12A. A Political Agent issuing a warrant for the arrest of any person under section 11 may in his discretion direct by endorsement thereon that, if such person execute a bond with sufficient sureties for his attendance before the officer mentioned in the warrant at a specified time, the Magistrate to whom the warrant is directed shall take such security and release such person from custody.

Power to Political Agent to direct security to be taken and procedure thereon.

"The endorsement shall state (*a*) the number of sureties (if any), (*b*) the amount in which they and the person for whose arrest the warrant is issued are to be respectively bound, and (*c*) the time and place at which he is to attend before the officer mentioned in the warrant.

"Whenever security is taken under this section, the Magistrate shall certify the fact to the Political Agent by whom the warrant was issued, and shall retain the bond.

"12B. If the person bound by any bond executed under the last foregoing section to appear before the officer mentioned therein does not so appear, the Magistrate may, on being satisfied as to his default, issue a warrant directing that he be re-arrested and delivered over to such officer.

Arrest on breach of bond to appear.

"12C. The provisions of sections 513 and 514 of the Code of Criminal Procedure, 1882, shall apply in the case of every bond required to be executed or which may have been executed in accordance with the foregoing provisions."

X of 1882.

Application of sections 513 and 514 of Act X of 1882.

STATEMENT OF OBJECTS AND REASONS.

There is not now any legal authority for the extradition from British India of a deserter from the Imperial Service Corps. These corps are raised, drilled and maintained under the supervision of British officers at the expense of certain Native States in order to form part of the military forces of Her Majesty, and it seems reasonable that the surrender of deserters therefrom to British India should be provided for. The object of this Bill is, by means of an amendment of section 11 of the Foreign Jurisdiction and Extradition Act, 1879, making such desertion an offence in respect of which warrants for arrest may be issued, to give Political Agents the necessary power to obtain extradition in these cases.

Many offences of a comparatively trivial kind are extraditable, but the Foreign Jurisdiction and Extradition Act, 1879, does not provide for the enlargement on bail of a person arrested under a warrant issued by a Political Agent under section 11 thereof. To remedy this defect it is proposed by this Bill to embody in that Act the provisions of the Code of Criminal Procedure which admit of the release of a person arrested under a warrant on his furnishing security, to the satisfaction of a Magistrate, for his due appearance.

ALEX. EDW. MILLER.

The 9th July 1895.

J. M. MACPHERSON,
Offg. Secy. to the Govt. of India,
Legislative Dept.

(Republished by order of the Right Honourable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bill introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 22.

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 11th July 1895.

No. 12 OF 1895.

THE PILGRIM SHIPS BILL.

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A Bill to make better provision for the regulation of Pilgrim Ships.

WHEREAS it is expedient to make better provision for the regulation of pilgrim ships; It is hereby enacted as follows:

Preliminary.

[S. 1, Act X of 1887.] Title. 1. This Act may be called the Pilgrim Ships Act, 1895.

[S. 2, *ibid.*] Extent and application. 2. (*1*) 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 under the suzerainty of Her Majesty;

(*b*) to all native Indian subjects of Her Majesty without and beyond British India; and,

(*c*) subject to the exceptions mentioned in sub-section (*2*), to every pilgrim ship as hereinafter defined.

(*2*) But it does not apply—

(i) to any ship-of-war, troopship, transport or other ship belonging to the Royal Navy or Her Majesty's Indian Marine Service, or

(ii) to any other ship for the time being in the service of Her Majesty, or

(iii) to any ship-of-war belonging to any Foreign Prince or State, or

(iv) to any ship not being a pilgrim ship.

[S. 3, *ibid.*] Commencement. 3. This Act shall come into force on the first day of October 1895.

[S. 4, *ibid.*] Repeal of Act X, 1887, so far as regards pilgrim ships. 4. On and from that day nothing contained in the Native Passenger Ships Act, 1887, shall apply to any pilgrim ship.

X of 1887.

[S. 5, *ibid.*] Definitions. 5. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "pilgrim" means a Muhammadan passenger going to, or returning from, the Hedjaz:

(*2*) "pilgrim ship" means a ship conveying pilgrims from or to any port in British India to or from any port in the Red Sea:

Provided that no ship carrying passengers other than pilgrims of the lowest class and having on board pilgrims of the lowest class in a less proportion than one pilgrim for every one hundred tons of the gross tonnage of the ship shall be deemed to be a pilgrim ship within the meaning of this Act.

Explanation.—"By pilgrims of the lowest class" are meant pilgrims who are steerage passengers:

(*3*) "voyage" means the whole distance between a pilgrim ship's port or place of departure and her final port or place of arrival:

(*4*) "Chief Customs-officer" means the chief executive officer of sea-customs in any port or place to which this Act applies: and

(*5*) "Magistrate" means a person exercising powers not inferior to those of a Magistrate of the second class.

Rules for Voyages of Pilgrim Ships.

[S. 6, *ibid.*] Pilgrim ships to sail only from places appointed by the Government. 6. (*1*) No pilgrim ship shall depart or proceed from, or discharge passengers (whether pilgrims or not) at, any port or place within British India other than a port or place appointed in this behalf by the Local Government.

(*2*) After a pilgrim ship has departed or proceeded on a voyage from a port or place so appointed, no person shall be received on board as a pilgrim except at some other port or place so appointed.

[S. 7, *ibid.*] Notice to be given of time of sailing. 7. (*1*) The master, owner or agent of a pilgrim ship so departing or proceeding shall give notice to an officer appointed in this behalf by the Local Government that she is to carry pilgrims, and of her destination, and of the proposed time of sailing.

(*2*) The notice shall be given not less than three days before that time.

[S. 8, *ibid.*] Power to enter on and inspect pilgrim ship. 8. After receiving the notice, the officer aforesaid or a person authorized by him shall be at liberty at all times to enter on the ship and inspect her and her fittings and the provisions and stores on board.

[S. 9, *ibid.*] Pilgrim ship not to sail without two certificates. 9. (*1*) No pilgrim ship shall commence a voyage from a port or place appointed under this Act, unless the master holds two certificates to the effect mentioned in the two next following sections.

(*2*) The officer whose duty it is to grant a port-clearance shall not grant it unless the master holds those certificates.

[S. 10, *ibid.*] Contents of certificate A. 10. The first of the certificates (hereinafter called "certificate A") shall state that the ship is seaworthy and properly equipped, fitted and ventilated, and the number of pilgrims which she is capable of carrying.

[S. 11, *ibid.*] Contents of certificate B. 11. The second of the certificates (hereinafter called "certificate B") shall state—

(*a*) the voyage which the ship is to make, and the intermediate ports (if any) at which she is to touch;

(*b*) that she has the proper complement of officers and seamen;

(*c*) that food, fuel and pure water over and above what is necessary for the crew, and the other things (if any) prescribed for pilgrim ships by the rules under this Act, have been placed on board, of the quality prescribed by the rules, properly packed, and sufficient to supply the pilgrims on board during the voyage which she is to make (including such detention in quarantine as may be probable) according to the scale for the time being prescribed by those rules;

(*d*) that the master holds certificate A;

(*e*) that she is propelled principally by steam;

(*f*) that, if she is to carry more than one hundred pilgrims, she has on board the medical officer, or medical officers, required by section 23, licensed in accordance with the rules under this Act; and

(*g*) such other particulars (if any) as may be prescribed by the rules under this Act.

[S. 12] Grant of certificates. 12. The person by whom certificate A and certificate B are to be granted shall be the officer appointed under section 7.

[S. 13, *ibid.*] Substitute for certificate A. 13. Where the master of a pilgrim ship produces to that officer either of the following certificates, namely,—

(*a*) a valid certificate granted by the Board of Trade or by a British Colonial Government, or

(*b*) a certificate granted under the authority of a British Indian Government on a date not more than one year before the proposed day of sailing and in force and applicable to the voyage on which the ship is to proceed or the service on which she is about to be employed,

the officer may, if the particulars required by section 10 are certified thereby, take the certificate as evidence of those particulars, and it shall then be deemed to be a certificate A for the purposes of this Act.

[S. 14, *ibid.*] Survey of pilgrim ship. 14. (*1*) After receiving the notice required by section 7, the officer appointed under that section may, if he thinks fit, cause the ship to be surveyed at the expense of the master or owner by competent surveyors, who shall report to him whether she is, in their opinion, seaworthy and properly equipped, fitted and ventilated for the conveyance of pilgrims:

Provided that he shall not cause a pilgrim ship holding a certificate mentioned in section 13, clause (*a*) or clause (*b*), to be surveyed unless, by reason of her having met with damage or having undergone alterations, or on any other reasonable ground, he considers it likely that she may be found unseaworthy or not properly equipped, fitted or ventilated for the conveyance of pilgrims.

(*2*) If the officer causes a survey to be made of a pilgrim ship holding any such certificate, and the surveyors report that she is seaworthy and properly equipped, fitted and ventilated for the conveyance of pilgrims, and that there was no reasonable ground why the officer should have thought it likely that she would be found unseaworthy, or not properly equipped, fitted or ventilated for such traffic, the expense of the survey shall be paid by the Local Government.

[S. 15, *ibid.*] Discretion as to grant of certificate. 15. (*1*) The officer authorized to grant a certificate under this Act in respect of a pilgrim ship shall not grant it unless he is satisfied that she has on board no cargo likely from its quality, quantity or mode of stowage to prejudice the health or safety of the pilgrims embarked.

(*2*) But save as aforesaid, and subject to the provisions of sub-section (*3*), it shall be in the discretion of the officer to grant or withhold a certificate under this Act.

(*3*) In the exercise of that discretion such officer shall be subject to the control of the Local Government and of any intermediate authority which that Government appoints in this behalf.

[S. 16, *ibid.*] Copy of certificates to be exhibited. 16. The master or owner of every pilgrim ship shall post up in a conspicuous part of her, so as to be visible to persons on board, a copy of each of the certificates granted under this Act in respect thereof, and shall keep those copies so posted up throughout the voyage.

[S. 17, *ibid.*] Supply by pilgrims of their own food. 17. If an officer appointed in this behalf by the Local Government is satisfied that a pilgrim has brought on board a pilgrim ship for his own use food of the quality and in the quantity for the time being prescribed by the rules under this Act, the requirements of this Act respecting the supply of food for pilgrims shall not apply so far as regards the supply of food for that pilgrim.

[S. 13, *ibid.*] Space and hospital accommodation to be provided for pilgrims. 18. (*1*) The Governor-General in Council may by order prescribe the number of superficial and cubic feet of space (not being less than the space for the time being required for passengers under any Act for the regulation of passenger ships) to be available in the between-decks for pilgrims on board pilgrim ships.

(*2*) Every pilgrim ship shall have reserved for the use of the pilgrims on board gratuitously by day and by night the upper deck (exclusive of the portion set apart for first and second class passengers, the airing space for the crew and any space which may be reserved as a hospital for the passengers).

(*3*) In addition to the space provided for by sub-sections (*1*) and (*2*), there shall be a hospital on board every pilgrim ship capable of accommodating five per cent. of the pilgrims embarked, thirty-two superficial feet being allowed per head.

[S. 22, *ibid.*] Statements concerning pilgrims. 19. The master of every pilgrim ship departing or proceeding from any port or place in British India shall sign two statements, specifying the number and the respective sexes of all the pilgrims embarked and the number of the crew, and shall deliver them to the officer appointed under section 7, who shall thereupon, after having first satisfied himself that the numbers are correct, countersign and return to the master one of the statements.

[S. 23, *ibid.*] Deaths on voyage. 20. The master of every pilgrim ship shall note in writing on the statement returned to him, and on any additional statement to be made under the next following section, the date and supposed cause of death of any pilgrim who may die on the voyage, and shall, when the pilgrim ship arrives at her port or place of destination or at any port or place at which it may be intended to land pilgrims, and, before any pilgrims disembark, produce the statement, with any additions thereto made, to a person lawfully exercising consular authority on behalf of Her Majesty at the port or place or to the Chief Customs-officer thereat or the officer (if any) appointed there under section 7.

[S. 24, *ibid.*] Pilgrim ship taking additional pilgrims at intermediate place. 21. (*1*) In either of the following cases, namely,—

(*a*) if after a pilgrim ship has departed or proceeded on her voyage any additional pilgrims are taken on board at a port or place within British India appointed under this Act for the embarkation of pilgrims, or

(*b*) If a pilgrim ship upon her voyage touches or arrives at any such port or place, having previously received on board additional pilgrims at any place beyond British India,

the master shall obtain a fresh certificate to the effect of certificate B from the officer appointed at that port or place under section 7, and shall make additional statements specifying the number and the respective sexes of all the additional pilgrims.

(*2*) All the foregoing provisions of this Act with respect to certificate B and statements concerning pilgrims shall be applicable to any certificate granted or statement made under this section.

[S. 25, *ibid.*] Pilgrim ships to be propelled principally by steam. 22. Every pilgrim ship shall be propelled principally by steam.

[S. 26, *ibid.*] Certain pilgrim ships to carry medical officers. 23. Every pilgrim ship carrying more than one hundred pilgrims shall have on board a medical officer licensed in accordance with the rules under this Act, and,

if the number carried exceed one thousand, a second medical officer similarly licensed.

[S. 27, *ibid.*]

Pilgrim ships to touch at Aden on the outward voyage.

24. (*1*) Every pilgrim ship proceeding from any port in British India other than Aden to any port in the Red Sea shall touch at Aden, and shall not leave that port without having obtained from the proper authority a clean bill of health.

(*2*) A pilgrim ship proceeding from any port in the Red Sea to any port in British India other than Aden shall not be required to touch at Aden, or, if she touches at that port, to obtain a clean bill of health before leaving.

[S. 28, *ibid.*]

Bill of health at Aden.

25. The authority at Aden empowered to grant the bill of health shall refuse to grant it if the ship has on board a greater number of pilgrims than the number allowed by or under this Act, and may refuse to grant it if the requirements of any rule under this Act are not complied with on board such pilgrim ship.

[S. 28, *ibid.*]

Bond where pilgrim ship proceeds on outward voyage.

26. In the case of every pilgrim ship proceeding from any port in British India other than Aden to any port in the Red Sea, the officer whose duty it is to grant a port-clearance shall not grant the clearance unless or until the master, owner or agent and two sureties resident in British India have executed in favour of the Secretary of State for India in Council a joint and several bond, for the sum of five thousand rupees, conditioned

(*a*) that the ship shall touch at Aden on the outward voyage and there obtain a clean bill of health, and

(*b*) that the master and medical officer or officers (if any) shall comply with the provisions of this Act and of such rules relating to pilgrim ships as the Governor-General in Council may make thereunder.

[S. 30, *ibid.*]

Power of Local Government regarding medical inspection of pilgrims.

27. No pilgrim shall be received on board any pilgrim ship unless and until he has been inspected, at such time and place, and in such maner, as the Local Government may fix in this behalf, by a medical officer to be appointed by that Government for the purpose.

(*2*) If, in the opinion of the officer making an inspection under this section, any pilgrim is suffering from cholera or choleraic indisposition, or any form of suspicious diarrhœa, or any dangerously infectious or contagious disease, such pilgrim shall not be permitted to embark.

(*3*) If any such officer has reason to believe that any pilgrim, though not suffering from any dangerously infectious or contagious disease, is or has recently been in attendance upon, or otherwise in contact with, any person so suffering, he may prohibit the embarkation of the pilgrim for such period as he may think fit.

(*4*) All articles which have been contaminated by persons suffering from cholera or choleraic indisposition, or any dangerously infectious or contagious disease, or are suspected of having been so contaminated, shall, before being taken on board a pilgrim ship, be disinfected, under the supervision of a medical officer appointed by the Local Government for the purpose, in such manner as the Local Government shall direct.

[New.]

Sanitary taxes payable by master of pilgrim ship.

28. The master of every pilgrim ship shall be bound to pay the whole amount of the sanitary taxes imposed by lawful authority at the ports visited.

Penalties.

[S. 31, *ibid.*]

Penalty on master or owner for pilgrim ship unlawfully departing or receiving pilgrims on board.

29. (*1*) If a pilgrim ship departs or proceeds on a voyage from, or discharges passengers at, any port or place within British India in contravention of the provisions of *section* 6, sub-section (*1*), or section 9, the master or owner shall, for every passenger carried in the ship, or so discharged (as the case may be), be punished with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to one month, or with both.

(*2*) If any person is received as a pilgrim on board a pilgrim ship in contravention of the provisions of section 6, sub-section (*2*), the master or owner shall for every such pilgrim be liable to such punishment as is specified in sub-section (*1*).

(*3*) In either of the said cases the ship, if found within two years in any port or place within British India, may be seized and detained by a Chief Customs-officer until the penalties incurred under this Act by her master or owner have been adjudicated, and the payment of the fines imposed on him under this Act, with all costs, has been enforced, under the provisions of this Act:

Provided that the aggregate term of imprisonment awarded under this section shall not exceed one year.

[S. 32, *ibid.*]

Penalty for opposing entry on or inspection of pilgrim ship.

30. If any one impedes or refuses to allow the entry or inspection authorized by or under this Act, he shall be punished with fine which may extend to five hundred rupees for each offence, or with imprisonment for a term which may extend to three months, or with both.

[S. 33, *ibid.*]

Penalty on master or owner for not exhibiting copy of certificates.

31. If the master or owner of a pilgrim ship without reasonable excuse, the burden of proving which shall lie upon him, fails to comply with the requirements of section 16 with respect to the posting of copies of certificates, he shall be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to one month, or with both.

[S. 34, *ibid.*]

Penalty on master for not complying with requirements as to statements concerning pilgrims and certain other matters.

32. If the master of a pilgrim ship fails to comply with any of the requirements of section 19 or section 20 as to the statements concerning pilgrims, or wilfully makes any false entry or note in or on any such statement, or fails to obtain any such fresh certificate or to make any such statement of the number of additional pilgrims as is mentioned in section 21, he shall be punished with fine which may extend to five hundred rupees for every such offence, or with imprisonment for a term which may extend to three months, or with both.

[S. 35, *ibid.*]

Penalty on master for fraudulent alteration in pilgrim ship after certificate obtained.

33. If the master of a pilgrim ship, after having obtained any of the certificates mentioned in section 9 or section 21, fraudulently does or suffers to be done anything whereby the certificate becomes inapplicable to the altered state of the ship, the pilgrims on board or other matters to which the certificate relates, he shall be punished with fine which may extend to two thousand rupees, or with imprisonment for a term which may extend to six months, or with both

[S. 3

Penalty on master for failing to supply pilgrims with prescribed provisions.

34. If the master of a pilgrim ship without reasonable excuse, the burden of proving which shall lie upon him, omits to supply to any pilgrim the allowance of food, fuel and water prescribed by the rules under this Act, he shall be punished with fine which may extend to twenty rupees for every pilgrim who has sustained detriment by the omission.

8, *ibid.*]

Penalty on master and owner for carrying pilgrims in excess of authorized number.

35. If a pilgrim ship has on board a number of pilgrims greater either than the number allowed under this Act or than the number allowed by the license or certificate (if any), granted at her port or place of departure, the master and owner shall, for every pilgrim in excess of that number, be each punished with fine which may extend to twenty rupees.

39, *ibid.*]

Penalty on master for landing pilgrim at a place other than that at which he has contracted to land.

36. If the master of a pilgrim ship lands any pilgrim at any port or place other than the port or place at which such pilgrim may have contracted to land, unless with his previous consent or unless the landing is made necessary by perils of the sea or other unavoidable accident, 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 one month, or with both

40, *ibid.*]

Penalty on master and owner for making voyage in contravention of contract with pilgrims.

37. If a pilgrim ship, otherwise than by reason of perils of the sea or other unavoidable accident, touches at any port or place in contravention of any express or implied contract or engagement with the pilgrims with respect to the voyage which the ship was to make and the time which that voyage was to occupy, whether the contract or engagement was made by public advertisement or otherwise, the master and owner shall each be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

41, *ibid.*]

Penalty on master and owner of pilgrim ship not propelled principally by steam.

38. If a pilgrim ship is not propelled principally by steam as required by section 22, the master and owner shall each be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to three months, or with both.

-, *ibid.*]

Penalty on master of pilgrim ship sailing without medical officer or officers in contravention of section 23.

39. If a pilgrim ship carrying more than one hundred pilgrims has not on board a medical officer, or two medical officers if the number of pilgrims carried exceed one thousand, as required by section 23, the master shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

43, *ibid.*]

Penalty on master for not obtaining bill of health at Aden on outward voyage.

40. If the master of a pilgrim ship proceeding from any port in British India other than Aden to any port in the Red Sea without reasonable excuse, the burden of proving which shall lie upon him, fails to touch at Aden, or leaves that port without having obtained a bill of health as required by section 24, sub-section (*1*), he shall for every such offence be punished with fine which may extend to two thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

ibid.]

Penalty on master receiving pilgrim or contaminated article in contravention of section 27.

41. If the master of a pilgrim ship knowingly receives on board any pilgrim or any contaminated article in contravention of the provisions of section 27, he shall be punished with fine which may extend to five hundred rupees for each pilgrim, or fifty rupees for each contaminated article, so received, or with imprisonment which may extend to three months, or with both.

[S. 44, *ibid.*]

Penalty on master or medical officer of pilgrim ship disobeying rules under this Act.

42. If the master or the medical officer (if any) of a pilgrim ship without reasonable excuse, the burden of proving which shall lie upon him, breaks, or omits or neglects to obey, any rule under this Act, he shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Procedure.

[S. 46, *ibid.*]

Adjudication of offences, and levy of fine by distress on pilgrim ship.

43. (*1*) Offences against this Act shall be punishable by a Magistrate.

(*2*) If the person on whom a fine is imposed under this Act is the master or owner of a pilgrim ship, and the fine is not paid at the time and in the manner prescribed by the order of payment, the Magistrate may, in addition to the ordinary means prescribed by law for enforcing payment, by warrant direct the amount remaining unpaid to be levied by distress and sale of such pilgrim ship, her tackle, furniture and apparel.

[S. 47, *ibid.*]

Jurisdiction.

44. For the purpose of the adjudication of penalties under this Act, every offence against its provisions shall be deemed to have been committed within the limits of the jurisdiction of the Magistrate of the place where the offender is found.

[S. 48, *ibid.*]

Authority to institute proceedings for penalties.

45. The penalties to which masters and owners of pilgrim ships are made liable by this Act shall be enforced only on information laid at the instance of officers appointed to grant certificates under this Act, or, at any port or place where there is no such officer, at the instance of the Chief Customs-officer.

[S. 49, *ibid.*]

Application of fines.

46. A Magistrate imposing a fine under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in or towards compensating any person for any detriment which he may have sustained by the act or default in respect of which the fine is imposed, or in or towards payment of the expenses of the prosecution.

[S. 50, *ibid.*]

Depositions of absent witnesses.

47. (*1*) Whenever in the course of any legal proceeding under this Act the testimony of a witness is required in relation to the subject-matter of the proceeding, any deposition which he may have previously made in relation to the same subject-matter before any Justice or Magistrate in Her Majesty's dominions (including all parts of India other than those subject to the same Local Government as the port or place where the proceeding is instituted), or before any British consular officer elsewhere, shall be admissible in evidence on proof that the witness cannot be found within the jurisdiction of the Court in which the proceeding is instituted:

Provided that the deposition shall not be admissible unless—

(*a*) it is authenticated by the signature of the Justice, Magistrate or consular officer;

(*b*) it was made in the presence of the person accused; and

(*c*) the fact that it was so made is certified by the Justice, Magistrate or consular officer.

(*2*) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition; and in any criminal proceeding such

certificate as aforesaid shall, unless the contrary is proved, be sufficient evidence of the accused having been present in manner thereby certified.

Supplemental.

[S. 51, *ibid.*] 48. (*1*) The Chief Customs-officer or other officer (if any) appointed by the Local Government in this behalf at any port or place within British India at which a pilgrim ship touches or arrives shall, with advertence to the provisions of this Act, send any particulars which he may deem important respecting such pilgrim ship and the pilgrims carried therein to the officer at the port or place from which she commenced her voyage, and to the officer at any other port or place within British India where the pilgrims or any of them embarked or are to be discharged.

Information to be sent to ports of embarkation and discharge.

(*2*) The Chief Customs-officer or other officer (if any) appointed by the Local Government in this behalf at any port or place in British India at which a pilgrim ship touches or arrives may enter on the ship and inspect her in order to ascertain whether the provisions of this Act as to the number of pilgrims and other matters have been complied with.

[S. 52, *ibid.*] 49. In any proceeding for the adjudication of any penalty incurred under this Act any document purporting to be a report of such particulars as are referred to in sub-section (*1*) of the last foregoing section, or a copy of the proceedings of any Court of Justice duly authenticated, and also any like document purporting to be made and signed by any person lawfully exercising consular authority on behalf of Her Majesty in any foreign port, shall be received in evidence, if it appears to have been officially transmitted to any officer at or near the place where the proceeding under this Act is had.

Report of Consul.

[S. 53, *ibid.*] 50. (*1*) The Governor-General in Council may make rules consistent with this Act to regulate all or any of the following matters:

Power for Governor-General in Council and Local Government to make rules.

(*a*) the scale on which food, fuel and water are to be supplied to pilgrims on board pilgrim ships, and the quality of such food, fuel and water;

(*b*) the medical stores and other appliances and fittings to be provided on board for maintaining health, cleanliness and decency;

(*c*) the licensing and appointment of medical officers in cases where they are required by this Act to be carried;

(*d*) the boats, anchors and cables to be provided on board;

(*e*) the instruments for purposes of navigation to be supplied;

(*f*) the apparatus for the purpose of extinguishing fires on board and the precautions to be taken to prevent such fires;

(*g*) the provision of appliances for saving life and of means for making signals of distress, and the supply of lights inextinguishable in water and fitted for attachment to life-buoys;

(*h*) the functions of the master, medical officer or officers (if any) and other officers during the voyage; and,

(*i*) generally, to carry out the purposes of this Act.

(*2*) The Local Government may, with the previous sanction of the Governor-General in Council, make rules consistent with this Act to regulate—

(*a*) the local limits within which, and the time and mode at and in which, pilgrims shall be embarked or discharged at any port or place appointed under this Act in that behalf; and

(*b*) the time within which a pilgrim ship shall depart or proceed on her voyage after commencing to take pilgrims on board.

(*3*) In making a rule under this section the authority making it may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and when the breach is a continuing breach with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

(*4*) The power to make rules under this section is subject to the condition of the rules being made after previous publication.

(*5*) All rules heretofore made under the Native Passenger Ships Act, 1887, shall, so far as consistent with this Act, continue to be applicable to pilgrim ships unless and until they shall be superseded or altered by rules under this Act. X of 1887.

[S. 54, *ibid.*] 51. The Local Government shall appoint such persons as it thinks fit to exercise and perform the powers and duties which are conferred and imposed by this Act or may be conferred and imposed thereunder.

Appointment of officers.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to give effect to recommendations, made by the International Sanitary Conference held at Paris in 1894 and accepted by Her Majesty's Government, for the regulation of the Muhammadan pilgrim traffic by sea between British India and Arabia. Vessels engaged in that traffic are at present governed by the Native Passenger Ships Act, 1887; but, as that Act contains, besides special provisions applying to pilgrim ships, provisions of general application to ships carrying natives of Asia or Africa as passengers, it appears to be the most convenient course, instead of attempting to amend it to meet the special circumstances of the case, to remove altogether from its operation pilgrim ships and to provide for them in a separate enactment such as that now proposed. This Bill, it will be found from the marginal references, reproduces, with such amendments as are necessary to carry out the object stated above, all the sections contained in Act X of 1887 except sections 18, 19, 20, 21, 37, 55 and 57, some of which are on the face of them inapplicable in the case of ships making the long voyage from British India to foreign ports in the Red Sea. The more important of the amendments made in the provisions of the existing enactment are noticed below.

2. Section 4 of the Bill repeals the Native Passenger Ships Act so far as regards "pilgrim ships," and section 5, besides defining a "pilgrim" and a "pilgrim ship," provides that no vessel shall come within the purview of the proposed Act unless, besides ordinary passengers, among whom may be included pilgrims not of the lowest class, it has on board pilgrims of the lowest class in a proportion of at least one to every hundred tons of the gross tonnage. In accordance with the terms of the Convention, every individual Muhammadan passenger of whatever age, making the voyage to or from the Hedjaz, is to be reckoned as a pilgrim.

3. In section 7 of the Bill it is provided that at least three days' (instead of twenty-four hours')

notice beforehand shall be given of the sailing and destination of a pilgrim ship.

4. Section 21 of Act X of 1887 fixes the minimum space to be made available for passengers on long voyages, while section 56 enables the Governor-General in Council, notwithstanding the earlier provision, to prescribe by order the number of superficial or of cubic feet to be allowed. Sub-section (*1*) of section 18 of the Bill omits the former, but includes the latter, provision, it having been decided that the increase of space, on which much stress was laid at the Conference, should be provided for by executive order in this way. The remaining sub-sections (*2*) and (*3*) give effect to the recommendations of the Conference as to the reservation of the upper deck for the use of pilgrims by day and by night and the hospital accommodation to be set apart for their benefit.

5. By section 23 of the Bill, which for the rest reproduces section 26 of the Native Passenger Ships Act, the presence of a second medical officer on board is, in accordance with the Convention, required if the number of pilgrims carried exceeds one thousand.

6. Section 24 of the Bill reproduces section 27 of the Native Passenger Ships Act, so modified as to dispense with the unnecessary and often inconvenient call at Aden on the return journey to India, which is at present compulsory. This change is not required by the Convention, but is in no way opposed thereto.

7. By section 27 of the Bill, which corresponds to section 30 of the Native Passenger Ships Act, it is provided, as recommended by the Conference, that the medical examination of all pilgrims shall take place on land prior to embarkation, that persons suffering from cholera or choleraic diarrhœa or any dangerously infectious or contagious disease shall not be permitted to embark, that the embarkation of others who have been in attendance upon or otherwise in contact with persons so affected may, at the discretion of a duly appointed medical officer, be forbidden, and that contaminated articles shall not be taken on board without having been first disinfected under the supervision of a medical officer as aforesaid.

8. Section 28 of the Bill is an entirely new provision based on the Convention, and is to the effect that all the sanitary taxes levied at the ports visited shall be paid by the master, who is left to recover the amount, by arranging to have it included in the price of the tickets issued or otherwise, from the pilgrims concerned.

9. The remaining alterations are either consequential on those already explained or are of an unimportant character, and do not, therefore, call for further notice or explanation.

The 9th July 1895. A. MACKENZIE.

J. M. MACPHERSON,
Offg. Secy. to the Govt. of India,
Legislative Dept.

(Republished by order of the Right Honourable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 22.

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 25th July 1895 :

No. 14 OF 1895.

A Bill to explain the Transfer of Property Act, 1882, so far as relates to grants from the Crown.

WHEREAS doubts have arisen as to the extent and operation of the Transfer of Property Act, 1882, and it is expedient to remove such doubts; It is hereby enacted as follows:

IV of 1882.

Title, extent and commencement.

1. (*1*) This Act may be called the Crown Grants Act, 1895.

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

(*3*) It shall come into force at once.

IV of 1882.

Transfer of Property Act, 1882, not to apply to Crown grants.

2. (*1*) Nothing in the Transfer of Property Act, 1882, contained shall apply or be deemed ever to have applied to any grant or transfer of land or of any interest therein heretofore made or hereafter to be made by or on behalf of Her Majesty the Queen-Empress, her heirs or successors, or by or on behalf of the Secretary of State for India in Council to, or in favour of, any person whomsoever; but every such grant and transfer shall be construed and take effect as if the said Act had not been passed.

(*2*) All provisions, restrictions, conditions and limitations over contained in any such grant or transfer as aforesaid shall be valid and take effect according to their tenor, any rule of law or enactment of the Legislature to the contrary notwithstanding.

STATEMENT OF OBJECTS AND REASONS.

The Transfer of Property Act, 1882, sections 10–12, invalidates, with certain exceptions, all conditions for the forfeiture of the transferred property on alienation by the transferee and all limitations over consequent upon any such alienation or any insolvency of or attempted alienation by him. The Crown is not specifically mentioned in the Act, and it may be assumed that it was not designed to impose fetters of this description upon the discretion of the Crown, especially as to the creation of inalienable jaghirs in grants made for public services; but it has been thought better to set the question at rest by express legislation.

2. Upon a late occasion the Government of India were advised that it is not competent for the Crown to create an inalienable and impartible estate in the land comprised in any Crown grant, unless such land has heretofore descended by custom as an impartible Raj. The second subsection of the Bill is intended to obviate this inconvenience, by providing that all Crown grants are to be construed according to their tenor, notwithstanding any rule of law which might otherwise affect their operation.

ALEX. EDW. MILLER.

The 24th July 1895.

J. M. MACPHERSON,
Offg. Secy. to the Govt. of India,
Legislative Dept.

(Republished by order of the Right Honourable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bill introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 22.

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 22nd August 1895:

No. 15 OF 1895.

A Bill to amend the Legal Practitioners Act, 1879.

WHEREAS it is expedient to amend the Legal Practitioners Act, 1879; It is hereby enacted as follows:

Substitution of new section for section 13, Act XVIII, 1879.

1. For section 13 of the said Act the following shall be substituted, namely:

Suspension and dismissal of Pleaders and Mukhtárs guilty of unprofessional conduct.

"13. The High Court may also, after such inquiry as it thinks fit, suspend or dismiss any Pleader or Mukhtár holding a certificate as aforesaid—

(*a*) who takes instructions in any case except from the party on whose behalf he is retained or a private servant of such party, or some person who is the recognised agent of such party within the meaning of the Code of Civil Procedure, or

XIV of 1882.

(*b*) who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or

(*c*) who tenders, gives or consents to the retention of any gratification for procuring or having procured the employment in any legal business of himself or any other Pleader or Mukhtár holding a certificate as aforesaid, or

(*d*) who accepts any employment in any legal business through a person whom he knows or has reason to believe not to be a Pleader or Mukhtár holding a certificate as aforesaid, and who is not offering the employment gratuitously, or through any person who habitually acts as a *dalal* or law-tout, or

(*e*) for any other reasonable cause:

Provided that where the party is—

(*a*) a pardanashin woman, or

(*b*) unable for any sufficient cause to instruct the Pleader or Mukhtár in person,

nothing in this section shall make a Pleader or Mukhtár liable to suspension or dismissal merely by reason that he has taken instructions from a relative or friend authorised by the party to give such instructions and not receiving any remuneration in respect thereof.

"*Explanation.*—For the purposes of this section a person may be proved by evidence of general repute or otherwise to be an habitual *dalal* or law-tout, and the burden of proof that a Pleader or Mukhtár who has accepted employment from any such person was not aware that he was an habitual *dalal* or law-tout shall lie upon such Pleader or Mukhtár."

Amendment of section 14, Act XVIII, 1879.

2. In section 14 of the said Act, for the portion from and including the words "and shall report the same to the High Court" down to the end of the section, the following shall be substituted, namely:

"and shall, except when such officer is the District or Sessions Judge or the Commissioner of the Division, report the same to the Court or Authority hereafter specified in that behalf, and such Court or Authority shall, upon receipt of the said report, and after hearing the Pleader or Mukhtár or his recognised agent on his behalf, make an order acquitting, suspending from practice for a time to be specified in the order, or dismissing the Pleader or Mukhtár.

"When such officer is the District or Sessions Judge or the Commissioner of the Division, he may of his own authority, after hearing the Pleader or Mukhtár or his recognised agent on his behalf, make such order as is mentioned in the last foregoing clause.

"The Pleader or Mukhtár affected by any such order may within one month from the date thereof appeal therefrom to the High Court, and the High Court may, after hearing the appellant or his recognised agent on his behalf, confirm, reverse or vary the order appealed from, or make such other order instead thereof as may be just.

"Every report made under this section shall be made—

(*a*) by the Judge of any Civil Court subordinate to the District Judge, to such Judge;

(*b*) by any Magistrate, including the District Magistrate, to the Sessions Judge;

(*c*) by the presiding officer of any revenue office subordinate to the Commissioner of the Division or, where there is no such Commissioner, to the Chief Controlling Revenue-authority, to such Commissioner or Authority."

Substitution of new section for section 22, Act XVIII, 1879.

3. For section 22 of the said Act the following shall be substituted, namely:

"22. The Chief Controlling Revenue-authority may also, after making such inquiry as it thinks fit, suspend or dismiss any Revenue-Agent holding a certificate issued under this Act—

Suspension and dismissal of Revenue-Agents guilty of unprofessional conduct.

(*a*) who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or

(*b*) who tenders, gives or consents to the retention of any gratification for procuring or having procured the employment in any legal business of himself or any other Revenue-Agent holding a certificate as aforesaid, or

(*c*) who accepts any employment in any legal business through a person whom he knows or has reason to believe not to be a Revenue-Agent holding a certificate as aforesaid, and who is not offering the employment gratuitously or through any person who habitually acts as a *dalal* or law-tout, or

(*d*) for any other reasonable cause.

"*Explanation.*—For the purposes of this section a person may be proved by evidence of general repute or otherwise to be an habitual *dalal* or law-tout, and the burden of proof that a Revenue-Agent who has accepted employment from any such person was not aware that he was an habitual *dalal* or law-tout shall lie upon such Revenue-Agent."

Amendment of section 23, Act XVIII, 1879.

4. In section 23 of the said Act, for the portion from and including the words "and report the same to the Chief Controlling Revenue-authority," down to the end of the section the following shall be substituted, namely:

"and shall report the same, when such officer is subordinate to the Commissioner of the Division or is a Munsif, to such Commissioner, or where there is no such Commissioner, to the Chief Controlling Revenue-authority, and such Commissioner or Authority shall, upon receipt of such report, and after hearing the Revenue-Agent or his recognised agent on his behalf, make an order acquitting, suspending for a time to be named in the order, or dismissing the Revenue-Agent.

"When such officer is the Commissioner of the Division, he may of his own authority, after hearing the Revenue-Agent or his recognised agent on his behalf, make such order as is mentioned in the last foregoing clause.

"The Revenue-Agent affected by any such order of a Commissioner of a Division may, within one month from the date thereof, appeal therefrom to the Chief Controlling Revenue-authority, and such Authority may, after hearing the appellant or his recognised agent on his behalf, confirm, reverse or vary the order appealed from, or make such other order instead thereof as may be just."

STATEMENT OF OBJECTS AND REASONS.

Under section 36 of Act XVIII of 1879 it is an offence on the part of any person to solicit or receive commission from a legal practitioner in consideration for procuring him business, and equally an offence on the part of a legal practitioner to give or offer such commission. The object of this provision was to suppress the practice of touting, but the difficulty of proving the fact of the actual tender, receipt or payment of commission appears to have rendered it insufficient for the purpose, and the evil against which it was directed, instead of being suppressed, is believed to have increased to the detriment of the best interests alike of the public and of the legal profession.

It is proposed by the present Bill, which follows the lines of certain suggestions obtained from the Calcutta High Court, to amend the Act so as to render every legal practitioner, whether he be a Pleader, a Mukhtár or a Revenue-Agent, who accepts any legal business through a *dalal* or law-tout, liable thereby to suspension and dismissal by the principal Civil or Revenue Judge of the district, as the case may be; and, to make the law the more efficacious, it is provided, by way of an *Explanation*, that a person may be shown by evidence of general repute or otherwise to be an habitual *dalal* or law-tout, while the burden of proving that he did not know that such a person was an habitual *dalal* or law-tout is thrown upon the legal practitioner charged with having obtained employment through him. The increased powers of suspension and dismissal are, however, to be subject to appeal to the High Court.

ALEX. EDW. MILLER.

The 12th August 1895.

J. M. MACPHERSON,
Offg. Secy. to the Govt. of India,
Legislative Dept.

(Republished by order of the Right Honourable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

FORT ST. GEORGE GAZETTE SUPPLEMENT.

TUESDAY EVENING, SEPTEMBER 10, 1895.

Bill introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 22.

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 22nd August 1895:

No. 16 OF 1895.

A Bill to amend the Code of Criminal Procedure, 1882.

X of 1882.

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1882; It is hereby enacted as follows:

Amendment of section 269, Act X, 1882.

1. (*1*) In the first sentence of section 269 of the said Code, after the word "may" where it first occurs the words "with the previous sanction of the Governor-General in Council," and after the word "may" where it next occurs the words "with the like sanction," shall respectively be inserted.

(*2*) After the first sentence of the same section the following shall be inserted, namely:

"The Local Government may also by like order declare that, in the case of any district in which the trial of any offence is to be by jury, the trial of such offence shall, if the Judge, on application made to him or of his own motion, so directs, be by jurors summoned from a special jury list, and may revoke or alter such order."

Amendment of section 276, Act X, 1882.

2. In section 276 of the said Code, before the word "thirdly" the word "and" shall be repealed, and to the same section the following shall be added, namely:

"and

"*fourthly*, in any district for which the Local Government has declared that the trial of certain offences may be by special jury, the jurors shall, in any case in which the Judge so directs, be chosen from the special jury list prescribed in section 325A."

Substitution of new section for section 303, Act X, 1882.

3. For section 303 of the said Code the following shall be substituted, namely:

General verdict to be given on each charge. Special verdict on questions of fact may, however, be required and questions may be asked of jury.

"303. (*1*) Save as otherwise in this section provided, the jury shall be at liberty to return a general verdict of 'guilty' or 'not guilty' on the charge, or, if there be more than one charge, on each of the charges, on which the accused is tried; and the Judge shall so direct them.

"(*2*) Instead of directing the jury generally to return a verdict on any charge, the Judge may require them to return a special verdict consisting of separate findings on any particular questions of fact which he may desire, and he shall thereupon determine whether, in accordance with such findings, the accused is to be recorded as having been convicted or acquitted by the jury on that charge, or, if such findings affect more than one charge, on each of such charges.

"(*3*) After a general verdict has been returned, if the Judge is in doubt whether it is one with which he should or not express disagreement, he may, notwithstanding such verdict, require the jury further to return a special verdict on any question or questions of fact on which he may desire their opinion, and shall, after the receipt of such special verdict, finally determine whether to agree or disagree with the general verdict of the jury.

"(*4*) After a special verdict has been returned under the provisions of sub-section (*2*) or sub-section (*3*), if the Judge requires any further information on any particular questions of fact to enable him to determine whether to express agreement or disagreement with such verdict or whether such verdict amounts to one of acquittal or conviction, he may require the jury to return a further special verdict as to such questions of fact, and after the receipt of such further verdict he shall finally determine whether to express agreement or disagreement with the jury or whether the verdict is to be recorded as a verdict of acquittal or conviction, as the case may be.

"(*5*) In any of the foregoing cases, if the Judge is in doubt as to the meaning of the verdict returned by the jury, he may ask them such questions as may be necessary to ascertain what their verdict is, provided that he shall not in any case inquire of the jury their reasons for any verdict, or whether they have believed or disbelieved any particular witness.

"Every such question and the answer thereto shall be recorded."

Amendment of section 307, Act X, 1882.

4. (*1*) In section 307 of the said Code, for the words "so completely that he considers it" the words "and is clearly of opinion that it is" shall be substituted.

(*2*) In the same section, for the words "but it may" the words "and subject thereto it shall, after considering the entire evidence and after

giving due weight to the opinions of the Sessions Judge and the jury," shall be substituted.

Amendment of section 319, Act X, 1882.

5. To section 319 of the said Code the following words shall be added, namely:

"or, if the Local Government, on consideration of local circumstances, has fixed any other area in this behalf, within the area so fixed."

Insertion of new section after section 325, Act X, 1882.

6. After section 325 of the said Code the following section shall be inserted, namely:

Preparation of list of special jurors.

"325A. In the case of any district for which the Local Government has declared that the trial of certain offences shall, if the Judge so direct, be by special jury, the Sessions Judge, and the Collector of such district or other officer as aforesaid, shall prepare, in addition to the revised list hereinbefore prescribed, a special list containing the names of such jurors as are borne on the revised list and are, in the opinion of such Sessions Judge and Collector or other officer as aforesaid, by reason of their possessing superior qualifications in respect of property, character or education, fit persons to serve as special jurors: Provided always that the inclusion of the name of any person in such special list shall not involve the removal of his name from the revised list nor relieve him of his liability to serve as an ordinary juror in cases not tried by special jury."

Amendment of section 326, Act X, 1882.

7. In section 326 of the said Code, after the words "the said revised list" the words "or the said special list" shall be inserted, and the words "on the revised list" shall be omitted.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to give effect to such of the recommendations made by the Jury Commission of 1894 as have been approved by the Government of India and Her Majesty's Secretary of State.

2. Section 1, sub-section (*1*), of the Bill purports to amend section 269 of the Code of Criminal Procedure, 1882, so as to require the previous sanction of the Governor-General in Council when it is desired by a Local Government under that section to extend or restrict the system of trial by jury.

3. By sections 1, sub-sections (*2*), 2, 6 and 7 the necessary amendments in the Code are proposed in order to enable a Local Government to declare that in certain districts special jury lists shall be prepared and the services of special jurors utilized in any case triable by jury if the Sessions Judge, on application made to him or of his own motion, so directs. It is provided that the jurors borne on such special lists shall be persons selected from the ordinary jury lists on account of their superior qualifications, and also that service as a special juror shall be taken into account merely as service on a common jury and shall not entitle a juror to exemption from serving in his turn with common jurors.

4. Section 5 of the Bill makes an addition to section 319 of the Code with the object of empowering a Local Government, when necessary, to declare that jurors or assessors may be summoned from an area other than the "district in which they reside."

5. In view of the difficulty experienced by Sessions Judges in bringing the minds of juries into contact with the various essential considerations on which in many cases depends the return of a proper verdict as to the offence (if any) committed, it is proposed by section 3 of the Bill to amend section 303 of the Code so as to empower the Judge to require from the jury, either before or after, or both before and after, the return of their verdict, separate findings on any issues of fact which he may consider material.

6. Section 307 of the Code it is desired to amend by section 4 of the Bill in order to define more precisely the duties of a Sessions Judge and of the High Court, respectively, in cases in which the former disagrees with the verdict of a jury.

ALEX. EDW. MILLER.

The 12th August 1895.

J. M. MACPHERSON,
Offg. Secy. to the Govt. of India,
Legislative Dept.

(Republished by order of the Right Honourable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 22.

The following Report of the Select Committee on the Bill to make better provision for the regulation of Pilgrim Ships was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 19th September 1895:

We, the undersigned, Members of the Select Committee to which the Bill to make better provision for the regulation of Pilgrim Ships 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 High Court, Calcutta, No. 1612, dated 8th August 1895 [Paper No. 1].
From the Hon'ble Haji Muhammad Ismail Khan, Aligarh, Member, Legislative Council, North-Western Provinces and Oudh, dated 7th August 1895 [Paper No. 2].
From President, Public Meeting, Calcutta, and enclosure [Papers No. 3].
From Secretary, Behar Muhammadan Association, Bankipur, dated 11th August 1895 [Paper No. 4].
From Chief Commissioner, Burma, No. 235–4Z.-6, dated 9th August 1895, and enclosures [Papers No. 5].
From Government, Bengal, Marine Department, No. 1611, dated 14th August 1895, and enclosures [Papers Nos. 6].
Memorial of Haji Ismail Ishak, Broker of Pilgrim Ships, Bombay, dated 10th August 1895 [Paper No. 7].
From Government, Bombay, Nos. 3421 and 1422, dated 17th August 1895, and enclosures [Papers No. 8].
From ditto, No. 3490, dated 22nd August 1895, and enclosures [Papers No. 9].
From ditto, No. 13–P., dated 20th August 1895, and enclosure [Papers No. 10].
Telegram from His Honour the Lieutenant-Governor of Bengal, dated 24th August 1895 [Paper No. 11].
From Government, Bengal, No. 1694 Marine, dated 23rd August 1895, and enclosure [Papers No. 12].
Telegram from Government, Madras, No. 517, dated 26th August 1895 [Paper No. 13].
From Government, Bombay, No. 3521, dated 24th August 1895, and enclosure [Papers No. 14].
From Government, Bengal, No. 142-T., dated 24th August 1895 [Paper No. 15].
Note by the Hon'ble Prince Sir Jahan Kadr Mirza Muhammad Wahed Ali Bahadur, C.I.E., Member, Supreme Legislative Council [Paper No. 16].
From Central Muhammadan Association, dated 29th August 1895 [Papers No. 17].
From Government, Bombay, No. 15–P., dated 22nd August 1895, and enclosure, enclosing a memorial from the Anjuman-e-Taid Mussalman, Bombay, dated 5th idem (identical with memorial of the Anjuman-i-Islam, Surat, printed in Papers No. 8].

2. *Section 3.* — We have conferred power on the Governor-General in Council to fix the date of the commencement of the Act, as it is possible that it may be necessary to postpone its operation until after the 1st October, the date originally fixed.

3. *Section 5.* — We have added an explanation to the definition of "pilgrim" so as to make the term include persons who, though they embarked with the intention of going to the Hedjaz, have been compelled through unforeseen circumstances to return without having ever actually landed there.

We have amended the definition of "pilgrim ship" so as, on the one hand, to include ships "about to convey" pilgrims and, on the other, to exclude certain European liners which we understand are in the habit of conveying small batches of emigrants as far as Suez, where they tranship and thence proceed to Jedda.

In order to prevent the proviso to the same definition being so worked as to enable ships of the nature of those intended to be governed by the proposed Act to escape from its provisions, we have limited the explanation of the term "pilgrims of the lowest class" to pilgrims who have no reserved accommodation in any cabin state-room or saloon. The effect of the explanation will also be to prevent the proviso from being so worked as to bring vessels carrying only first and second class passengers, in the ordinary acceptance of the term, within the application of the Act, which we understand was not intended; otherwise pilgrims travelling as ordinary second class passengers might be treated as pilgrims of the lowest class on a ship which carried no third class or deck passengers.

4. *Section 6.*—This section is new. It declares that all passengers on pilgrim ships shall be deemed to be pilgrims. We agree with the Government of Bombay that practical difficulties are likely to arise unless all passengers on board such ships are treated in the same way.

5. *Section 8 (formerly section 7).*—We have expanded sub-section (2) so as to limit the period of notice to twenty-four hours when the ship has only stopped at a port of call, unless when she originally commenced her voyage from a port out of British India, in which case the longer period of three days is still required the first time she calls at a British Indian port.

6. *Section 11 (formerly section 10).*—Words have been inserted requiring certificate A to specify the number of passengers of "each class" that the ship is capable of carrying.

7. *Section 12* (*formerly section 11*).—A new clause (*f*) has been added providing for a statement in certificate B that the ship is of such tonnage and steam-power (if any) as may be prescribed by rule. This addition has been made in accordance with a suggestion of the Health Officer, Bombay, with a view to preventing the departure of small or insufficiently engined ships during the south-west monsoon when the sufferings of the pilgrims are proportioned to the length of the voyage. In clause (*g*) [formerly clause (*f*)] of the same section we have added a reference to the prescribed attendants, as we agree with the Government of Bombay that every ship should be required to carry one or more attendants for sick pilgrims in addition to the doctor or doctors.

8. *Section 19* (*formerly section 18*).—In sub-section (*1*) we have introduced words which will empower the Government to prescribe the amount of space to be available in the between-decks for pilgrims "of each class respectively," and thus prevent more than the lawful number of pilgrims of each class being carried. Sub-section (*2*) has been recast and divided into two sub-sections, the object of which is to provide not only that the upper deck space free to the pilgrims shall not be less than six superficial feet for each pilgrim on board, but also that the space available to the pilgrims of any class shall not be restricted below this amount owing to the allotment of a greater amount to the pilgrims of some other class. We have, however, thought it sufficient to limit the requirement of this minimum upper-deck space to the case of pilgrims of the age of twelve years or upwards.

9. *Section 20* is new and provides for the disposal of the baggage of pilgrims—a very desirable provision in the interests of the pilgrims.

10. *Section 21* [*formerly section 18, sub-section* (*3*)].—This provision has been modified so as to confer power on the Governor-General in Council to prescribe the actual amount of hospital accommodation, not exceeding that required by the Convention, to be kept immediately available for use on board each ship.

11. *Section 22* (*formerly section 19*).—We have amplified this section so as to require the specification of various particulars which are deemed necessary in the statement for which the section provides.

12. *Section 25*.—This section is new. It follows a suggestion of the Bombay Government that the masters of incoming ships should be required to furnish a statement concerning the pilgrims on board similar to that required in the case of departing ships by section 22.

13. *Section 26* (*formerly section 22*).—We have made an addition to this section corresponding to the new clause (*f*) added to section 12, as explained above.

14. *Section 27* (*formerly section 23*).—The addition as to attendants made to this section corresponds to the addition to clause (*g*) of section 12, also explained above.

15. *Section 28*, which requires the medical officer to keep a diary and to make such returns as may be prescribed, is new. It is in accordance with a suggestion of the Health Officer, Bombay.

16. *Section 29* (*formerly section 24*).—Having regard to the practical difficulties which have been brought to our notice in connection with the working of the existing law, which requires every pilgrim ship to get "a clean bill of health" before leaving Aden, we have thought it best to do away with this requirement and to permit ships to leave the port as soon as they obtain a certificate stating whether any case of cholera has or has not occurred on board since leaving the last port of departure. We believe that such a certificate will furnish the Turkish authorities at the Hedjaz with all the information they desire as to the health of the pilgrims, while it is one which can in every case be furnished without difficulty or delay.

17. *Section 30* (*formerly section 25*).—The alterations in this section are mainly consequential on that made in section 29, as explained above, but we have not thought it necessary to maintain the existing provision which required the detention of a ship at Aden if she had more than the proper number of pilgrims on board.

18. *Section 32* (*formerly section 27*).—We have generalized the language of sub-section (1) so as to permit of special arrangements being made for the medical inspection of female pilgrims, a matter to which our attention has been drawn by many of the papers to the Bill. We have also added some words to the sub-section to carry out a suggestion of the Health Officer, Bombay, which is endorsed by the Bombay Government, that the new law should contain an express prohibition of the embarkation of pilgrims without the permission of the officer upon whom the notice of sailing has to be served as provided in section 8. We have further extended the scope of sub-section (2) so as to include the case of persons suspected of suffering from certain diseases and have omitted sub-section (3), which provided for the detention of persons attending upon or otherwise in contact with persons so suffering, a provision which is not required by the Convention and appears to us to be undesirable. Lastly in sub-section (*3*) [*formerly sub-section 4*] we have provided that the disinfection of contaminated articles before being taken on board shall be carried out in such manner as may be prescribed by rule.

19. *Section 33* is new and provides for a second medical inspection when a ship does not commence her voyage within forty-eight hours of the embarkation of all her pilgrims, and there is reason to suspect that any person on board is suffering from cholera or choleraic indisposition or any dangerously infectious or contagious disease, and for the removal from the ship of any person found to be so suffering, together with all articles belonging to him.

20. *Section 34* is also new and provides that the medical inspection of female pilgrims shall as far as practicable be carried out by women.

21. *Section 35* is also new. It requires the issue of tickets in a prescribed form to intending pilgrims, and imposes the duty on pilgrims of producing such tickets whenever required by the prescribed officers. It further provides for the refund of their passage money to pilgrims in certain cases when they are prevented from proceeding on the voyage.

22. *Section 36* (*formerly section 28*).—We have limited the obligation of masters to pay the sanitary taxes at the ports visited to taxes included in the cost of the tickets issued to pilgrims. In the uncertainty which exists as to what these taxes may be we do not feel justified in imposing a wider obligation than the above on masters of ships.

23. *Section 43* (*formerly section 35*).—We have inserted words in this section to make it clear that, when the number of pilgrims allowed under the Act and under the certificate obtained by the ship at her place of departure is different, it shall be penal to carry more than the smaller of these numbers. We have also added provisions to the section, taken from the corresponding provision in section 37 of

the Native Passenger Ships Act, 1887, (1) subjecting a master who carries excess pilgrims to imprisonment as well as fine to the extent of one week for each excess pilgrim, the aggregate not to exceed six months; and (2) providing for the removal from the ship, and the forwarding to the port at which they had contracted to land, at the cost of the owner and master of any ship, of any excess pilgrims found on board.

24. *Section 54* (*formerly section 46*).—In accordance with a suggestion from the Bombay Government, we have added words to this section permitting the application of a fine in whole or part by way of reward to the person or persons who have been instrumental in the detection or prosecution of the offender.

25. *Section 58* (*formerly section 50*).—We have greatly expanded this section having added power to make rules with regard to many new matters, including (1) the fittings and appliances to be provided in the between-decks for the comfort and convenience of pilgrims, (2) the quality, quantity and storage of the cargo to be carried, (3) the allotment of the upper deck space between the different classes of pilgrims, (4) the amount and distribution of the baggage of pilgrims, (5) the nature and extent of the hospital accommodation to be provided, (6) the form of the statements to be furnished by masters under sections 22 and 25, (7) the tonnage and steam-power to be required in the case of pilgrim ships making certain voyages, (8) the disinfection of contaminated articles before they are brought on board, (9) the medical inspection of women, (10) the supply of tickets and their form, and (11) the refund of passage-money to intending pilgrims who may be prevented from proceeding on the voyage.

26. The other alterations made by us are either formal or are not of sufficient importance to require notice.

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

In English.

Gazette.	Date.
Gazette of India	13th July 1895.
Fort St. George Gazette	23rd July 1895.
Bombay Government Gazette	18th July 1895.
Calcutta Gazette	24th July 1895.
Burma Gazette	3rd Aug. 1895.
Sind Official Gazette	25th July 1895.

In the Vernaculars.

Province.	Language.	Date.
Madras	Hindustani	27th August 1895.
	Malayalam	27th August 1895.
Bombay	Marathi	8th August 1895.
	Gujarathi	8th August 1895.
	Kanarese	8th August 1895.
Bengal	Hindi	14th August 1895.
Sindh	Sindhi	1st August 1895.

28. 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.

A. MACKENZIE.
ALEX. EDW. MILLER.
J. WESTLAND.
A. C. TREVOR.
A. S. LETHBRIDGE.

The 9th September 1895.

No. II.

THE PILGRIM SHIPS BILL.

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No. II.

A Bill to make better provision for the regulation of Pilgrim Ships.

WHEREAS it is expedient to make better provision for the regulation of pilgrim ships; It is hereby enacted as follows:

Preliminary.

[S. 1, Act of 1887.] 1. This Act may be called the Pilgrim Ships Act, 1895. (Title.)

[S. 2, *ibid.*] 2. (1) It extends to the whole of British India, and applies— (Extent and application.)

(*a*) to all subjects of Her Majesty within the dominions of Princes and States in India under the suzerainty of Her Majesty;

(*b*) to all native Indian subjects of Her Majesty without and beyond British India; and,

(*c*) subject to the exceptions mentioned in sub-section (2), to every pilgrim ship as hereinafter defined.

(2) But it does not apply—

(i) to any ship-of-war, troopship, transport or other ship belonging to the Royal Navy or *Royal* Indian Marine Service, or

(ii) to any other ship for the time being in the service of Her Majesty, or

(iii) to any ship-of-war belonging to any Foreign Prince or State, or

(iv) to any ship not being a pilgrim ship.

[S. 3, *ibid.*] 3. This Act shall come into force on *such day as the Governor-General in Council may, by notification in the Gazette of India, appoint in this behalf.* (Commencement.)

[S. 4, *ibid.*] 4. On and from that day nothing contained in the Native Passenger Ships Act, 1887, shall apply to any pilgrim ship. (Repeal of Act X, 1887, so far as regards pilgrim ships.)

X of 1887.

[S. 5, *ibid.*] 5. In this Act, unless there is anything repugnant in the subject or context,— (Definitions.)

(1) "pilgrim" means a Muhammadan passenger going to, or returning from, the Hedjaz:

Explanation.—A Muhammadan passenger who has embarked with the intention of going to the Hedjaz, but is returning without having actually landed there, shall be deemed to be a pilgrim for the purposes of this Act:

(2) "pilgrim ship" means a ship conveying *or about to convey* pilgrims from or to any port in British India to or from any port in the Red Sea *other than Suez:*

Provided that no ship carrying passengers other than pilgrims of the lowest class and having on board pilgrims of the lowest class in a less proportion than one pilgrim for every one hundred tons of the gross tonnage of the ship shall be deemed to be a pilgrim ship within the meaning of this Act:

Explanation.—A "pilgrim of the lowest class" *is a pilgrim for whom no separate accommodation in any cabin, state-room or saloon is reserved:*

(3) "voyage" means the whole distance between a pilgrim ship's port or place of departure and her final port or place of arrival:

(4) "Chief Customs-officer" means the chief executive officer of sea-customs *for* any port or place to which this Act applies:

(5) "Magistrate" means a person exercising powers not inferior to those of a Magistrate of the second class: *and*

(6) *"prescribed" means prescribed by rules made by the Governor-General in Council under this Act.*

All passengers on pilgrim ships to be deemed pilgrims. 6. *Every passenger, whether a pilgrim or not, on board a pilgrim ship shall be deemed to be a pilgrim for the purposes of this Act.*

Rules for Voyages of Pilgrim Ships.

[S. 6, *ibid.*] 7. (1) No pilgrim ship shall depart or proceed from, or discharge pilgrims at, any port or place within British India other than a port or place appointed in this behalf by the Local Government. (Pilgrim ships to sail only from places appointed by the Government.)

(2) After a pilgrim ship has departed or proceeded on a voyage from a port or place so appointed, no person shall be received on board as a pilgrim except at some other port or place so appointed.

[S. 7, *ibid.*] 8. (1) The master, owner or agent of a pilgrim ship so departing or proceeding shall give notice to an officer appointed in this behalf by the Local Government that she is to carry pilgrims, and of her destination, and of the proposed time of sailing. (Notice to be given of time of sailing.)

(2) The notice shall be given *at the original port of departure if in British India, and in other cases at the first port at which she touches in British India,* not less than three days, *and at all other ports of call not less than twenty-four hours,* before that time.

[S. 8, *ibid.*] 9. After receiving the notice, the officer aforesaid or a person authorized by him shall be at liberty at all times to enter on the ship and inspect her and her fittings and the provisions and stores on board. (Power to enter on and inspect pilgrim ship.)

[S. 9, *ibid.*] 10. (1) No pilgrim ship shall commence a voyage from a port or place appointed under this Act, unless the master holds two certificates to the effect mentioned in the two next following sections. (Pilgrim ship not to sail without two certificates.)

(2) The officer whose duty it is to grant a port-clearance shall not grant it unless the master holds those certificates.

[S. 10, *ibid.*] 11. The first of the certificates (hereinafter called "certificate A") shall state that the ship is seaworthy and properly equipped, fitted and ventilated, and the number of pilgrims *of each class* which she is capable of carrying. (Contents of certificate A.)

[S. 11, *ibid.*] 12. The second of the certificates (hereinafter called "certificate B") shall state— (Contents of certificate B.)

(*a*) the voyage which the ship is to make, and the intermediate ports (if any) at which she is to touch;

(*b*) that she has the proper complement of officers and seamen;

(*c*) that food, fuel and pure water over and above what is necessary for the crew, and the other things (if any) prescribed for pilgrim ships have been placed on board, of the quality prescribed, properly packed, and sufficient to supply the pilgrims on board during the voyage which she is to make (including such detention in quarantine as may be probable) according to the scale for the time being prescribed;

(*d*) that the master holds certificate A;

(*e*) that she is propelled principally by steam;

(*f*) *that she is of the tonnage and steam-power (if any) prescribed;*

(*g*) that, if she is to carry more than one hundred pilgrims, she has on board the medical officer, or medical officers, required by section 27 *and the prescribed attendants;*

(*h*) such other particulars (if any) as may be prescribed.

[S. 12, *ibid.*] 13. The person by whom certificate A and certificate B are to be granted shall be the officer appointed under section 8. (Grant of certificates.)

[S. 3, *ibid.*] 14. Where the master of a pilgrim ship produces to that officer either of the following certificates, namely,— (Substitute for certificate A.)

(*a*) a valid certificate granted by the Board of Trade or by a British Colonial Government, or

(*b*) a certificate granted under the authority of a British Indian Government on a date not more than one year before the proposed day of sailing and in force and applicable to the voyage on which the ship is to proceed or the service on which she is about to be employed,

the officer may, if the particulars required by section 11 are certified thereby, take the certificate as evidence of those particulars, and it shall then be deemed to be a certificate A for the purposes of this Act.

[S. 14, *ibid.*] 15. (1) After receiving the notice required by section 8, the officer appointed under that section may, if he thinks fit, cause the ship to be surveyed at the expense of the master or owner by competent surveyors, who shall report to him whether she is, in their opinion, seaworthy and properly equipped, fitted and ventilated for the conveyance of pilgrims: (Survey of pilgrim ship.)

Provided that he shall not cause a pilgrim ship holding a certificate mentioned in section 14, clause (*a*) or clause (*b*), to be surveyed unless, by reason of her having met with damage or having undergone alterations, or on any other reasonable ground, he considers it likely that she may be found unseaworthy or not properly equipped, fitted or ventilated for the conveyance of pilgrims.

(2) If the officer causes a survey to be made of a pilgrim ship holding any such certificate, and the surveyors report that she is seaworthy and properly equipped, fitted and ventilated for the conveyance of pilgrims, and that there was no reasonable ground why the officer should have thought it likely that she would be found unseaworthy, or not properly equipped, fitted or ventilated for such traffic, the expense of the survey shall be paid by the Local Government.

[S. 15, *ibid.*] 16. (1) The officer authorized to grant a certificate under this Act in respect of a pilgrim ship shall not grant it unless he is satisfied that she has on board no cargo likely from its quality, quantity or mode of stowage to prejudice the health or safety of the pilgrims embarked. (Discretion as to grant of certificate.)

(2) But save as aforesaid, and subject to the provisions of sub-section (3), it shall be in the discretion of the officer to grant or withhold a certificate under this Act.

(3) In the exercise of that discretion such officer shall be subject to the control of the Local Government and of any intermediate authority which that Government *may* appoint in this behalf.

[S. 16, *ibid.*] 17. The master or owner of every pilgrim ship shall post up in a conspicuous part of her, so as to be visible to persons on board, a copy of each of the certificates granted under this Act in respect thereof, and shall keep those copies so posted up throughout the voyage. (Copy of certificates to be exhibited.)

[S. 17, *ibid.*] 18. If an officer appointed in this behalf by the Local Government is satisfied that a pilgrim has brought on board a pilgrim ship for his (Supply by pilgrims of their own food.)

own use food of the *prescribed* quality and in the *prescribed* quantity, the requirements of this Act respecting the supply of food for pilgrims shall not apply so far as regards the supply of food for that pilgrim.

[S. 56, *ibid.*] 19. (1) The Governor-General in Council may by order prescribe the number of superficial and cubic feet of space (not being less than the space for the time being required for passengers under any Act for the regulation of passenger ships) to be available in the between-decks for pilgrims *of each class respectively* on board pilgrim ships.

Space to be provided for pilgrims.

(2) Every pilgrim ship shall have reserved for the use of the pilgrims on board gratuitously by day and by night *so much of* the upper deck *as is not required for the airing space of the crew or for permanent structures:*

Provided that the upper-deck space available for pilgrims shall in no case be less than six superficial feet for each pilgrim of the age of twelve years or upwards on board.

(3) Subject as aforesaid and to any rules which may be made under this Act, such space may be allotted among the different classes of pilgrims in such proportion as may be thought fit.

Provided that not more space shall be allotted to any one class than will leave six superficial feet of space available for each pilgrim of the age of twelve years or upwards of each of the other classes on board.

Disposal of pilgrims' baggage. 20. *The baggage of all pilgrims shall be disposed of on board in such manner as may be prescribed.*

Hospital accomodation. 21. There shall be a *regularly appointed* hospital on board every pilgrim ship *offering such conditions of security and health,* and capable of accommodating *such number, not exceeding* five per cent., of the pilgrims embarked, thirty-two superficial feet being allowed per head, *as may be prescribed.*

[S. 22, *ibid.*] 22. The master of every pilgrim ship departing or proceeding from any port or place in British India shall sign *a* statement *in duplicate in the prescribed form* specifying the *total* number and the *number of each* sex of all the pilgrims embarked and the number of the crew, *and such other particulars as may be prescribed,* and shall deliver *both copies* to the officer appointed under section 8, who shall thereupon, after having first satisfied himself that the *entries* are correct, countersign and return to the master one of the *copies.*

Statement concerning pilgrims *to be delivered before ship departs.*

[S. 2, *ibid.*] 23. The master of every pilgrim ship shall note in writing on the *copy of the* statement returned to him *under the last foregoing section,* and on any additional statement to be made under the next following section, the date and supposed cause of death of any pilgrim who may die on the voyage, and shall, when the pilgrim ship arrives at her port or place of destination or at any port or place at which it may be intended to land pilgrims, and, before any pilgrims disembark, produce the statement, with any additions thereto made, to a person lawfully exercising consular authority on behalf of Her Majesty at the port or place or to the Chief Customs officer thereat or the officer (if any) appointed there under section 8.

Deaths on voyage.

[S. 24, *ibid.*] 24. (1) In either of the following cases, namely,—

Pilgrim ship taking additional pilgrims at intermediate place

(*a*) if after a pilgrim ship has departed or proceeded on her voyage any additional pilgrims are taken on board at a port or place within British India appointed under this Act for the embarkation of pilgrims, or

(*b*) if a pilgrim ship upon her voyage touches or arrives at any such port or place, having previously received on board additional pilgrims at any place beyond British India,

the master shall obtain a fresh certificate to the effect of certificate B from the officer appointed at that port or place under section 8, and shall *furnish an* additional statement *in duplicate in the prescribed form respecting such* additional pilgrims.

(2) All the foregoing provisions of this Act with respect to certificate B and *the* statement concerning pilgrims *to be signed and delivered by the masters of pilgrim ships* shall be applicable to any certificate granted or statement *furnished* under this section.

Statement concerning pilgrims to be delivered before pilgrims disembark in British India. 25. *The master of every pilgrim ship arriving at any port or place in British India at which it may be intended to discharge pilgrims shall, before any pilgrims disembark, deliver a statement signed by him, specifying the total number and the number of each sex of all the pilgrims on board and the number of the crew, and such other particulars as may be prescribed, to the officer appointed thereat under section 8.*

Pilgrim ships to be propelled principally by steam *and to be of certain tonnage and steam-power.*

[S. 25, *ibid.*] 26. Every pilgrim ship shall be propelled principally by steam, *and shall be of the tonnage and steam-power (if any) prescribed.*

[S. 26, *ibid.*] 27. Every pilgrim ship carrying more than one hundred pilgrims shall have on board a medical officer licensed *as prescribed* and, if the number carried exceed one thousand, a second medical officer similarly licensed, *and also in all cases such attendants as may be prescribed.*

Certain pilgrim ships to carry medical officers *and attendants.*

Medical officers' diaries and reports. 28. *The medical officer or officers of every pilgrim ship shall keep such diaries and shall submit such reports or other returns as may be prescribed.*

[S. 27, *ibid.*] 29. Every pilgrim ship proceeding from any port in British India other than Aden to any port in the Red Sea shall touch at Aden, and shall not leave that port without having obtained from the proper authority a *certificate stating whether any case of cholera has or has not occurred on board since the ship left the port of last departure.*

Pilgrim ship to touch at Aden on the outward voyage.

[S. 28, *ibid.*] 30. The authority at Aden empowered to grant the *certificate required under section 29 may* refuse to *permit the ship to leave that port* if the *provisions of this Act or any rule thereunder* are not complied with on board such ship.

When authority at Aden may refuse to let ship leave.

[S. 29, *ibid.*] 31. In the case of every pilgrim ship proceeding from any port in British India to any port in the Red Sea, the officer whose duty it is to grant a port-clearance shall not grant the clearance unless or until the master, owner or agent and two sureties resident in British India have executed in favour of the Secretary of State for India in Council a joint and several bond, for the sum of five thousand rupees, conditioned—

Bond where pilgrim ship proceeds on outward voyage.

(*a*) that the ship (*if the voyage do not commence at Aden*) shall touch at Aden on the outward voyage and there obtain *the certificate required by section 29.* and

(*b*) that the master and medical officer or officers (if any) shall comply with the provisions of this Act and *the* rules thereunder.

30, *ibid.*] 32. No pilgrim shall be received on board any pilgrim ship *at any port or place in British India* unless and until he has been *medically* inspected, at such time and place, and in such manner, as the Local Government may fix in this behalf, *nor until the officer to whom notice has been given under section 8 has given permission for the embarkation of pilgrims to commence.*

Medical inspection and permission required before embarkation of pilgrims.

(2) If, in the opinion of the officer making an inspection under this section, any pilgrim is suffering from cholera or choleraic indisposition or any dangerously infectious or contagious disease, *or shows any signs of the same or any other suspicious symptoms,* such pilgrim shall not be permitted to embark.

(3) All articles which have been contaminated by persons suffering from cholera or choleraic indisposition, or any dangerously infectious or contagious disease, or are suspected of having been so contaminated, shall, before being taken on board a pilgrim ship, be disinfected, under the supervision of a medical officer appointed by the Local Government for the purpose, in such manner as *may be prescribed.*

Medical inspection after embarkation in certain cases. 33. (1) *If in any case a pilgrim ship does not proceed on her voyage within forty-eight hours after all the pilgrims have been received on board, and there is reason to suspect that any person on board is suffering from cholera or choleraic indisposition or any dangerously infectious or contagious disease, a medical inspection of all persons on board may be held in such manner as the Local Government may direct.*

(2) *If on such inspection any person is found to be suffering from cholera or choleraic indisposition or any dangerously infectious or contagious disease, or shows any signs of the same or any other suspicious symptoms, he shall, together with all articles belonging to him, be at once removed from the ship.*

Medical inspection of women. 34. *So far as may be practicable, and subject to any rules which may be made under this Act, the medical inspection of female pilgrims shall be carried out by women.*

Issue and production of tickets and refund of passage-money. 35. (1) *Every pilgrim shall be entitled on payment of his passage-money and fulfilment of the other prescribed conditions (if any) to receive a ticket in the prescribed form, and shall be bound to produce the same to such officers and on such occasions as may be prescribed, and otherwise to deal with the same in the prescribed manner.*

(2) *Every pilgrim prevented from embarking under section 32 or removed from the ship under section 33 or otherwise prevented from proceeding shall be entitled to the refund of any passage-money he may have paid, subject to any conditions or deductions which may be prescribed.*

Sanitary taxes payable by master of pilgrim ship. 36. The master of every pilgrim ship shall be bound to pay the whole amount of the sanitary taxes imposed by lawful authority at the ports visited *so far as such taxes are included in the cost of the tickets issued to the pilgrims.*

Penalties.

[S. 31, *ibid.*] 7. (1) If a pilgrim ship departs or proceeds on a voyage from, or discharges passengers at, any port or place within British India in contravention of the provisions of section 7, sub-section (*1*), or section *10*, the master or owner shall, for every passenger carried in the ship, or so discharged (as the case may be), be punished with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to one month, or with both.

Penalty on master or owner for pilgrim ship unlawfully departing or receiving pilgrims on board.

(2) If any person is received as a pilgrim on board a pilgrim ship in contravention of the provisions of section 7, sub-section (*2*), the master or owner shall for every such pilgrim be liable to such punishment as is specified in sub-section (*1*).

(3) In either of the said cases the ship, if found within two years in any port or place within British India, may be seized and detained by a Chief Customs-officer until the penalties incurred under this Act by her master or owner have been adjudicated, and the payment of the fines imposed on him under this Act, with all costs, has been enforced, under the provisions of this Act:

Provided that the aggregate term of imprisonment awarded under this section shall not exceed one year.

[S. 32, *ibid.*] 38. If any one impedes or refuses to allow any entry or inspection authorized by or under this Act, he shall be punished with fine which may extend to five hundred rupees for each offence, or with imprisonment for a term which may extend to three months, or with both.

Penalty for opposing entry on or inspection of pilgrim ship.

[S. 33, *ibid.*] 39. If the master or owner of a pilgrim ship without reasonable excuse, the burden of proving which shall lie upon him, fails to comply with the requirements of section *17* with respect to the posting of copies of certificates, he shall be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to one month, or with both.

Penalty on master or owner for not exhibiting copy of certificates.

S. 34, *ibid.*] 40. If the master of a pilgrim ship fails to comply with any of the requirements of section *22*, section *23* or section *25* as to the statements concerning pilgrims, or wilfully makes any false entry or note in or on any such statement, or fails to obtain any such fresh certificate or to make any such statement of the number of additional pilgrims as is mentioned in section *24*, he shall be punished with fine which may extend to five hundred rupees for every such offence, or with imprisonment for a term which may extend to three months, or with both.

Penalty on master for not complying with requirements as to statements concerning pilgrims and certain other matters.

[S. 35, *ibid.*] 41. If the master of a pilgrim ship, after having obtained any of the certificates mentioned in section *10* or section *24*, fradulently does or suffers to be done anything whereby the certificate becomes inapplicable to the altered state of the ship the pilgrims on board or other matters to which the certificate relates, he shall be punished with fine which may extend to two thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

Penalty on master for fraudulent alteration in pilgrim ship after certificate obtained.

[S. 36, *ibid.*]

Penalty on master for failing to supply pilgrims with prescribed provisions.

42. If the master of a pilgrim ship without reasonable excuse, the burden of proving which shall lie upon him omits to supply to any pilgrim the *prescribed* allowance of food, fuel and water, he shall be punished with fine which may extend to twenty rupees for every pilgrim who has sustained detriment by the omission.

[S. 38, *ibid.*]

Penalty on master and owner for carrying pilgrims in excess of authorized number.

43. (1) If a pilgrim ship has on board a number of pilgrims greater either than the number allowed under this Act or than the number allowed by the license or certificate (if any) granted at her port or place of departure, *whichever shall be the smaller*, the master and owner shall, for every pilgrim in excess of that number, be each punished with fine which may

S. 37, *ibid.*] extend to twenty rupees, *and the master shall further be liable to imprisonment for a term which may extend to one week in respect of each such pilgrim: Provided that the aggregate term of imprisonment awarded under this section shall not exceed six months.*

(2) *Any officer authorized in this behalf by the Local Government may cause all pilgrims over and above the number allowed under this Act or by such license or certificate as aforesaid to disembark, and may forward them to any port at which they may have contracted to land, and recover the cost of so forwarding them from the master or owner of the ship as if the cost were a fine imposed under this Act, and a certificate under the hand of that officer shall be conclusive proof of the amount of the cost aforesaid.*

[S. 39, *ibid.*]

Penalty on master for landing pilgrim at a place other than that at which he has contracted to land.

44. If the master of a pilgrim ship lands any pilgrim at any port or place other than the port or place at which such pilgrim may have contracted to land, unless with his previous consent or unless the landing is made necessary by perils of the sea or other unavoidable accident, 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 one month, or with both.

[S. 40, *ibid.*]

Penalty on master and owner for making voyage in contravention of contract with pilgrims.

45. If a pilgrim ship, otherwise than by reason of perils of the sea or other unavoidable accident, touches at any port or place in contravention of any express or implied contract or engagement with the pilgrims with respect to the voyage which the ship was to make and the time which that voyage was to occupy, whether the contract or engagement was made by public advertisement or otherwise, the master and owner shall each be punished with fine which may extend to five hundred rupees, or with imprisonment, for a term which may extend to three months, or with both.

S. 41, *ibid.*]

Penalty on master and owner of pilgrim ship not propelled principally by steam *or of prescribed tonnage or steam-power*.

46. If a pilgrim ship is not propelled principally by steam *or is not of the prescribed tonnage or steam-power* as required by section *26*, the master and owner shall each be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to three months, or with both.

[S. 42, *ibid.*]

Penalty on master of pilgrim ship sailing without medical officer or officers or *attendants* in contravention of section 27.

47. If a pilgrim ship carrying more than one hundred pilgrims has not on board a medical officer, or two medical officers if the number of pilgrims carried exceed one thousand, *and also the prescribed attendants* as required by section *27*, the master shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

[S. 43, *ibid.*]

Penalty on master for not obtaining *certificate* at Aden on outward voyage.

48. If the master of a pilgrim ship proceeding from any port in British India other than Aden to any port in the Red Sea, without reasonable excuse, the burden of proving which shall lie upon him, fails to touch at Aden, or leaves that port without having obtained *the certificate* required by section *29*, he shall for every such offence be punished with fine which may extend to two thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

[S. 45, *ibid.*]

Penalty on master receiving *or keeping on board* pilgrim or article in contravention of section *32* or *33*.

49. If the master of a pilgrim ship knowingly receives on board any pilgrim or any contaminated article in contravention of the provisions of section *32*, *or keeps on board any pilgrim or article ordered to be removed under section 33*, he shall be punished with fine which may extend to five hundred rupees for each pilgrim or fifty rupees for each article so received *or kept on board*, or with imprisonment which may extend to three months, or with both.

[S. 44, *ibid.*]

Penalty on master or medical officer of pilgrim ship disobeying rules under this Act.

50. If the master or the medical officer (if any) of a pilgrim ship, without reasonable excuse, the burden of proving which shall lie upon him, breaks, or omits or neglects to obey, any rule under this Act, he shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Procedure.

[S. 46, *ibid.*]

Adjudication of offences, and levy of fine by distress of pilgrim ship.

51. (1) Offences against this Act shall be punishable by a Magistrate.

(2) If the person on whom a fine is imposed under this Act is the master or owner of a pilgrim ship, and the fine is not paid at the time and in the manner prescribed by the order of payment, the Magistrate may, in addition to the ordinary means prescribed by law for enforcing payment by warrant, direct the amount remaining unpaid to be levied by distress and sale of such pilgrim ship, her tackle, furniture and apparel.

[S. 47, *ibid.*]

Jurisdiction.

52. For the purpose of the adjudication of penalties under this Act, every offence against its provisions shall be deemed to have been committed within the limits of the jurisdiction of the Magistrate of the place where the offender is found.

[S. 48, *ibid.*]

Authority to institute proceedings for penalties.

53. The penalties to which masters and owners of pilgrim ships are made liable by this Act shall be enforced only on information laid at the instance of officers appointed to grant certificates under this Act, or, at any port or place where there is no such officer, at the instance of the Chief Customs-officer.

[S. 49, *ibid.*]

Application of fines.

54. A Magistrate imposing a fine under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in or towards compensating any person for any detriment which he may have sustained by the act or default in respect of which the fine is imposed, or in or towards payment of the expenses of the prosecution, *or in rewarding any person upon whose information the conviction took place or who has been otherwise instrumental in the detection or prosecution of the offender.*

[S. 50, *ibid.*]

Depositions of absent witnesses.

55. (1) Whenever in the course of any legal proceeding under this Act the testimony of a witness is required in relation to the subject-matter of the proceeding, any deposition which he may have previously made in relation to the same subject-matter before any Justice or Magistrate in Her Majesty's dominions (including all parts of India other than those subject to the same Local Government as the port or place where the proceeding is instituted), or before any British consular officer elsewhere, shall be admissible in evidence on proof that the witness cannot be found within the jurisdiction of the Court in which the proceeding is instituted:

Provided that the deposition shall not be admissible unless—

(*a*) it is authenticated by the signature of the Justice, Magistrate or consular officer;

(*b*) it was made in the presence of the person accused; and

(*c*) the fact that it was so made is certified by the Justice, Magistrate or consular officer.

(2) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition; and in any criminal proceeding such certificate as aforesaid shall, unless the contrary is proved, be sufficient evidence of the accused having been present in manner thereby certified.

Supplemental.

[S. 51, *ibid.*]

Information to be sent to ports of embarkation and discharge.

56. (1) The Chief Customs-officer or other officer (if any) appointed by the Local Government in this behalf at any port or place within British India at which a pilgrim ship touches or arrives shall, with advertence to the provisions of this Act, send any particulars which he may deem important respecting such pilgrim ship and the pilgrims carried therein to the officer at the port or place from which she commenced her voyage, and to the officer at any other port or place within British India where the pilgrims or any of them embarked or are to be discharged.

(2) The Chief Customs-officer or other officer (if any) appointed by the Local Government in this behalf at any port or place in British India at which a pilgrim ship touches or arrives may enter on the ship and inspect her in order to ascertain whether the provisions of this Act as to the number of pilgrims and other matters have been complied with.

[S. 52, *ibid.*]

Report of Consul.

57. In any proceeding for the adjudication of any penalty incurred under this Act any document purporting to be a report of such particulars as are referred to in sub-section (1) of the last foregoing section, or a copy of the proceedings of any Court of Justice duly authenticated and also any like document purporting to be made and signed by any person lawfully exercising consular authority on behalf of Her Majesty in any foreign port, shall be received in evidence, if it appears to have been officially transmitted to any officer at or near the place where the proceeding under this Act is had.

[S. 53, *ibid.*]

Power for Governor-General in Council and Local Government to make rules.

58. (1) The Governor-General in Council may make rules consistent with this Act to regulate all or any of the following matters:—

(*a*) the boats, anchors and cables to be provided on board *pilgrim ships*;

(*b*) the instruments for purposes of navigation to be supplied;

(*c*) the apparatus for the purpose of extinguishing fires on board and the precautions to be taken to prevent *and deal with* such fires;

(*d*) the provision of appliances for saving life and of means for making signals of distress, and the supply of lights inextinguishable in water and fitted for attachment to life-buoys;

(*e*) *the fittings and other appliances to be provided in the between-decks for the comfort and convenience of pilgrims*;

(*f*) the scale on which *and manner in which* food, fuel and water are to be supplied to pilgrims, and the quality of such food, fuel and water;

(*g*) *the quality, quantity and storage of the cargo to be carried*;

(*h*) *the allotment of the upper-deck space between the various classes of pilgrims*;

(*i*) *the amount and distribution of the baggage of pilgrims*;

(*j*) the *nature and the extent of the hospital accommodation and the* medical stores, *disinfectants* and other appliances and fittings to be provided on board for maintaining health, cleanliness and decency;

(*k*) *the form of the statements to be furnished by the master under sections 22 and 25 and the particulars to be entered therein*;

(*l*) *the tonnage and steam-power to be required in the case of pilgrim ships, and the voyages to which and seasons at which such rules shall respectively apply*;

(*m*) the licensing and appointment of medical officers *and other attendants* in cases where they are required by this Act to be carried, *and the diaries, reports and other returns to be kept or submitted by such medical officers*;

(*n*) *the manner in which contaminated articles shall be disinfected before being taken on board a pilgrim ship*;

(*o*) *the manner in which and the persons by whom the medical inspection of women shall be carried out*;

(*p*) *the supply of tickets to intending pilgrims, the form of such tickets and the conditions and other matters to be specified thereon, and the amount of the sanitary taxes to be included in the cost thereof*;

(*q*) *the refund of passage-money to intending pilgrims who may not be permitted to embark or who having embarked may be removed from the ship under the powers conferred by sections 32 and 33 or who may otherwise for any unavoidable cause be prevented from proceeding in any pilgrim ship*;

(*r*) the functions of the master, medical officer or officers (if any) and other officers during the voyage; *and*,

(*s*) generally, to carry out the purposes of this Act.

(2) The Local Government may, with the previous sanction of the Governor-General in Council, make rules consistent with this Act to regulate—

(*a*) the local limits within which, and the time and mode at and in which, pilgrims shall be embarked or discharged at any port or place appointed under this Act in that behalf; and

(*b*) the time within which a pilgrim ship shall depart or proceed on her voyage after commencing to take pilgrims on board.

(3) In making a rule under this section the authority making it may direct that a breach of it shall be punishable with fine which may extend

to two hundred rupees, and when the breach is a continuing breach with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

(4) The power to make rules under this section is subject to the condition of the rules being made after previous publication.

X of 1887. 59. All rules heretofore made under the Native Passengers Ships Act, 1887, shall, so far as consistent with this Act, continue to be applicable to pilgrim ships unless and until they shall be superseded or altered by rules under this Act.

Temporary continuance of existing rules.

60. The Local Government shall appoint such persons as it *may* think fit to exercise and perform the powers and duties which are conferred and imposed by this Act or may be conferred and imposed thereunder. [S. 54, *ibid.*]

Appointment of officers.

J. M. MACPHERSON,
Offg. Secretary to the Government of India.

(Republished by order of the Right Honourable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

FORT ST. GEORGE GAZETTE SUPPLEMENT.

TUESDAY EVENING, OCTOBER 22, 1895.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 22.

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 3rd October 1895:

No. 19 OF 1895.

A Bill to validate certain marriages solemnized in the Civil and Military Station of Bangalore.

WHEREAS the Reverend James Gillings, a Minister of the Wesleyan Mission, was, in the year 1871, granted by the Governor of Madras in Council a license, under the provisions of section 8 of the Indian Marriage Act, 1865, to solemnize marriages between persons, one or both of whom professed the Christian religion, "within the territories subject to the Government of Madras";

V of 1865.

And whereas the said James Gillings has, in the belief that he was duly authorised so to do by virtue of the said license, solemnized certain marriages in the Civil and Military Station of Bangalore between certain Christian subjects of Her Majesty;

And whereas the parties to the said marriages all *bonâ fide* believed that the said James Gillings was duly authorised to solemnize the same, and that such marriages were valid in law;

And whereas the said Civil and Military Station of Bangalore was not at the time when such marriages were solemnized, and is not, part of "the territories subject to the Government of Madras", and the said James Gillings had, therefore, no authority to solemnize the said marriages;

And whereas it is expedient that the said marriages, having been solemnized in good faith, should be validated;

It is hereby enacted as follows:

Commencement. 1. This Act shall come into force at once.

Validation of certain irregular marriages. 2. All marriages between Christian subjects of Her Majesty which have already been solemnized in the Civil and Military Station of Bangalore by the said Reverend James Gillings, shall be, and shall be deemed to have been with effect from the date of the solemnization of each respectively, as good and valid in law as if such marriages had been solemnized within the territories subject to the Government of Madras.

Validation of records of the said irregular marriages. 3. Certificates of marriages which are declared by the last foregoing section to be good and valid in law, and register-books and certified copies of true and duly authenticated extracts therefrom, deposited in compliance with the provisions of the Indian Christian Marriage Act, 1872, in so far as the register-books and extracts relate to such marriages as aforesaid, shall be received as evidence of such marriages as if such marriages had been duly solemnized under Part I of the said Act.

XV of 1872.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to validate certain marriages which, though irregular, were solemnized in good faith by a minister of religion in the Civil and Military Station of Bangalore. The facts of the case are sufficiently disclosed in the preamble to the Bill.

ALEX. EDW. MILLER.

The 1st October 1895.

J. M. MACPHERSON,
Offg. Secy. to the Govt. of India,
Legislative Dept.

(Republished by order of the Right Honourable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 22.

A Bill to amend the Indian Emigration Act, 1883.

WHEREAS it is expedient to amend the Indian Emigration Act, 1883; It is hereby enacted as follows:—

XXI of 1883.

Amendment of section 105, Act XXI, 1883.

1. In section 105, sub-section (*1*), of the said Act, for the words "under a contract" the words "under, or with a view to entering into, an agreement" shall be substituted.

Addition of new section after section 105, Act XXI, 1883:

2. After section 105 of the said Act the following section shall be added, namely:—

Power to declare whole or part of Act and rules inapplicable to Natives of India engaged for Her Majesty's Government to labour for hire in any country beyond the sea.

"106. The Governor-General in Council may, from time to time, by notification in the *Gazette of India* declare that all or any of the provisions of this Act or the rules thereunder shall not apply, or shall apply subject to such conditions, modifications or restrictions as to the Governor-General in Council may seem expedient, in the case of Natives of India departing out of British India under an agreement made with, or on behalf of, Her Majesty's Government to labour for hire in any country beyond the sea:

Provided that no notification under this section shall be issued unless the Governor-General in Council is first satisfied that the fair treatment of Natives of India so departing out of British India has, by rules or otherwise, duly been secured."

STATEMENT OF OBJECTS AND REASONS.

The attention of the Government of India has recently been directed to a case in which some Natives of India were induced to quit British territory by land, to proceed to a foreign port and there to enter into agreements to labour for hire in East Africa, to which country emigration is unlawful. It being uncertain whether there existed at the time of departure from British India any agreement to emigrate to East Africa, a doubt arises as to the applicability of section 105 of the Indian Emigration Act (XXI of 1883) to such a case, and the object of section 1 of this Bill is to remove similar doubt for the future.

2. It is at the same time deemed desirable to facilitate as much as possible the recruitment of Indian labourers for employment under favourable circumstances beyond the sea, as, for example, on the Uganda Railway, and it is thought that the restrictions imposed by Act XXI of 1883 may well be removed when the employer abroad is Her Majesty's Government and the Government of India can readily satisfy themselves that fair treatment will be secured for the employés. By section 2 of the Bill, therefore, it is proposed to take power for the Governor-General in Council to declare all or any of the provisions of the Act and the rules thereunder inapplicable in such cases.

J. WOODBURN.

The 2nd January 1896.

(Republished by order of the Right Honourable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 22.

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 23rd January 1896, and was referred to a Select Committee :—

No. 6 OF 1896.

THE COTTON DUTIES BILL, 1896.

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DUTIES PAYABLE ON CERTAIN COTTON GOODS.

A Bill to provide for the Imposition and Levy of certain Duties on Cotton Goods.

WHEREAS it is expedient to repeal the Cotton Duties Act, 1894, and to impose certain duties on cotton goods; it is hereby enacted as follows:— XVII of 1894.

Preliminary.

Title, extent and commencement.

1. (*1*) This Act may be called the Cotton Duties Act, 1896.

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

(*3*) It shall come into force at once.

Repeal.

2. (*1*) The Cotton Duties Act, 1894, is hereby repealed. XVII of 1894.

(*2*) But all the provisions in respect of drawback contained in sections 17 to 24 of that Act shall be deemed to be in force in respect of all duty paid thereunder, and all sums recoverable, liabilities incurred, officers appointed or authorised, warehouses licensed and rules and directions made under that Act shall, so far as may be, be deemed respectively to be recoverable, and to have been incurred, appointed or authorised, licensed and made under this Act.

Definitions.

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

(*1*) "the Principal Act" means the Sea Customs Act, 1878: VIII of 1878.

(*2*) "Chief Customs Authority" means, in the Presidency of Fort St. George, and the territories respectively under the administration of the Lieutenant-Governors of Bengal and the North-Western Provinces and the Chief Commissioner of Oudh, the Board of Revenue; in the Presidency of Bombay outside Sind, the Commissioner of Customs; in Sind, the Commissioner; in the Punjab and Burma, the Financial Commissioner; and elsewhere the Local Government or such officer as the Local Government may, by notification in the official Gazette, appoint in this behalf by name or in virtue of his office:

(*3*) "Collector" means—

(*a*) at Calcutta, Bombay, Madras, Rangoon and Karachi, the Collector of Customs, and

(*b*) in any other place, the Collector or Deputy Commissioner of the District or such other officer as the Local Government may appoint in this behalf, and includes

(*c*) every officer for the time being duly authorised by the Local Government to perform all or any of the duties of a Collector under this Act:

(*4*) "Cotton yarn" or "yarn" means yarn wholly or partly composed of cotton fibres:

(*5*) "Cotton goods" or "goods" includes all tissues and other articles (except yarn and thread), woven, knitted or otherwise manufactured, wholly or partly, from cotton yarn:

(*6*) "Mill" means any building or place where cotton goods are woven, knitted, or otherwise manufactured by machinery moved otherwise than by manual labour, and includes every part of such building or place:

(*7*) "Warehouse" means a place licensed for the storage of goods under this Act, and includes every public or private warehouse duly appointed or licensed under section 15 or 16 of the Principal Act, or under section 2 of the Inland Bonded Warehouses Act, 1887: XXI of 1887.

(*8*) "Customs port," "foreign port," "vessel" and "master" have respectively the meanings defined for them in the Principal Act.

Performance of duties of Customs Officers by subordinate officers.

4. The officers subordinate to a Collector shall, unless the Local Government shall otherwise so direct, for the purposes of this Act perform the duties imposed and exercise the powers conferred upon officers of Customs under the Principal Act.

PART I.

EXCISE.

Application of Principal Act.

Modifications to be made in Principal Act as applied to this Part.

5. In the application of the Principal Act or any particular section or sections thereof to this Part the following modifications shall be made therein, namely:—

(*a*) "the owner of the goods" shall include the managing agent or other principal officer of a mill;

(*b*) for "the bill-of-entry" or "shipping bill" shall be substituted "the return required by this Act";

(*c*) every reference to a warehouse, or warehousing, shall be construed as referring to a "warehouse" as hereinbefore defined.

Duties.

Imposition of duties on cotton goods produced in British Indian mills.

6. There shall be levied and collected at every mill in British India, upon all cotton goods produced in such mill—

(*a*) in the case of the goods specified in the Schedule to this Act, a duty at the rate specified in that Schedule;

(*b*) in the case of all other goods, a duty at the rate of $3\frac{1}{2}$ per centum on the value of such goods.

Explanation.—Goods are said to be produced within the meaning of this section when they are issued out of the premises of the mill.

Power to Governor-General in Council to fix tariff values of such goods.

7. (*1*) The Governor-General in Council may, from time to time, by notification in the Gazette of India, fix, for the purpose of levying the said duties, tariff values of all such goods as aforesaid or of any particular description or descriptions thereof, and alter any tariff values for the time being in force.

(*2*) Such tariff value shall, for the purposes of this Act, be deemed to be the "real value" of the goods to which it applies, but save as aforesaid all goods shall be assessed under this Act at their real value.

(*3*) For the purposes of this Act the real value shall be deemed to be—

(*a*) the wholesale cash price, less trade discount for which goods of the like kind and quality are sold or are capable of being sold at the time and place of production, without any abatement or deduction whatever, except of the amount of the duties payable on the production thereof;

(*b*) where such price is not ascertainable, the cost at which goods of the like kind and quality could be delivered at such place, without any abatement or deduction, except as aforesaid.

Delivery of half-monthly returns of goods produced by mill-owners.

8. (*1*) The owner of every mill shall prepare and deliver, or cause to be prepared and delivered, to the Collector, twice during each month, first for the period from the 1st to the 15th day of the month inclusive, and again for the period from the 16th to the last day of the month inclusive, a return of all the cotton goods produced at his mill during the period to which the return relates; and shall subscribe a declaration of the truth of such return at the foot thereof.

(*2*) Unless otherwise prescribed by any rules under this Act, every such return shall state for each description of goods the quantity produced during the period to which the return relates, and the real value of such goods.

(*3*) Every such return shall also contain such further information and be in such form and be subject to such conditions as to verification and otherwise as may be prescribed by any rules under this Act.

(*4*) Each return shall be delivered to the Collector or posted to his address within three working days, and at most within seven days, of the period to which it relates; and the first of such returns shall be made for the period ending the 15th day of February, 1896, and shall include all goods produced since the commencement of this Act.

Explanation.—"Working day" in this sub-section means every day except a public holiday as defined in section 25 of the Negotiable Instruments Act, 1881.

XXVI of 1881.

Assessment of duty and notice requiring payment.

9. (*1*) The Collector shall assess the duties payable in respect of the period to which the return relates, and unless the amount thereof is immediately tendered shall cause a notice, in such form as may be prescribed by any rules under this Act, to be served on the owner requiring him to make payment of the amount assessed within ten days of the date of service of the said notice.

(*2*) A notice under sub-section (*1*) may be served on the owner of a mill by delivering or tendering to him or his agent at his ordinary place of business a copy of the notice, or, if this cannot be conveniently done, by fixing a copy of the notice on one of the outer doors of the mill.

Application of certain sections of Principal Act to assessment and recovery of duties under this Act.

10. Sections 31 to 34, 37, and 39 to 41, all inclusive, of the Principal Act, shall apply to the assessment and recovery of the duties imposed by this Act:

Provided that the rate of duty and the tariff valuation applicable to any goods which have not been warehoused as hereinafter provided shall be those in force at the time when the goods were produced, and not when the return was delivered as provided by the said section 37.

Recovery of unpaid duty.

11. (*1*) If any duty payable under this Act is not paid within the time fixed by any such notice as aforesaid for the payment thereof, the Collector may, in lieu thereof, recover any sum not exceeding double the amount of duty so unpaid, which he shall, in his discretion, think it reasonable to require.

(*2*) All sums recoverable under sub-section (*1*) shall be recovered in the manner provided in Act II of 1886, section 30, sub-sections (*1*), (*2*) and (*3*), with respect to the sums therein referred to.

Warehousing.

Licensing of warehouses for storage of goods and fees for same.

12. (*1*) The Chief Customs Authority may from time to time license any room or place as a warehouse for the storage of cotton goods, and for the purposes of this Act every such room or place shall be deemed to be a warehouse and to have been duly licensed under the Principal Act.

(*2*) There shall be payable in respect of every such warehouse such and the like licensing fees and other payments as may for the time being be payable in respect of a private warehouse licensed under the Principal Act:

Provided that the Chief Customs Authority may remit the whole or any part of such fees or other payments in respect of any particular warehouse.

Permission to deposit goods in warehouses.

13. (*1*) The owner of any mill may apply for leave to deposit in a warehouse any goods in respect of which duty has become leviable under section 6 but has not yet been assessed under section 9.

(*2*) Such application shall be in writing signed by the applicant, and shall be in such form as may be prescribed by the Chief Customs Authority.

Application to goods so deposited of provisions of Chapter XI of Principal Act.

14. All the provisions of Chapter XI of the Principal Act, so far as the same are applicable to imported goods of a similar description, shall apply to all goods in respect of which an application has been made under section 13.

Exemption from assessment of goods so deposited.

15. When any goods have been deposited in a warehouse, the quantity and particulars thereof shall be specified as so deposited in the return made under section 8 for the period in which the goods were produced, or in a separate return for that same period, and the said goods shall be deducted in the assessment and collection of duty.

Inspection.

Power to Collector to inspect mills and take copies of records and accounts.

16. (*1*) The Collector, or any officer duly appointed by the Local Government in that behalf, shall have free access at all reasonable times during working hours to any mill and to any part thereof.

(*2*) Any such officer may at any time, with or without notice to the owner, examine the working records, sale records, and accounts of any mill, and take copies of, or extracts from, all or any of the said records or accounts, for the purpose of testing the accuracy of any return, or of informing himself as to any particulars regarding which information is required for the purposes of this Act or any rules thereunder.

Information acquired to be deemed official secrets within meaning of Act XV of 1889.

17. (*1*) All such copies and extracts, and all other information acquired by any such officer on the inspection of any mill or warehouse, shall be regarded as strictly confidential, and shall be deemed to be official secrets.

(*2*) If any such officer shall disclose to any person other than a superior officer any such official secret as aforesaid without the previous consent in writing of the Chief Customs Authority, he shall be guilty of a breach of official trust, and shall, upon conviction thereof, be punishable in the manner provided by section 4 of the Indian Official Secrets Act, 1889.

XV of 1889.

(*3*) The restriction imposed by section 5 of the last-mentioned Act shall not apply to a prosecution for a breach of an official trust under this Act.

Export and Drawback.

Grant of certificate when dutiable goods are to be exported to foreign port.

18. If any dutiable goods are exported by sea to any foreign port before the return in respect of them has been delivered to the Collector under section 8, the owner of the mill in which they were produced may apply in writing to the Customs Collector at the port of shipment, who, on being satisfied that such goods have actually been shipped for export, shall issue a certificate stating the quantity and particulars of such goods and that they have actually been so shipped.

When certificate granted, goods to be exempt from duty.

19. When any certificate has been applied for under section 18, the quantity and particulars of the goods mentioned in the application shall be specified as so shipped in the return made under section 8 for any period not later than that in which they were shipped, and, if the Collector is satisfied that the said goods have been so shipped and that the conditions (if any) imposed by rules under this Act have been complied with, the said goods shall be deducted in the assessment and collection of duty.

Repayment of duty in case of certain cotton goods exported to foreign ports.

20. (*1*) When any cotton goods manufactured in a mill in British India are exported by sea from any customs port to any foreign port, the exporter may apply to the Customs Collector at the port of shipment for the repayment as drawback of any duty which may have been paid under this Act in respect of such goods.

(*2*) In every application made under sub-section (*1*) the applicant must state the description or descriptions of the goods in respect of which drawback is claimed, the mill at which the goods were

produced, and, as nearly as possible, the dates on which they were produced, and such further particulars, if any, as may be prescribed.

When such refunds may be granted.

21. (*1*) The drawback shall be allowed by the Collector if it is shown to his satisfaction that the goods in respect of which drawback is applied for have paid duty within twelve months of the date on which they are shipped for export, and that the conditions (if any) imposed by rules under this Act have been complied with.

(*2*) Drawback shall not cease to be admissible merely by reason of the goods in respect of which it is applied for having been bleached, dyed, coloured or printed after having been produced within the meaning of section 6.

Power to prohibit repayment of duty in case of exportation to certain ports.

22. (*1*) The Governor-General in Council may, from time to time, by notification in the Gazette of India, prohibit the payment of drawback on the exportation of cotton goods to any specified foreign ports.

XVII of 1894. (*2*) Any notification already made under section 22 of the Cotton Duties Act, 1894, shall be deemed to have been made under this section.

No repayment of duty to be granted in certain cases.

23. Notwithstanding anything herein contained, no drawback shall be allowed in respect of any cotton goods on which duty has been paid—

(*a*) when the goods are of less value than the amount of drawback claimed, or

(*b*) when the claim is for drawback amounting to less than five rupees in respect of any single shipment.

Application of sections 51 and 52 of Principal Act to claims under this Act.

24. Sections 51 and 52 of the Principal Act shall apply to every claim for drawback under this Act.

Offences and Penalties.

Punishments for offences.

25. The offences mentioned in the first column of the following schedule shall be punishable to the extent mentioned in the second column thereof with reference to such offences respectively :—

1. Contravening any rule made under this Act.	Penalty not exceeding five hundred rupees.
2. Concealing or attempting to conceal, or knowingly permitting or procuring to be concealed, any goods liable to duty under this Act with intent to evade payment of the duty or any part thereof.	Such goods shall be liable to confiscation, and every person convicted of the offence shall be liable to a penalty not exceeding three times the value of the goods.
3. Omitting to make any return required by section 8 or refusing to sign or complete the same.	Penalty not exceeding one thousand rupees.
4. Making and delivering any such return containing any statement not true to the best of the information and belief of the person making the same.	The penalty provided in the Indian Penal Code, section 199, for making a false statement in a declaration. XLV of 1860.
5. Altering or falsifying any record or book of account kept in the mill with the intention of defrauding the revenue.	The penalty provided in the Indian Penal Code, section 465, for the commission of forgery.
6. Omitting to keep samples as provided in section 28.	A penalty for each offence not exceeding two hundred rupees.
7. Omitting to keep such proper records and books of account as may be prescribed by any rule under this Act.	Penalty not exceeding five hundred rupees and a further penalty of twenty rupees for every day after the date of the conviction during which the offence is continued.
8. Omitting to make and deliver any return which by any rule under this Act ought to have been made and delivered.	Penalty not exceeding one thousand rupees.
9. Intentionally obstructing any Collector or other officer in the exercise of any powers given under this Act.	Imprisonment for a term not exceeding six months, or fine not exceeding one thousand rupees, or both.
10. If any goods in respect of which a certificate has been obtained under section 18, or any goods on the entry of which for export drawback has been paid, are not duly exported or are unshipped or relanded at any customs port, not having been duly relanded or discharged under the provisions of the Principal Act.	Such goods, together with any vessel used in the unshipping or relanding them, shall be liable to confiscation, and the master of the vessel from which such goods are so unshipped or relanded, and any person by whom or by whose orders or means such goods are so unshipped or relanded, or who aids or is concerned in such unshipping or relanding, shall be liable to a penalty not exceeding three times the value of such goods, or not exceeding one thousand rupees.
11. If any goods are entered for drawback which are of less value than the drawback claimed.	Such goods shall be liable to confiscation.
12. If any goods are found concealed in any place, box or closed receptacle in any mill and are not duly accounted for to the satisfaction of the Collector.	Such goods shall be liable to confiscation.
13. If any goods are found in any mill in excess of the quantity entered in the return or not corresponding with the statement therein contained.	Such goods shall be liable to confiscation or to be charged with such increased duty as the Chief Customs Authority may direct.
14. If when any cotton goods are passed by tale or by package any omission or misdescription thereof tending to injure the revenue be discovered.	The person guilty of such omission or misdescription shall be liable to a penalty not exceeding ten times the amount of duty which might have been lost to the Government by such omission or misdescription, unless it be proved to the satisfaction of the Collector or other officer that the variance was accidental.
15. If any Collector or officer subordinate to a Collector does any act or is guilty of any omission in contravention of this Act or of any rule or order made thereunder; or, with intent to cause injury or annoyance to any person, vexatiously and unnecessarily makes use of any power conferred upon him under this Act.	Such Collector or officer shall be liable on conviction to a fine not exceeding five hundred rupees.
16. The offences described in the Principal Act, section 167, Schedule Nos. 41—53, both inclusive, in reference to warehousing of dutiable goods.	The penalties prescribed in the same Schedule in respect of such offences respectively.

Magistrates having jurisdiction.

26. All offences against this Act may be tried summarily by a District or Presidency Magistrate or a Magistrate of the First Class.

Application of section 168 of Principal Act to cases of confiscation under this Act.

27. Section 168 of the Principal Act shall apply to all cases of confiscation of goods under this Act.

Miscellaneous.

Samples of certain goods to be taken by mill-owners at time of manufacture and to be available for inspection.

28. (*1*) The owner of every mill shall, in the case of any goods other than those specified in the schedule to this Act, take a sample or samples of such goods, at the time of manufacturing the same, and shall preserve such samples for reference for at least six months after the said goods are produced.

(*2*) Such samples shall be at all times available for inspection by the Collector, or by any officer appointed under section 16; and an examination thereof shall, if the goods themselves cannot conveniently be examined, be deemed to be an examination of the goods within the meaning of section 31 of the Principal Act.

Power to Collector to take samples.

29. (*1*) The Collector or any officer appointed under section 16 may at any time take samples of any goods for examination or for ascertaining the value thereof, or for any other necessary purpose.

(*2*) Every such sample shall, if practicable, be restored to the owner, or, at his option, sold by the Collector, and the proceeds accounted for to the owner.

Records and accounts to be kept by mill-owners.

30. The owner of every mill shall keep such records and books of account as may be prescribed by any rules under this Act.

Mill-owners to make periodical returns of cotton yarn spun by machinery.

31. The owner of every mill or place where cotton yarn is spun by machinery moved otherwise than by manual labour shall make periodical returns to the Collector of the quantity and description of all such yarns, in such form, with such particulars, and at such intervals, as may be prescribed by any rule under this Act.

32. All the provisions of Chapter XVII of the Principal Act, except sections 169, 170, 177, 182, 184, 185, 187, 190, 191 and 193, shall apply to all proceedings under this Act.

Application of certain provisions of Principal Act to proceedings under this Act.

33. The Local Government may, on the application of any person aggrieved by any decision or order passed under this Act, reverse or modify such decision or order.

Power to Local Government to reverse or modify orders under this Act.

34. The provisions of sections 198, 201, 204, 205 and 206 of the Principal Act shall be deemed to be incorporated in this Act.

Certain provisions of Principal Act to be incorporated in this Act.

35. The provisions of section 10 of the Indian Tariff Act, 1894, shall apply to duties on cotton goods imposed under this Act.

VIII of 1894.

Application of section 10, Act VIII, 1894, to duties under this Act.

36. (*1*) The Governor-General in Council may from time to time make rules under this Act,—

Power to Governor-General in Council to make rules.

(*a*) prescribing the form of any return required by or under this Act and the particulars to be contained therein respectively, and the manner in which the same is to be verified, and all such other conditions in respect thereof as may be necessary;

(*b*) requiring returns of yarns spun;

(*c*) prescribing the form of the notice to be issued by the Collector under section 9;

(*d*) regulating the inspection of mills, and the powers and duties of Collectors and other officers in respect thereof;

(*e*) regulating the provision of warehouses under this Act, and the deposit and discharge of goods therein and therefrom, and the powers and duties of the Collector in respect thereof;

(*f*) prescribing the records and books of account to be kept by owners of mills under this Act;

(*g*) prescribing the conditions under which alone exemption from duty and repayment as drawback shall be allowed under sections 19 and 21; and

(*h*) generally, for carrying into effect the provisions of this Act.

(*2*) The application of any such rule may be confined to any place or places specified therein.

PART II.

INLAND CUSTOMS DUTIES.

37. (*1*) Duties of customs shall be levied at the rates for the time being prescribed in the Indian Tariff Act, 1894, upon cotton goods passing into British India out of any territory declared, under the power hereinafter in this section conferred, to be foreign territory.

Levy of duties on cotton goods passing into British India from foreign territory.

VIII of 1894.

(*2*) The Governor-General in Council may, by notification in the Gazette of India, declare that any territory situated within or bordering on, but not forming part of, British India shall be deemed, for the purposes of this section, to be foreign territory.

(*3*) The Governor-General in Council may, from time to time, by notification in the Gazette of India, prohibit or restrict the bringing of cotton goods into British India from any such foreign territory, or prescribe the routes by which alone they may be brought.

(*4*) The provisions of section 19A of the Principal Act shall apply to all goods brought or attempted to be brought into British India in contravention of any such notification.

38. The provisions of the Principal Act as to drawback on export shall apply to all goods upon which duty has been paid under this Part.

Application of provisions of Principal Act as to drawback to goods taxed under this Part.

PART III.

TRANSITORY PROVISIONS.

39. If any mill-owner has in his mill, at the commencement of this Act, any yarns which, before the 23rd day of January, 1896,—

Drawback in respect of yarns in mills produced, purchased or imported before the 23rd January, 1896.

(*a*) were produced at his mill within the meaning of clause (*b*) of the Explanation to section 5 of the Cotton Duties Act, 1894, or

XVII of 1894.

(*b*) were obtained by purchase or on account from another mill-owner, after having been produced by the latter, within the meaning of clause (*c*) of the said Explanation, or

(*c*) were imported and customs-duty paid thereon,

and have not before the commencement of this Act formed part of any goods produced within the meaning of this Act, he shall be entitled to receive, by way of deduction from the amount of duty payable in respect of any goods produced out of such yarns at any time within three months after the passing of this Act, an amount not exceeding the duty which he may show to the satisfaction of the Collector to have been paid upon such yarns, under the operation of the Cotton Duties Act, 1894, or the Indian Tariff Act, 1894.

VIII of 1894.

Provided that the said yarns shall not have been used solely for borders.

40. (*1*) Any mill-owner who intends to claim drawback under section 39 shall within a week after the passing of this Act deliver to the Collector a full statement showing,—

Mode of making claims for drawback under section 39.

with respect to clauses (*a*) and (*b*) of the said section, the quantity and count of yarn and the monthly returns in which they were included;

with respect to clause (*c*) of the said section, the quantity and count of yarn and the date and particulars of the payment of import duty thereon.

(*2*) Such statement shall be subscribed and verified by the mill-owner, and the Collector may, by inspection or otherwise, satisfy himself of its correctness.

(*3*) No deduction shall be allowed under section 39 unless the yarns in respect of which deduction is claimed have been included in the statement prepared under this section.

41. The return of yarn prescribed by section 7 of the Cotton Duties Act, 1894, which would, but for the repeal of the said Act, become due for delivery to the Collector on or before the 15th day of February, 1896, shall be prepared and delivered as if the said Act were still in force; but no duty shall be assessed or collected in respect of any yarn produced on or after the 23rd day of January, 1896.

XVII of 1894.

Return of yarn as under section 7, Act XVII, 1894, to be delivered in February, 1896, but no duty leviable on yarn produced on or after the 23rd January, 1896.

THE SCHEDULE.

(*See Section* 6.)

DUTIES PAYABLE ON CERTAIN COTTON GOODS.

Description of Goods.		Duty in annas per pound avoirdupois.
Chadars, Dhutis, Drills and Jeans, T-cloths, Domestics, and Sheetings ...	not containing any yarn of counts above No. 30.	0·2625
Shirtings and Long-cloths		0·28
Madapollams and Printers		0·315
Jacconets and Flannelettes		0·3675

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to amend the levy of the excise-duties on Cotton Manufactures in India so as to make them more precisely equivalent to those levied upon imported Cotton Goods.

J. WESTLAND.

The 22nd January 1896.

S. HARVEY JAMES,
Secy. to the Govt. of India,
Legislative Dept.

(Republished by order of the Right Honourable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 22.

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 23rd January 1896, and was referred to a Select Committee:—

No. 7 OF 1896.

A Bill to amend the Indian Tariff Act, 1894.

WHEREAS it is expedient to repeal Schedules II to V, both inclusive, of the Indian Tariff Act, 1894, as amended by Act XVI of 1894, and to substitute other schedules for them; It is hereby enacted as follows:— VIII of 1894.

Substitution of new Schedules for Schedules II to V, Act VIII, 1894, as amended by Act XVI, 1894.

For Schedules II to V, both inclusive, appended to the said Indian Tariff Act, 1894, as so amended, the Schedules appended to this Act shall be substituted. VIII of 1894.

SCHEDULE II.—(IMPORT TARIFF.)

ARMS, AMMUNITION AND MILITARY STORES,

including also any articles, other than those included in Nos. 1 to 12 of this Schedule, which are "arms" within the meaning of the Indian Arms Act, and any articles which the Governor-General in Council may, by notification in the *Gazette of India*, declare to be "ammunition" or "military stores" for the purposes of this Act. XI of 1878.

Names of Articles.	Duty. Rs.	A.
1. Firearms other than pistols, including gas and air guns and rifles, for each ...	50	0
2. Barrels for the same, whether single or double, for each	30	0
3. Pistols, for each	15	0
4. Barrels for the same, whether single or double, for each	10	0
5. Springs used for firearms, including gas and air guns and rifles, for each	8	0
6. Gunstocks, sights, blocks and rollers, for each	5	0
7. Revolver-breeches, for each cartridge they will carry	2	8
8. Extractors, nippers, heel-plates, pins, screws, tangs, bolts, thumb-pieces, triggers, trigger-guards, hammers, pistons, plates and all other parts of a firearm (including a gas and air gun or rifle) not herein otherwise provided for, and all tools used for cleaning or putting together or loading [illegible]me, for each	1	8
9. Machines for making, loading, or closing cartridges, for each	10	0
10. Machines for capping cartridges, for each	2	8

Exception I.—Articles falling under the 5th, 6th, 8th, 9th or 10th head of the foregoing list, when they appertain to a firearm falling under the 1st or 3rd head, and are fitted into the same case with such firearm, are free.

Exception II.—The following are also free, namely :—

(*a*) Arms forming part of the regular equipment of an officer entitled to wear diplomatic, military, naval, or police uniform ;

(*b*) a sword, a revolver, or a pair of pistols, when accompanying an officer of Her Majesty's Regular Forces, or a commissioned officer of a volunteer corps, or certified by the commandant of the corps to which such officer belongs, or, in the case of an officer not attached to any corps, by the officer commanding the station or district in which such officer is serving, to be imported by the officer for the purposes of his equipment ;

(*c*) swords and revolvers which are certified by an Inspector-General of Police to be part of the ordinary equipment of members of the Police force under his charge ;

(*d*) swords forming part of the equipment of native commissioned officers of Her Majesty's Army ;

(*e*) swords for presentation as army or volunteer prizes ;

(*f*) arms, ammunition and military stores imported with the sanction of the Government of India for the use of any portion of the military forces of a Native State in India which may be maintained and organised for Imperial Service ;

(*g*) Morris tubes and patent ammunition when imported by officers commanding British and Native Regiments of volunteer corps, for the instruction of their men.

Proviso 1.—No duty in excess of ten per cent. *ad valorem* shall be levied upon any of the articles numbered 1 to 10 in the foregoing list when they are imported in reasonable quantity, for his own private use, by any person lawfully entitled to possess the same.

Proviso 2.—When any articles which have been otherwise imported, and upon which duty has been levied or is leviable under numbers 1 to 10, are purchased retail from the importer by a person lawfully entitled as aforesaid, in reasonable quantity for his own private use, the importer may apply to the Customs Collector for a refund or remission (as the case may be) of so much of the duty thereon as is in excess of 10 per cent. *ad valorem* ; and if such Collector is satisfied as to the identity of the articles, and that such importer is in other respects entitled to such refund or remission, he shall grant the same accordingly.

	Tariff valuation.	Rate of duty.
	Rs. A.	
11. Gunpowder, all sorts	*ad valorem.*	10 per cent.
12. All other sorts of arms, ammunition, and military stores	,,	

SCHEDULE III.—(IMPORT TARIFF.)

LIQUORS, OPIUM, SALT AND SALTED FISH.

No.	Names of Articles.	Per	Rate of duty.
1	LIQUORS—		
	Ale, beer, and porter	Imperial gallon or six quart bottles.	Rs. A. 0 1
	Cider and other fermented liquors		0 1
	Liqueurs	,,	6 0
	Spirit which has been rendered effectually and permanently unfit for human consumption.	*ad valorem*	Five per cent.
	Spirit when used in drugs, medicines, or chemicals in a proportion of less than twenty per cent. of spirit of the strength of London proof.		
	Spirit when so used in a proportion of twenty per cent. and upwards.	Imperial gallon or six quart bottles of the strength of London proof.	6 0 and the duty to be increased or reduced in proportion as the strength of the spirit exceeds or is less than London proof.
	Spirit, perfumed, in wood or in bottles ...	Imperial gallon or six quart bottles.	8 0
	Spirit, other sorts	Imperial gallon or six quart bottles of the strength of London proof.	6 0 and the duty to be increased or reduced in proportion as the strength of the spirit exceeds or is less than London proof.
	Wines—		
	Champagne and all other sparkling wines not containing more than 42 per cent. of proof spirit.	Imperial gallon or six quart bottles.	2 8
	All other sorts of wines not containing more than 42 per cent. of proof spirit.	,,	1 0
	Provided that all sparkling and [illegible] containing more than 42 per cent. of proof spirit shall be liable to duty at the rate applicable to spirit, other sorts.		

No.	Names of Articles.	Per	Rate of duty.
2	OPIUM, not covered by a Government pass ...	Ser of 80 tolas	Rs. A. 24 0
3	SALT	Indian maund of 82⅔ lb. avoirdupois weight.	The rate at which excise duty is for the time being leviable on salt manufactured in the place where the import takes place.
4	SALTED FISH, wet or dry	,,	Such rate or rates of duty not exceeding twelve annas, as the Governor-General in Council may, by notification in the *Gazette of India*, from time to time prescribe.

SCHEDULE IV.—(IMPORT TARIFF.)

GENERAL DUTIES.

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	Animals, living.		Rs. A.	
1	HORSES, CATTLE, SHEEP, and all other living animals of all kinds.	.....	...	Free.
	Articles of Food and Drink.			
2	COFFEE	cwt.	70 0	Five per cent
3	FRUITS AND VEGETABLES, except fresh fruits and vegetables not separately enumerated, which are free—			
	Almonds without shell	,,	48 0	,,
	,, in the shell	,,	15 8	,,
	Cashew or cajoo kernels	,,	12 0	,,
	Cocoanuts	thousand	35 0	,,
	,, kernel (khopra)	cwt.	11 0	,,
	Currants, European, in cases	,,	10 0	,,
	,, ,, in cans	,,	22 0	,,
	,, Persian	,,	14 0	,,
	Dates, dry, in bags	,,	5 8	,,
	,, wet ,, ...	,,	4 0	,,
	,, ,, in pots and boxes	,,	8 8	,,
	Figs, Persian, dried	,,	8 0	,,
	Garlic	,,	5 0	,,
	Hops	.....	...	Free.
	Pistachio nuts	cwt.	32 0	Five per cent.
	Prunes, Bussora (álu-Bokhara)	,,	20 0	,,
	Raisins, black	,,	10 0	,,
	,, kishmish, Persian Gulf and Red Sea ...	,,	15 0	,,
	,, Munakka ,, ,, ,, ...	,,	9 0	,,
	,, other sorts	.....	*ad valorem*	,,
	Walnuts	cwt.	10 0	,,
	All other sorts of fruits and vegetables	.....	*ad valorem*	,,
4	GRAIN AND PULSE, including broken grain and pulse, but not including flour.	.....	...	Free.
5	MINERAL AND ÆRATED WATERS, and all unfermented and non-alcoholic beverages.	.....	*ad valorem*	Five per cent.
6	PROVISIONS, OILMAN'S STORES AND GROCERIES—			
	Bacon in canvas and cans, jowls and cheeks	lb.	0 14	,,
	Beef and Pork	tierce of 8 cwt.	100 0	,,
		barrel of 2 cwt.	75 0	
	Biche de mer	cwt.	50 0	,,
	Butter	lb.	1 0	,,
	Cheese	,,	0 14	,,
	China preserves	box of six jars	5 8	,,
	,, fruit preserves, dry candied	lb.	0 5	,,
	Cocum	cwt.	5 0	,,
	Fish-maws	,,	100 0	,,
	Flour	barrel or sack of 200 lb.	20 0	,,
	Ghi	cwt.	40 0	,,
	Groceries not otherwise described	.....	*ad valorem*	,,
	Pork hams	lb.	0 14	,,
	Sago	cwt.	8 8	,,
	Shark-fins	,,	40 0	,,
	Singally and sozille	,,	25 0	,,
	Tapioca	,,	9 8	,,
	Vinegar, European, in wood	Imperial gallon	1 0	,,
	,, Persian	,,	1 8	,,
	,, country	,,	0 6	,,
	All other sorts of provisions, oilman's stores, and groceries.	.....	*ad valorem*	,,

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	Articles of Food and Drink—cont.		RS. A.	
7	SPICES—			
	Betelnuts—Goa	cwt.	17 0	Five per cent.
	,, —in the husk	thousand	2 0	,,
	,, —all other sorts	.....	*ad valorem*	,,
	Cardamoms, Ceylon	cwt.	150 0	,,
	Chillies, dry	,,	11 0	,,
	Cloves	,,	20 0	,,
	,, stems and heads	,,	4 0	,,
	,, in seeds, narlavang	,,	8 8	,,
	Ginger, dry	,,	16 0	,,
	Mace	lb.	1 8	,,
	Nutmegs	,,	1 0	,,
	,, in shell	,,	0 8	,,
	Pepper, black	cwt.	16 0	,,
	,, long	,,	7 0	,,
	,, white	,,	30 0	,,
	All other sorts of spices	.....	*ad valorem*	,,
8	SUGAR, China, candy	cwt.	20 0	,,
	,, loaf	,,	21 0	,,
	,, crystallised, beet	,,	13 0	,,
	,, ,, and soft, from China	,,	13 0	,,
	,, ,, ,, ,, ,, Mauritius ...	,,	11 0	,,
	,, soft or raw, other than from Mauritius or China.	,,	10 0	,,
	,, all other sorts, including saccharine produce of all kinds and confectionery.	.....	*ad valorem*	,,
9	TEA, black	lb.	0 8	,,
	,, green	,,	0 12	,,
	Chemicals, Drugs, Medicines and Narcotics, and Dyeing and Tanning Materials.			
10	CHEMICAL PRODUCTS AND PREPARATIONS—			
	Acid, sulphuric	,,	0 2	,,
	Alkali, country (sajji-khár)	cwt.	1 8	,,
	Alum	,,	5 0	,,
	Arsenic	,,	21 8	,,
	,, China mansil	,,	17 0	,,
	Bicarbonate of soda	,,	7 0	,,
	Copperas, green	,,	3 0	,,
	Explosives, namely, blasting gelatine, dynamite, roburite, tonite, and all other descriptions, and including detonators and blasting fuse.	.....	*ad valorem*	,,
	Sal ammoniac	cwt.	37 0	,,
	Sulphate of copper	,,	15 8	,,
	Sulphur (brimstone), flour	,,	6 0	,,
	,, (,,) roll	,,	5 12	,,
	,, (,,) rough	,,	4 8	,,
	All other sorts of chemical products and preparations, including saltpetre and borax.	.....	*ad valorem*	,,
11	DRUGS, MEDICINES, AND NARCOTICS—			
	Aloes, black	cwt.	14 0	,,
	,, Socotra	,,	30 0	,,
	Aloe-wood	lb.	6 0	,,
	Asafœtida (hing)	cwt.	65 0	,,
	,, coarse (hingra)	,,	21 0	,,
	Atáry, Persian	,,	15 0	,,
	Bánslochan (bamboo camphor)	lb.	0 4	,,
	Brimstone (amalsára)	cwt.	50 0	,,
	Calumba or Colombo root	,,	7 0	,,
	Camphor, Bhimsaini (barás)	lb.	70 0	,,
	,, refined, cake	,,	1 4	,,
	,, crude, in powder	,,	0 12	,,
	Cassia lignea	cwt.	22 0	,,
	China root (chobchini), rough	,,	8 0	,,
	,, (,,), scraped	,,	17 8	,,
	Cubebs	,,	25 8	,,
	Galangal, China	,,	7 0	,,
	Pellitory (akalkára)	,,	40 0	,,
	Peppermint crystals, from China and Japan	lb.	11 8	,,
	Quinine and other alkaloids of chinchona	.....	.....	Free.
	Salep	cwt.	80 0	Five per cent.
	Senna leaves	,,	4 0	,,
	Storax, liquid (rose malloes)	,,	54 0	,,
	Tobacco, unmanufactured	.....	.....	Free.
	,, manufactured	.....	*ad valorem*	Five per cent.
	All other sorts of drugs, medicines, and narcotics, except opium (for which see Schedule III).	.....	,,	,,
12	DYEING AND TANNING MATERIALS—			
	Alizarine dye, dry, 40 per cent.	lb.	1 7	,,
	,, ,, ,, 50 ,, ...	,,	1 10	,,
	,, ,, ,, 60 ,, ...	,,	1 15	,,
	,, ,, ,, 70 ,, ...	,,	2 2	,,
	,, ,, ,, 80 ,, ...	,,	2 8	,,
	,, ,, ,, 100 ,, ...	,,	2 12	,,

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	Chemicals, Drugs, Medicines and Narcotics, and Dyeing and Tanning Materials—cont.		RS. A.	
12	DYEING AND TANNING MATERIALS—*cont.*			
	Alizarine dye, liquid, 10 per cent.	lb.	0 5	Five per cent.
	,, ,, ,, 16 ,, ...	,,	0 8	,,
	,, ,, ,, 20 ,, ...	,,	0 10	,,
	Aniline ,, ,, indigo blue	,,	0 9	,,
	,, ,, dry	,,	1 8	,,
	Avar bark	cwt.	4 8	,,
	Buzgand (gulpista)	,,	27 0	,,
	Cochineal	lb.	1 2	,,
	Gallnuts (myrabolams)	cwt.	4 0	,,
	,, Persian	,,	35 0	,,
	Madder or manjit	,,	7 0	,,
	Orchilla weed	,,	5 0	,,
	Sappan wood and root	,,	5 8	,,
	All other sorts of dyeing and tanning materials ...	.....	*ad valorem*	,,
	Metals and Manufactures of Metals.			
13	HARDWARE AND CUTLERY, including ironmongery and plated-ware, and also including machines, tools, and implements to be worked by manual or animal labour, except water-lifts, sugar-mills, oil-presses, and parts thereof, and any other machines and parts of machines ordinarily used in processes of husbandry, or for the preparation for use or for sale of the products of husbandry which the Governor-General in Council may, by notification in the *Gazette of India*, exempt, all of which are free.	.....	*ad valorem*	,,
14	MACHINERY, namely, prime-movers, and component parts thereof, including boilers and component parts thereof; also including locomotive and portable engines, steam-rollers, fire-engines and other machines in which the prime-mover is not separable from the operative parts. ,, (and component parts thereof), meaning machines or sets of machines to be worked by electric, steam, water, fire, or other power not being manual or animal labour, or which before being brought into use require to be fixed with reference to other moving parts; and which are intended for— (*a*) the preparing, ginning, pressing, spinning, weaving, sewing, knitting, bleaching, and dyeing of cotton, jute, hemp, silk, wool, or other fibres and any other process intervening between the raw material and the finished product as packed ready for the market; (*b*) the smelting and milling of iron and other metallic ores and the manufacture of iron, steel, and other metals; (*c*) the manufacture of leather, sugar, indigo, silk, paper, soap, gas, oil, flour, cordage, rope, and twine; (*d*) the milling of rice; (*e*) the manufacture of tea in all its stages, from the drying of the leaf to its packing for the market inclusive; (*f*) the pulping of coffee; (*g*) printing presses; (*h*) foundries and workshops of iron and other metals; (*i*) railway workshops; (*j*) the refining of petroleum, and the manufacture of vegetable oils; (*k*) the crushing of bones and bricks; (*l*) the manufacture of lac; (*m*) potteries; (*n*) sawmills; (*o*) agriculture, mining, navigation, dredging and pumping; (*p*) such other manufactures and industries as the Governor-General in Council may from time to time specify; Provided that the term does not include tools and implements to be worked by manual or animal labour, and provided also that only such articles shall be admitted as component parts of machinery as are indispensable for the working of the machinery and are, owing to their shape or to other special quality, not adapted for any other purpose. *Note.*—Machinery and component parts thereof made of substances other than metal are included in this entry.	.....	.....	Free.
	MACHINERY and component parts thereof not included in the foregoing exemptions.	.....	*ad valorem*	Five per cent.

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	Metals and Manufactures of Metals—cont.			
15	METALS, unwrought and wrought, and articles made of metals—		RS. A.	
	Brass, beads, ghungri, China	thousand	0 12	Five per cent.
	„ foil or dánkpana, white, 10½ in. × 4½ in. ...	hundred leaves	1 4	„
	„ „ coloured, 10½ in. × 4½ in.	„	1 12	„
	„ old	cwt.	26 0	„
	„ sheets, flat or in rolls, very thin	„	100 0	„
	„ wire	lb.	0 7	„
	„ all others sorts	.....	*ad valorem*	„
	Copper, Australian	cwt.	40 0	„
	„ bolt	„	50 0	„
	„ brazier's and sheets	„	45 0	„
	„ China cash	„	30 0	„
	„ Japan	„	39 0	„
	„ nails and composition nails	„	50 0	„
	„ old	„	33 0	„
	„ pigs and slabs	„	38 0	„
	„ sheathing, plate, and raised bottoms ...	„	48 0	„
	„ tiles, ingots, cakes, and bricks	„	40 0	„
	„ China, white copper-ware	lb.	1 2	„
	„ foil or dánkpana, white, 10½ in. × 4½ in. ...	hundred leaves	2 6	„
	„ foil or dánkpana, coloured, 10½ in. × 4½ in.	„	3 3	„
	„ wire, including wire of phosphor-bronze ...	lb.	0 9	„
	„ all other sorts, unmanufactured and manufactured, except current coin of the Gover nment of India, which is free.	.....	*ad valorem*	„
	Gold bullion and coin	.....	..	Free.
	Gold leaf, European	hundred leaves	3 4	Five per cent.
	Iron, anchors and cables	.....	*ad valorem*	One per cent.
	„ angle, T, and channel	ton	110 0	„
	„ angle and T (if galvanised)	„	160 0	„
	„ „ „ (if tinned)	.....	*ad valorem*	„
	„ bar, plate, and sheet, Lowmoor	ton	310 0	„
	„ bar, of any kind not specified in this number.	.....	*ad valorem*	„
	„ beams, joists, pillars, girders, bridge-work, and other descriptions of iron imported exclusively for building purposes.	.....	„	„
	„ flat, square, and bolt, including Scotch ...	ton	94 0	„
	„ flat, square, and bolt, including Scotch (if galvanised).	„	150 0	„
	„ flat, square, and bolt, including Scotch (if tinned).	.....	*ad valorem*	„
	„ hoop, plate, and sheet, other than Swedish ...	ton	122 0	„
	„ nails, rose, wire, and flat-headed	cwt.	10 0	„
	„ nails, clasp	„	17 0	„
	„ nails, other sorts, including galvanised ...	... ..	*ad valorem*	„
	„ nail-rod	ton	104 0	„
	„ nuts and bolts	.....	*ad valorem*	„
	„ old	cwt.	2 8	„
	„ pig	ton	60 0	„
	„ pipes and tubes, including fittings therefor, such as bends, boots, elbows, tees, sockets, flanges, and the like.	... ..	*ad valorem*	„
	„ plate (if galvanised)	ton	200 0	„
	„ plates, tinned	... ..	*ad valorem*	„
	„ rails, chairs, and fish-plates other than those described in No. 93, also spikes (commonly known as dogspikes).	.....	„	„
	„ rice bowls	set of ten	6 0	„
	„ „ „	set of six	3 0	„
	„ „ „ not in sets	.....	*ad valorem*	„
	„ rivets and washers	cwt.	10 0	„
	„ „ „ „ (if galvanised)	„	18 0	„
	„ „ „ „ (if tinned)	.....	*ad valorem*	„
	„ rod, round, other than Swedish, under half an inch in diameter.	ton	105 0	„
	„ sheets and ridging, galvanised	cwt.	10 0	„
	„ „ „ tinned	.....	*ad valorem*	„
	„ Swedish, flat, square, and bolt	ton	142 0	„
	„ „ nail-rod	„	142 0	„
	„ „ round rod, under half an inch in diameter.	„	160 0	„
	„ wire, including fencing-wire and wire-rope, but excluding wire-netting.	.....	*ad valorem*	„
	„ all other sorts, including wire-netting ...	.....	„	Five per cent.
	Lametta	.....	„	„
	Lead, ore, galena	cwt.	12 0	„
	„ pig	„	10 0	„

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	Metals and Manufactures of Metals—cont.			
15	METALS, unwrought and wrought, and articles made of metals—*cont.*		RS. A.	
	Lead, pipes	.....	*ad valorem*	Five per cent.
	„ sheets	cwt.	12 0	„
	„ „ for tea-chests	.....	...	Free.
	Orsidue and brass leaves, European	lb.	1 0	Five per cent.
	„ „ „ China	„	0 12	„
	Patent or yellow metal, sheathing sheets, and bolts.	cwt.	40 0	„
	Patent or yellow metal, sheathing sheets, and bolts, old.	„	27 0	„
	Quicksilver	lb.	1 8	„
	Shot, bird	cwt.	16 0	„
	Silver bullion or coin, except current coin of the Government of India, which is free.	.....	*ad valorem*	„
	Steel, angle, channel and spring	.....	„	One per cent.
	„ bar and blooms	.....	„	„
	„ basic, all sorts (other than galvanised or tinned basic steel sheets).	ton	100 0	„
	„ basic, sheets (if galvanised)	„	210 0	„
	„ „ „ (if tinned)	.....	*ad valorem*	„
	„ beams, joists, pillars, girders, bridgeworks, and other descriptions of steel imported exclusively for building purposes.	.....	„	„
	„ cast and blistered of any kind not specified in this No.	.....	„	„
	„ hoops	ton	145 0	„
	„ nails	.....	*ad valorem*	„
	„ nuts and bolts and nail-rods	.....	„	„
	„ old	ton	60 0	„
	„ pipes and tubes	.....	*ad valorem*	„
	„ plates and sheets	ton	130 0	„
	„ „ „ other than basic(if galvanised).	„	220 0	„
	„ „ „ „ (if tinned) ...	.....	*ad valorem*	„
	„ rails, chairs, and fish-plates other than those described in No. 93, also spikes (commonly known as dogspikes).	.....	„	„
	„ rivets and washers	ton	220 0	„
	„ „ (if galvanised)	„	320 0	„
	„ „ (if tinned)	.....	*ad valorem*	„
	„ T-bars	ton	105 0	„
	„ „ (if galvanised)	„	180 0	„
	„ „ (if tinned)	„	*ad valorem*	„
	„ wire, excluding wire-netting	.....	„	„
	„ wire-rope	.....	„	„
	„ all other sorts, including wire-netting ...	.....	„	Five per cent.
	Tin, block	cwt.	72 0	„
	„ foil, China	lb.	0 12	„
	„ other sorts	.....	*ad valorem*	„
	Zinc or spelter, nails	cwt.	20 0	„
	„ „ plates and other shapes, soft ...	„	18 0	„
	„ „ „ „ hard ...	„	13 0	„
	„ „ sheet or sheathing	„	19 0	„
	„ „ all other sorts	.....	*ad valorem*	„
	All other sorts of metals	.....	„	„
	Oils.			
16	OILS—			
	Cajeputi	quart	1 4	„
	Cassia	lb.	2 8	„
	Cocoanut	cwt.	16 0	„
	Earthnut	„	16 0	„
	Grass	lb.	1 12	„
	Jinjili or til	cwt.	16 0	„
	Linseed, European	Imperial gallon	2 0	„
	Otto of sorts	ounce	15 0	„
	Petroleum, including also naphtha and the liquids commonly known by the names of rock-oil, Rangoon oil, Burma oil, kerosine, paraffin oil, mineral oil, petroline, gasoline, benzol, benzoline, benzine, and any inflammable liquid which is made from petroleum, coal, schist, shale, peat, or any other bituminous substance, or from any products of petroleum.	Imperial gallon	.....	One anna.
	„ which has its flashing point at or above two hundred degrees of Fahrenheit's thermometer and is proved to the satisfaction of the Customs-Collector to be intended for use exclusively for the batching of jute or other fibre or for lubricating purposes.	.....	*ad valorem*	Five per cent.

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	Oils.—cont.		RS. A.	
16	OILS—*cont.*			
	Sandalwood	lb.	7 0	Five per cent.
	Whale (except spermaceti) and fish	cwt.	15 0	,,
	Wood	,,	25 0	,,
	All other sorts of oil, including paraffin wax ...	.....	*ad valorem*	,,
	Other articles, unmanufactured and manufactured.			
17	AMBER, AND ARTICLES MADE OF AMBER, including imitation amber.	... ...	,,	,,
18	APPAREL, including drapery, haberdashery, and millinery, and military and other uniforms and accoutrements; but excluding cotton-hosiery (for which see No. 44) and boots and shoes (for which see No. 70), and excluding also uniforms and accoutrements appertaining thereto, imported by a public servant for his personal use, which are free.	.....	,,	,,
19	ART, WORKS OF, except statuary and pictures intended to be put up in a public place, which are free.	.....	,,	,,
20	ASBESTOS, AND ARTICLES MADE OF ASBESTOS not otherwise described.	.....	,,	,,
21	BAGS, CASKS, BOXES, and other packages, empty, of all kinds.	.....	,,	,,
22	BAMBOOS, common, grass, hay, rushes, straw, and leaves.	.....	...	Free.
23	BEADS, of all materials except glass, for which see No. 58, and brass, for which see No. 15—			
	Beads, China, Ankdána	133⅓ lb.	35 0	Five per cent.
	,, ,, Dagri	,,	30 0	,,
	,, ,, Gadgadia	,,	24 0	,,
	,, ,, Kamrakhi	,,	32 0	,,
	,, ,, Lálri	,,	44 0	,,
	,, ,, Naksi	,,	38 0	,,
	,, ,, Pakhaváji	,,	30 0	,,
	,, ,, Sulemáni	,,	34 0	,,
	All other sorts	,,	*ad valorem*	,,
24	BELTING of cotton, leather, or other material, for driving machinery.	.....	.....	Free.
25	BONE, INCLUDING WHALEBONE, articles made of ...	.....	*ad valorem*	Five per cent.
26	BOOKS, printed, including covers for printed books, maps, charts, and plans, proofs, music, and manuscripts.	.....	.....	Free.
27	BRISTLES AND FIBRE for brushes and brooms	.....	.....	,,
28	BRUSHES AND BROOMS, all sorts	.....	*ad valorem*	Five per cent.
29	BUILDING AND ENGINEERING MATERIALS, namely, asphalt, bricks and tiles, cement of all kinds, fire-clay, earthenware piping, lime, and other kinds not otherwise described.	.....	,,	,,
30	CABINET-WARE AND FURNITURE	.....	,,	,,
31	CANDLES, paraffin	lb.	0 6	,,
	,, spermaceti	,,	0 7	,,
	,, wax	,,	1 0	,,
	,, all other sorts	.....	*ad valorem*	,,
32	CANES AND RATTANS, ARTICLES MADE OF CANE OR RATTAN, AND BASKET WORK—			
	Canes, Malacca	dozen	5 0	,,
	Rattans	cwt.	10 0	,,
	All other sorts	.....	*ad valorem*	,,
33	CARRIAGES AND CARTS, including bicycles, tricycles jinrikshas, Bath Chairs, perambulators, trucks, wheelbarrows, and all other sorts of conveyances, and component parts thereof.	.....	,,	,,
34	CASES (EMPTY) for spectacles, opera-glasses, jewellery, and other articles.	.....	,,	,,
35	CELLULOID, ARTICLES MADE OF, not otherwise described.	.....	,,	,,
36	CHALK, common	.....	,,	,,
	,, French, knife and plate powder, Bath bricks, emery powder, and whiting.	.....	,,	,,
37	CHINESE AND JAPANESE-WARE, including lacquered-ware, but excluding earthenware, china, and porcelain (for which see No. 47).	.....	,,	,,
38	CLOCKS, WATCHES, and other timekeepers, and parts thereof.	.....	,,	,,
39	COAL, COKE, AND PATENT FUEL	.....	.....	Free.
40	COIR AND ARTICLES MADE OF COIR, EXCEPT CABLES AND ROPE (for which see No. 42)—			
	Yarn of all kinds	cwt.	9 0	Five per cent.
	All other sorts	.....	*ad valorem*	,,
41	CORAL, real	.....	,,	,,

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	Other Articles, unmanufactured and manufactured—cont.		RS. A.	
42	CORDAGE, ROPE, and twine made of any vegetable fibre—			
	Coir, cables, tarred	cwt.	17 0	Five per cent.
	,, rope	,,	10 0	,,
	Cordage, hemp, European	,,	25 0	,,
	,, ,, Manila	,,	28 0	,,
	Twine, sail, European	lb.	0 9	,,
	All other sorts of cordage, rope, and twine ...	.....	*ad valorem*	,,
43	CORK, AND ARTICLES MADE OF CORK—			
	Bottle-corks	gross	1 8	,,
	Vial corks	,,	0 8	,,
	All other sorts	.....	*ad valorem*	,,
44	COTTON, AND ARTICLES MADE OF COTTON—			
	,, raw	.....	.....	Free.
	,, twist and yarn	.....	.....	,,
	,, Sewing thread	.....	.....	,,
	,, Piece-goods, hosiery, and all other manufactured cotton goods not otherwise described—			
	Grey (unbleached)—			*Annas.*
	Chadars, Dhutis, Drills and Jeans, T-cloths, Domestics, and Sheetings. (not containing any yarn of counts above No. 30.)	lb.	.....	0·2625
	Shirtings and Longcloths ... (not containing any yarn of counts above No. 30.)	,,	.....	0·28
	Madapollams and Printers. (not containing any yarn of counts above No. 30.)	,,	.....	0·315
	Jacconets and Flannelettes. (not containing any yarn of counts above No. 30.)	,,	.....	0·3675
	All other sorts of grey (unbleached) goods.	.....	*ad valorem*	Three and one-half per cent.
	White (bleached) all sorts	.....	,,	,,
	Coloured or dyed, and printed, all sorts.	.....	,,	,,
45	DISINFECTING AND DEODORISING FLUID AND POWDER.	.....	,,	Five per cent.
46	EARTH, COMMON CLAY, AND SAND	.....	.....	Free.
47	EARTHENWARE (except earthenware piping, for which see No. 29), china, china clay, porcelain, and imitation or false coral.	.....	*ad valorem*	Five per cent.
48	EGGS, ostrich and other, not mounted	.....	,,	,,
49	EMERY PAPER AND CLOTH, AND SAND-PAPER	.....	,,	,,
50	FANS OF ALL KINDS, except common palm-leaf fans, which are free.	.....	,,	,,
51	FEATHERS, including bird-skins	.....	,,	,,
52	FIREWORKS, all sorts, including fulminating-powder ...	.....	,,	,,
53	FLAX, AND ARTICLES MADE OF FLAX, including linen-thread.	.....	,,	,,
54	FLOWERS, ARTIFICIAL, not otherwise described	.....	,,	,,
55	FURNITURE, TACKLE, AND APPAREL, not otherwise described, for steam, sailing, rowing and other vessels.	.....	,,	,,
56	FUR, AND ARTICLES MADE OF FUR, not otherwise described.	.....	,,	,,
57	GELATIN	.....	,,	,,
58	GLASS, GLASS-WARE, AND FALSE PEARLS—			
	Glass, China, all colours	133⅓ lb.	32 0	,,
	,, crown, coloured	100 superficial feet	15 0	,,
	,, ,, of sizes	,,	6 0	,,
	Pearls, false, bájria	lákh	3 0	,,
	,, ,, boria	thousand	0 10	,,
	,, ,, jauria	lákh	6 0	,,
	,, ,, lolakh	thousand	0 8	,,
	,, ,, nathia	,,	0 3	,,
	,, ,, táchia	,,	0 8	,,
	,, ,, wattanah	lákh	10 0	,,
	All other sorts of glass and manufactures of glass, including false pearls and glass beads.	.....	*ad valorem*	,,
59	GUMS, GUM-RESINS, and articles made of gum or gum resin—			
	Copal	cwt.	70 0	,,
	Cutch and gambier	,,	20 0	,,
	Gamboge	lb.	1 4	,,
	Gum Ammoniac	cwt.	15 0	,,
	,, Arabic	,,	18 0	,,
	,, Bdellium (common gum)	,,	8 0	,,
	,, Benjamin	,,	40 0	,,
	,, Bysabol (coarse myrrh)	,,	16 0	,,
	,, Olibanum or frankincense	,,	11 0	,,
	,, Persian (false)	,,	11 0	,,
	,, Kino	,,	10 0	,,
	Myrrh	,,	33 0	,,
	Rosin	,,	6 0	,,
	All other sorts of gums, gum-resins, and articles made of gum or gum-resin, including caoutchouc gutta-percha.	.....	*ad valorem*	,,

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	Other Articles, unmanufactured and manufactured—cont.			
60	HAIR of all kinds, and articles made of hair	.....	RS. A. *ad valorem*	Five per cent.
61	HEMP, including Manila hemp, and articles made therefrom (except cordage, rope, and twine, for which see No. 42).	.....	,,	,,
62	HIDES AND SKINS (except raw or salted hides and skins, which are free)—			
	Hides, border	each	33 0	,,
	,, buffalo	score	70 0	,,
	,, cow	,,	60 0	,,
	Skins, including parchment and vellum, gold-beaters' skins, and all other descriptions.	.....	*ad valorem*	,,
63	HORN	.....	...	Free.
	,, articles made of, not otherwise described ...	.....	*ad valorem*	Five per cent.
64	INSTRUMENTS, APPARATUS, AND APPLIANCES, and parts thereof—			
	Computing, Dental, Distilling, Diving, Drawing, Educational, Electric, Electric lighting, Galvanic, Measuring, Musical, Optical, Philosophical, Phonographic, Photographic (including materials for photography), Scientific, Surgical, Surveying, Telegraphic, Telephonic, Type-writers, and all other sorts, except Telegraphic instruments and apparatus when imported by or under the orders of a railway company, which are free.	.....	,,	,,
65	IVORY AND IVORY-WARE—			
	Unmanufactured—			
	Elephants' grinders	cwt.	350 0	,,
	Elephants' tusks (other than hollows, centres and points) each exceeding 20 lb. in weight, and hollows, centres and points each weighing 10 lb. and over.	,,	800 0	,,
	Elephants' tusks (other than hollows, centres and points) not less than 10 lb. and not exceeding 20 lb. each, and hollows, centres and points each weighing less than 10 lb.	,,	680 0	,,
	Elephants' tusks, each less than 10 lb. (other than hollows, centres and points).	,,	525 0	,,
	Sea-cow or moye teeth, each not less than 4 lb. ...	,,	200 0	,,
	Sea-cow or moye teeth, each not less than 3 lb. and under 4 lb.	,,	185 0	,,
	Sea-cow or moye teeth, each less than 3 lb. ...	,,	135 0	,,
	All other sorts, manufactured and unmanufactured.	.....	*ad valorem*	,,
66	JET, ARTICLES MADE OF	.....	,,	,,
67	JEWELLERY AND JEWELS, including plate and other manufactures of gold and silver—			
	Silverware, plain ... } other than European ... {	tola	1 0	,,
	,, embossed or chased. } other than European ... {	,,	1 4	,,
	All other sorts, except precious stones and pearls, unset, which are free.	.....	*ad valorem*	,,
68	JUTE, raw	.....	...	Free.
	,, articles made of, except second hand or used gunny bags, which are free.	.....	*ad valorem*	Five per cent.
69	LAC, all sorts, and articles made of lac	... ..	,,	,,
70	LEATHER, and articles made of leather, including boots and shoes, harness and saddlery.	.....	,,	,,
71	MANURES of all kinds, including animal bones	.....	...	Free.
72	MARINE AND NAVAL STORES, not otherwise described ...	.....	*ad valorem*	Five per cent.
73	MATCHES, all sorts	.....	,,	,,
74	MATS AND MATTING—			
	Floor-matting, China and Singapore, of all sorts ...	hundred	60 0	,,
	All other sorts, except coir-matting (for which see No. 40).	.....	*ad valorem*	,,
75	MICA AND TALC, and articles made therefrom	.....	,,	,,
76	MINERALS NOT OTHERWISE DESCRIBED	.....	,,	,,
77	MODELS OF ALL DESCRIPTIONS	.....	,,	,,
78	MOULDERS' BLACKING AND SAND	.....	,,	,,
79	OILCAKE, also bran, fodder, and cattle-food of all kinds.	.....	...	Free.
80	OIL-CLOTH AND FLOOR-CLOTH, including linerusta, linoleum, and tarpaulins.	.....	*ad valorem*	Five per cent.
81	PAINTS, COLOURS, PAINTERS' MATERIALS, and Compositions for application to leather, wood, and metals—			
	Ochre, other than European, all colours	cwt.	1 8	,,
	Paints, composition	,,	65 0	,,
	,, patent driers	,,	10 0	,,
	Prusian blue, China	lb.	0 8	,,
	,, ,, European	,,	1 0	,,
	Red lead	cwt.	14 0	,,
	Turpentine	Imperial gallon	2 0	,,
	Verdigris	cwt.	70 0	,,
	Vermilion, Canton	box of 90 bundles	95 0	,,
	White lead	cwt.	16 0	,,
	,, zinc	,,	25 0	,,
	All other sorts, including glue and putty	.....	*ad valorem*	,,

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	Other Articles, unmanufactured and manufactured—cont.			
82	PAPER, PASTEBOARD, MILLBOARD, AND CARDBOARD of all kinds, including ruled or printed forms and account and manuscript books, labels, advertising circulars, sheet or card almanacs and calendars, Christmas, Easter, and other cards, including cards in booklet form, including also waste paper and old newspapers for packing.	.....	RS. A. *ad valorem*	Five per cent.
	,, articles made of paper and papier-mâché ...	.....	,,	,,
83	PERFUMERY—			
	Gowla, husked and unhusked	cwt.	35 0	,,
	Kapurkachri (zedoary, China)	,,	9 8	,,
	Patch leaves (patchouli)	,,	9 8	,,
	Rose-flowers, dried	,,	16 0	,,
	Rose-water	Per carboy	5 0	,,
		Per 100 flasks	32 0	,,
	All other sorts, except perfumed spirit (for which see Schedule III).	.....	*ad valorem*	,,
84	PIPES and other implements used in the consumption of tobacco and other narcotics.	.....	,,	,,
85	PITCH, TAR AND DAMMER—			
	Bitumen	.....	,,	,,
	Dammer	cwt.	5 8	,,
	Pitch, American and European	,,	7 0	,,
	,, coal	,,	2 8	,,
	Tar, American and European	,,	6 0	,,
	,, coal	,,	3 0	,,
	,, mineral	.....	*ad valorem*	,,
86	PLANTS AND BULBS, living, also dried for herbaria ...	.....	...	Free.
87	PLASTER OF PARIS, and articles made of plaster of Paris, not otherwise described.	.....	*ad valorem*	Five per cent.
88	PLUMBAGO, and articles made of plumbago	.....	,,	,,
89	PRECIOUS STONES AND PEARLS, unset	.....	...	Free.
90	PULP of wood, straw, rags, paper, and other materials.	.....	...	,,
91	PRINTING AND LITHOGRAPHING MATERIAL, namely, presses, type, ink, brass rules, composing sticks, chases, imposing tables, and lithographic stones, but not including paper.	.....	...	,,
92	RAGS	.....	...	,,
93	RAILWAY MATERIAL for permanent-way and rolling-stock, namely, cylinders, girders and other material for bridges, rails, sleepers, bearing and fish-plates, fish-bolts, chairs, spikes, crossings, sleeper-fastenings, switches, interlocking apparatus, brake gear, couplings and springs, signals, turn-tables, weigh-bridges, engines, tenders, carriages, waggons, traversers, trollies, trucks, and component parts thereof; also cranes and water-cranes and standards, wire, and other material for fencing, when imported by or under the orders of a railway company:	.....	...	,,
	Provided that for the purpose of this exemption "railway" means a line of railway subject to the provisions of the Indian Railways Act, 1890, and includes a railway constructed in a Native State under the suzerainty of Her Majesty, and also such tramways as the Governor-General in Council may, by notification in the *Gazette of India*, specifically include therein.			
94	SEEDS—			
	Castor	cwt.	5 0	Five per cent.
	Cummin	,,	24 0	,,
	,, black	,,	24 0	,,
	Linseed	,,	7 8	,,
	Methi	,,	4 8	,,
	Mustard, rape or sarson	,,	6 0	,,
	Poppy	,,	8 8	,,
	Quince, bihidána	,,	60 0	,,
	Sozirá	,,	24 0	,,
	Til or jinjili	,,	7 0	,,
	All other sorts	.....	*ad valorem*	,,
95	SHELLS AND COWRIES—			
	Chanks—large shells, for cameos	hundred	7 0	,,
	,, white, live	,,	8 0	,,
	,, ,, dead	,,	4 0	,,
	Cowras	,,	0 10	,,
	Cowries, bazar, common	cwt.	3 8	,,
	,, Maldive	,,	8 0	,,
	,, sankhla	,,	70 0	,,
	,, yellow, superior quality	,,	4 0	,,
	Mother-of-pearl, nacre	,,	45 0	,,
	Nakhla	,,	60 0	,,
	Tortoise-shell	lb.	10 0	,,
	,, nakh	,,	4 0	,,
	All other sorts, including articles made of shell, not otherwise described.	.....	*ad valorem*	,,
96	SHIPS AND OTHER VESSELS for inland and harbour navigation, including steamers, steam-launches, boats, and barges, imported entire or in sections.	.....	...	Free.

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	Other Articles, unmanufactured and manufactured—cont.		RS. A.	
97	SILK, AND ARTICLES MADE OF SILK—			
	Floss	lb.	7 8	Five per cent.
	Piece-goods	.....	*ad valorem*	"
	Raw silk—			
	Cháharam, Cochin-China, and yellow Shanghai	lb.	4 8	"
	Mathow	"	3 4	"
	Other kinds of China	"	6 8	"
	Waste and Kachra	"	1 4	"
	Panjam	"	2 0	"
	Persian	"	5 0	"
	Siam	"	3 0	"
	Produced from the tasar or other wild worm	"	4 0	"
	Sewing thread, China	"	9 0	"
	All other sorts, including cocoons	.....	*ad valorem*	"
98	SIZING for cotton, paper, or any other material	.....	"	"
99	SOAP	.....	"	"
100	SPECIMENS ILLUSTRATIVE OF NATURAL SCIENCE, including also antique coins and medals.	.....	...	Free.
101	SPONGE AND SPONGES.	.....	*ad valorem*	Five per cent.
102	STARCH	.....	"	"
103	STATIONERY, excluding paper (for which see No. 82).	.....	"	"
104	STONE AND MARBLE, and articles made of stone and marble.	.....	"	"
105	STRAW PLATTING, and articles made of straw, not otherwise described.	.....	"	"
106	TALLOW AND GREASE, including stearine	cwt.	20 0	"
107	TEA-CHESTS of metal or wood, whether imported entire or in sections, provided that the Customs-Collector is satisfied that they are imported for the purpose of the packing of tea for transport in bulk.	.....	...	Free.
108	TEXTILE FABRICS not otherwise described	.....	*ad valorem*	Five per cent.
109	TOILET REQUISITES not otherwise described	.....	"	"
110	TOYS, including toy-books, and requisites for all games.	.....	"	"
111	UMBRELLAS, parasols, and sunshades of all kinds.	.....	"	"
112	VULCANITE AND EBONITE, articles made of, not otherwise described.	.....	"	"
113	WALKING STICKS and sticks for umbrellas, parasols, and sunshades, of all kinds, mounted and unmounted, driving, riding, and other whips, fishing rods and lines.	.....	"	"
114	WAX, and articles made of wax, excluding candles (for which see No. 31).	.....	"	"
115	WOOD AND TIMBER (except firewood, which is free), and articles made of wood not otherwise described.	.....	"	"
116	WOOL, raw	.....	...	Free.
	" articles made of, including felt	.....	*ad valorem*	Five per cent.
117	ALL OTHER ARTICLES, manufactured or unmanufactured, not described in this Schedule.	.....	"	"

SCHEDULE V.—(EXPORT TARIFF.)

Name of Article.	Rate of duty.
RICE, husked or unhusked, including RICE-FLOUR, but not including RICE-BRAN and RICE-DUST, which are free.	Three annas per Indian maund of 82⅔ lb. avoirdupois weight.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to reduce the duties levied on imported Cotton Goods from five per cent. on their value to about three and a half per cent.

The opportunity is taken to re-enact the Tariff with amendments up to date.

J. WESTLAND.

The 22nd January 1896.

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

(Republished by order of the Right Honourable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

FORT ST. GEORGE GAZETTE SUPPLEMENT.

TUESDAY EVENING, FEBRUARY 11, 1896.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 22.

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 9th January 1896:

No. 3 OF 1896.

A Bill to amend the Code of Civil Procedure.

XIV of 1882. WHEREAS it is expedient to amend the Code of Civil Procedure; It is hereby enacted as follows:—

Title and commencement.

1. (*1*) This Act may be called the Civil Procedure Amendment Act, 1896; and

(*2*) It shall come into force on the first day of March 1896.

Amendment of section 195, Act XIV, 1882.

2. For the first paragraph of section 195 the following shall be substituted, namely:—

Evidence in certain suits.

"195. In any *ex parte* suit, in any non-contentious proceeding and upon an application in any suit or proceeding, evidence may be given by affidavit, but the Court may order the attendance for cross-examination of the declarant."

Amendment of section 235.

3. In section 235, after the words "or by the attachment of his property," the following shall be inserted:—

"or by the attachment and sale of his property."

Substitution of new section for section 289.

4. For section 289 the following shall be substituted:—

Mode of making proclamation.

"289. The proclamation shall be made in manner prescribed by section 274 and shall, whenever the decree-holder shall so apply, be made simultaneously with the attachment. A copy of such proclamation shall be served upon the judgment-debtor in the manner prescribed for the service of summons or upon his pleader if he shall have appointed any in the execution proceeding.

"The Local Government may make provision and rules for the advertisement of the property, if of the value of one hundred rupees and upwards, in a local Gazette for each district or group of districts. When such provision and rules shall have been made for any district or group of districts, the property shall be advertised in the local Gazette of such district or group, and costs of the advertisement shall be deemed to be costs of the sale. But, until such provision and rules shall have been made, the Court may direct that the property shall be advertised in the local official Gazette or in a local newspaper, the costs of such advertisement being costs of the sale."

Addition of new chapter after section 653.

5. After section 653 the following sections shall be added:—

"CHAPTER L.

"SUPPLEMENTAL PROVISIONS.

Applications for stay of proceedings in certain suits.

"654. In any suit for the institution of which a previous notice is necessary under any law in force, if the defendant shall raise a question regarding the service or legality of notice, the plaintiff may apply that the proceedings in the suit be stayed for such period as may give the defendant time not less than the time for which he is entitled to have notice.

Stay of proceedings.

"655. The Court shall, upon such application, stay proceedings in the suit for such period as may give the defendant time not less than the time for which he is entitled to have notice.

"Upon the expiration of such period, the defendant may elect either to make a fresh defence to the action or to confess judgment and place at the disposal of the Court for delivery to the plaintiff the property or money claimed.

Costs in such suits.

"656. If the defendant shall confess judgment and place at the disposal of the Court the property or money claimed, the Court shall not award any costs against him.

"If the defendant shall make a defence, the Court shall not allow any question regarding, or depending upon, the service or legality of notice to be raised in the suit, but shall decide the other points, if any, in issue between the parties. If the Court shall decide in favour of the plaintiff, it shall provide that its decree shall take effect from such date as may be just under the circumstances of the case."

STATEMENT OF OBJECTS AND REASONS.

The amendments which this Bill proposes to make in the Code of Civil Procedure are not only expedient, but some of them seem to be absolutely necessary.

I. The first amendment is of section 195, under which evidence by affidavit could be given upon applications. The amendment will enable the Court to receive evidence by affidavit in *ex parte* suits and non-contentious proceedings. In the High Court, evidence by affidavit is received in non-contentious proceedings for the grant of probate or letters of administration. There is no reason why evidence by affidavit may not be given in all *ex parte* suits and non-contentious proceedings, subject always to the discretion of the Court to require the attendance of the declarants for cross-examination.

II. The next two amendments may be considered together. At present there is no provision in the Procedure Code for the simultaneous issue of the process of attachment and proclamation as there is in section 163 of the Bengal Tenancy Act. The amendments will enable the decree-holder to apply for the attachment and sale of the debtor's property and for the simultaneous issue of the processes thereof and save the cost and delay of successive service.

The next provision is for the service of proclamation upon the judgment-debtor. The framers of the Procedure Code were probably of opinion that proclamation upon the property was a sufficient notice to him. But the service of such proclamation is often a matter of considerable doubt and controversy and, even when *bond fide* made, would not apprise the judgment-debtor of the intended sale, if he did not reside in the neighbourhood. The Civil Procedure Amendment Act, 1894, renders it almost indispensable that the judgment-debtor should have notice of sale in order that he might take steps for setting it aside within thirty days from its date by depositing the amount due under the decree and 5 per cent. compensation for the purchaser.

The second paragraph of the amended section 289 enables the Local Government to provide and make rules for the advertisement of property in a local Gazette which should be in the language of the district and advertise all land-sales by public auction whether by order of Civil Courts or Revenue-authorities. The ancient primitive method of proclamation by beat of drum is wholly inadequate, and requires to be supplemented by advertisement in a local Gazette always open and available to the land-buying public.

III. The rule of giving notice prior to the institution of suits seems to be wholly unsuited to this country, where its tendency is clearly mischievous and to seriously handicap justice. It raises an artificial preliminary issue between the parties and puts the real issues in the background. It is a lamentable sight to see suits thrown out under the rule. The supplemental provisions which it is proposed to add will take off its sting, and will, while giving the defendant every advantage which he has under the rule, save suits from dismissal without trial upon the merits. The Court will now say to him: "You say you are entitled to six months' notice and such notice has not been given. Well, we will stay the suit for you for six months. All this time the property will remain in your possession, and all this time you will have for considering and maturing your defence, if you think fit to make any. If you have no good defence, you can confess judgment and place the property in the hands of the Court for delivery to the plaintiff, and then there will be no costs against you. In fact, you will have everything that you may fairly claim, short of getting a dismissal of the suit without trial and a field day with witnesses over the question of notice."

M. M. ROY.

The 9th January 1896.

S. HARVEY JAMES,
Secretary to the Govt. of India,
Legislative Dept.

(Republished by order of the Right Honourable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 22.

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 9th January 1896:—

No. 4 OF 1896.

A Bill to amend the Indian Registration Act, 1877, and the Indian Evidence Act, 1872.

WHEREAS it is expedient to amend the Indian Registration Act, 1877, and the Indian Evidence Act, 1872; It is hereby enacted as follows:—

III of 1877. I of 1872.

Short title and commencement.

1. (*1*) This Act may be called the Indian Registration Act Amendment Act; and

(*2*) It shall come into force on the first day of January 1897.

Amendment of section 33, Act III, 1877.

2. In section 33 (*a*), for the words "and authenticated by the Registrar or Sub-Registrar within whose district or sub-district the principal resides," the following shall be substituted, namely:—

"authenticated by any Registrar or Sub-Registrar."

Insertion of new section after section 47 of said Act.

3. The following shall be inserted after section 47, namely:—

Effect of document first registered.

"47A. But, if more than one document be executed by the same executant in respect of the same property, the document first registered shall take effect against any document subsequently registered, though executed on a prior date."

I of 1872.

Amendment of section 90, Act I, 1872.

4. In section 90 of the Indian Evidence Act, after the words "where any document purporting or proved to be thirty years old," the following shall be inserted, namely:—

"or any document registered under the Indian Registration Act and more than twelve years old."

STATEMENT OF OBJECTS AND REASONS.

Section 33 (*a*) of the Indian Registration Act, 1877, as it now stands and as it is ordinarily construed, is productive of great inconvenience and hardship. It frequently happens that the principal has to execute a power-of-attorney for the registration of a document when he is away from his residence or home and is for a time in another sub-district on business or for other cause. There is no good reason why he may not execute it before the sub-registrar of such sub-district and get it authenticated by him. The law makes it incumbent upon the executant to execute his power-of-attorney before a registering officer. He will never authenticate without being satisfied of the executant's identity. This acts as a sufficient safeguard, and the further provision which it is proposed to omit is an unnecessary restriction.

2. Section 47A, which it is proposed to add, is a very important and necessary provision. The present law, section 47, leaves a wide door open for the commission of fraud. *A* executes a transfer of his property to *B*, and does not immediately register the deed. The law allows four months, which may be extended under certain circumstances to eight months, for its registration, and, if executed out of British India, the registration may be deferred for years at the option of the parties. There is nothing to prevent *A* from again transferring the property to *C* within the time allowed for registering the first deed. If *C* made any enquiry in the registry office, he would obtain no information of the execution of the prior deed, and would be easily taken in. Under the present law, if the transfer in favour of *B* be afterwards registered, it will take effect against the deed in favour of *C*. In such cases there is generally some kind of understanding between the vendor and the first transferee. But it is very difficult to prove collusion between them, and the result of litigation between the rival purchasers generally is that the vendor sells his property twice over, and the second purchaser is completely sold. This should not be. The section proposed to be added will, by giving priority to prior registration, prevent the commission of such fraud. There is a similar provision in the English Statute Law, 7 Anne, c. 20, and 38 & 39 Vict., c. 87, s. 28.

3. With regard to registered documents of a certian age, say, twelve years, when they are past the age of being questioned by suit, it is desirable that the Civil Court should have the power to use them as evidence without formal proof of execution. Prudent men of business generally rely and act upon registered documents without such formal proof. Why should not the Civil Court be at liberty to dispense with it, when it thinks fit to do so? If, however, a registered document be seriously impugned or be the subject of an issue in

the cause, the Court will doubtless go into evidence upon it. This is exactly what the amendment provides. The expression "may presume" is thus defined in the Indian Evidence Act :—

"Whenever it is provided by this Act that the Court 'may presume' a fact, it may either regard such fact as proved, unless or until it is disproved, or may call for proof of it."

This presumption applies at present to all documents more than thirty years old, although they may have never seen the light until produced in Court. It is proposed to extend this presumption to registered documents of a less age but having a greater guarantee of authenticity by reason of registration. The proposed amendment, while it will simplify the procedure of the Court and save the recording of a lot of formal evidence, seems to be necessary in the interests of justice for the protection of purchasers at auction-sales, who have to depend chiefly upon certified copies of deeds from the registry office and find it extremely difficult to obtain evidence of their execution.

M. M. ROY.

The 9th January 1896.

S. HARVEY JAMES,
Secretary to the Govt. of India,
Legislative Dept.

(Republished by order of the Right Honourable the Governor in Council.)

J. F. PRICE.
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 22.

The following Report of the Select Committee on the Bill to provide for the Imposition and Levy of certain Duties on Cotton Goods was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 3rd February 1896 :—

We, the undersigned, Members of the Select Committee to which the Bill to provide for the Imposition and Levy of certain Duties on Cotton Goods 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.

Telegram from Millowners Association, Bombay, dated 23rd January 1896; telegram to ditto, dated 24th January 1896; telegram from ditto, dated 25th January 1896 [Papers No. 1].
Telegrams from Chamber of Commerce, Bombay, dated 24th January 1896; telegram to ditto, dated 24th January 1896; telegram from ditto, dated 25th January 1896 [Papers No. 2].
Telegrams from Upper India Chamber of Commerce, Cawnpore, dated 25th January 1896 [Papers No. 3].
Telegram from Muir Mills Company, Limited, and Elgin Mills Company, dated 25th January 1896 [Paper No. 4].
From the Hon'ble P. Playfair, C.I.E., dated 27th January 1896, and enclosures [Papers No. 5].
Telegram from the President, Bombay Presidency Association, dated 27th January 1896 [Paper No. 6].
From Upper India Chamber of Commerce, Cawnpore, dated 25th January 1896 [Paper No. 7].
Telegram from Chairman of Public Meeting of Citizens, Bombay, dated 28th January 1896 [Paper No. 8].
Telegram from Maratha A. I. Sabha, Bombay, dated 29th January 1896 [Paper No. 9].
Memorial of Millowners Association, Ahmedabad, dated 25th January 1896, and enclosures [Papers No. 10].
Telegram from Chamber of Commerce, Madras, dated 29th January 1896 [Paper No. 11].
Telegram from Sarvajanik Sabha, Poona, dated 29th January 1896 [Paper No. 12].
Telegram from Local Sabha, Nagpur, dated 30th January 1896 [Paper No. 13].
From Calcutta Import Trade Association, to Board of Revenue, Lower Provinces, No. 7-M., dated 17th January 1896 [Paper No. 14].
From Bombay Millowners Association, dated 29th January 1896 [Paper No. 15].
From Upper India Chamber of Commerce, Cawnpore, dated 31st January 1896 [Paper No. 16].

2. There is now to be leviable an uniform duty of three-and-a-half per cent. *ad valorem* on cotton goods produced in British India with power to apply tariff valuations as in the case of customs-duties.

3. We have, at the instance of the Millowners, provided that the returns of goods produced shall be rendered once in each month instead of twice.

4. We have made additions to section 16, respecting inspections of mills, for the purpose of protecting secrets pertaining to trade processes.

5. We have amplified sections 28 and 29, relating to the taking of samples, by enabling the Government to prescribe, when necessary, what are to be deemed to be sufficient samples, and owners to require that any sample taken at a mill shall be delivered to the Collector in a sealed cover.

6. We have added a section (41) providing that no duty shall be levied under the proposed Act on any goods which at the commencement of the Act are upon the premises of any mill and are ready for issue therefrom.

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

In English.

Gazette.	Date.
Gazette of India	25th January 1896.
Fort Saint George Gazette	(*Not reported.*)
Bombay Government Gazette	30th January 1896.
Calcutta Gazette	29th January 1896.
North-Western Provinces and Oudh Government Gazette ..	1st February 1896.
Punjab Government Gazette	Will be published on 6th February 1896.
Central Provinces Gazette	1st February 1896.
Burma Gazette	Will be published on 8th February 1896.
Assam Gazette	Do.
Coorg District Gazette	(*Not reported.*)

8. 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. WESTLAND.
ALEX. EDW. MILLER.
C. B. PRITCHARD.
J. D. REES.
G. P. GLENDINNING.
P. PLAYFAIR.

We dissent from the recommendation that the Bill be passed.

G. P. GLENDINNING.
P. PLAYFAIR.

The 3rd February 1896.

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

(Republished by order of the Right Honourable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

FORT ST. GEORGE GAZETTE SUPPLEMENT.

TUESDAY EVENING, FEBRUARY 18, 1896.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 22.

The following Report of the Select Committee on the Bill to amend the Indian Tariff Act, 1894, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 3rd February 1896:—

We, the undersigned, Members of the Select Committee to which the Bill to amend the Indian Tariff Act, 1894, was referred, have considered the Bill and the papers mentioned in the margin of paragraph 1 of our Report on the Bill to provide for the Imposition and Levy of certain Duties on Cotton Goods, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

2. We have, upon representations from merchants engaged in the import-trade, provided that the duties upon imported goods shall be *ad valorem* and not specific.

3. The only other alteration which we have made in the schedule affects rose-water (No. 83), and is due to the incorporation of a notification issued by the Government since the introduction of the Bill.

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

In English.

Gazette.	Date.
Gazette of India	25th January 1896.
Fort Saint George Gazette	(*Not reported.*)
Bombay Government Gazette	30th January 1896.
Calcutta Gazette	29th January 1896.
North-Western Provinces and Oudh Government Gazette	1st February 1896.
Punjab Government Gazette	Will be published on 6th February 1896.
Central Provinces Gazette	1st February 1896.
Burma Gazette	Will be published on 8th February 1896.
Assam Gazette	Do.
Coorg District Gazette	(*Not reported.*)

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.

J. WESTLAND.
ALEX. EDW. MILLER.
C. B. PRITCHARD.
J. D. REES.
G. P. GLENDINNING.
P. PLAYFAIR.

The 3rd February 1896.

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

(Republished by order of the Right Honourable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 22.

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 6th February 1896:—

No. 8 OF 1896.

A Bill to amend the Negotiable Instruments Act, 1881.

XXVI of 1881.

WHEREAS it is expedient to amend the Negotiable Instruments Act, 1881: It is hereby enacted as follows:—

Substitution of new section for section 72, Act XXVI of 1881.

1. For section 72 of the said Act the following section shall be substituted, namely:—

"72. (*1*) A cheque must be presented for payment at the Bank upon which it is drawn—

(*a*) in order to charge the drawer within a reasonable time after its date or delivery to the payee or before the relation between the drawer and the banker has been altered to the prejudice of the drawer, whichever of these periods shall last expire;

(*b*) in order to charge any person except the drawer within a reasonable time after its delivery by such person."

Repeal of section 78, Act XXVI of 1881.

2. Section 73 of the said Act is hereby repealed.

Substitution of new section for section 84, Act XXVI of 1881.

3. For section 84 of the said Act the following section shall be substituted, namely:—

"84. (*1*) When the holder of a cheque fails to present it for payment within a reasonable time after its delivery to him, and the drawer or the person on whose account it is drawn had, at the time when it ought to have been presented in due course, a right as between him and the banker to have the cheque paid, and suffers actual damage from the delay in such presentment, he is thereby discharged from liability to the holder to the extent of such damage, that is to say, to the extent to which he is a creditor of the banker to a larger amount than he would have been had the cheque been paid.

When cheque not duly presented and drawer damaged thereby.

(2) When the holder of a cheque in respect whereof the drawer has been wholly or partially released from liability under sub-section (*1*) is an indorsee thereof for valuable consideration, his indorser and all prior indorsers thereof are thereby, in the absence of any contract to the contrary, released from liability to him in respect of such consideration to the extent to which the drawer has been so released from liability as aforesaid.

(3) The holder of a cheque in respect whereof the drawer is released from liability under sub-section (*1*) shall, to the extent of such release, be a creditor, in lieu of the drawer, of the banker on whom the cheque is drawn, and shall be entitled to recover the amount from him."

STATEMENT OF OBJECTS AND REASONS.

Under section 84 of the Negotiable Instruments Act (XXVI of 1881), when a cheque is not presented for payment within a reasonable time to the banker on whom it is drawn, and the drawer sustains loss or damage through the delay, the holder has no claim in respect of the cheque against the drawer, nor does the Act enable him to recover over as a creditor of the banker's estate. The object of this Bill is to assimilate the law of this country to the provisions of section 74 of the English Bills of Exchange Act, 1881 (45 & 46 Vict., cap. 61), by limiting the extent of the discharge of the drawer in such cases to the amount due on the cheque: provided that it does not exceed the balance which would have been available in the bank to meet it had it been presented in proper time, and by enabling the holder to prove against the estate of the banker for the sum he is precluded from recovering from the drawer. The opportunity has also been taken to afford similar protection to intermediate indorsers against loss or damage caused by delay in presentment on the part of their indorsees.

ALEX. EDW. MILLER.

The 6th February 1896.

S. HARVEY JAMES,
Secretary to the Govt. of India,
Legislative Dept.

(Republished by order of the Right Honourable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 22.

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 13th February 1896 :—

No. 9 OF 1896.

A Bill to amend the Indian Railways Act, 1890.

WHEREAS it is expedient to amend the Indian Railways Act, 1890; It is hereby enacted as follows :—

IX of 1890.

Amendment of section 7, Act IX, 1890.

1. In section 7, sub-section (*1*), clause (*a*), of the said Act, after the word "roads," in the second place in which it occurs, the words "lines of railway" shall be added.

Amendment of section 10, sub-section (*2*), Act IX, 1890.

2. In section 10, sub-section (*2*), of the said Act, for the latter part of the sub-section after the words "so far as may be" the following shall be substituted, namely :—

I of 1894.

"with the provisions of sections 11 to 15, both inclusive, sections 18 to 34, both inclusive, and sections 53 and 54 of the Land Acquisition Act, 1894, and the provisions of sections 51 and 52 of that Act shall apply to the award of compensation."

Amendment of section 59, sub-section (*3*), Act IX, 1890.

3. In section 59, sub-section (*3*), of the said Act, for "sub-section (*1*)" "sub-section (*2*)" shall be substituted.

Amendment of section 73, sub-section (*1*), Act IX, 1890.

4. In section 73, sub-section (*1*), of the said Act, before the word "camels" the word "mules," and before the word "sheep" the word "donkeys," shall be added.

Repeal of section 81, Act IX, 1890.

5. Section 81 of the said Act is repealed.

Amendment of section 114, Act IX, 1890.

6. In section 114 of the said Act, for the words "the return half" the words "any half," and for the words "the return journey" the words "the journey," shall be substituted.

Amendment of section 136, sub-section (*1*), Act IX, 1890.

7. In section 136, sub-section (*1*), of the said Act, after the word "Court" the words "or of any local authority or person having by law power to attach or distrain property or otherwise to cause property to be taken in execution" shall be added.

STATEMENT OF OBJECTS AND REASONS.

On a representation made by certain river steamer companies it has been decided, in communication with Her Majesty's Secretary of State for India, to propose the repeal of section 81 of the Indian Railways Act (IX of 1890) with a view to removing the inequality existing between such companies and railway administrations carrying passengers or goods on inland waters by vessels which are not "railways" within the meaning of section 3. The main object of this Bill is, by clause 5 thereof, to give effect to this decision; but the opportunity has been taken to make certain other amendments in the Act of an unimportant character.

2. As the word "roads" is not defined and might be held not to cover "lines of railway," it is deemed advisable to refer specifically to the latter in clause (*a*), sub-section (*1*), section 7 of the Act. The first clause in the Bill purports to make the necessary addition.

3. The slight amendments proposed in sections 10 and 59 of the Act seem to require no explanation.

4. Section 114 of the Act penalizes the fraudulent sale, or attempted sale, of the return half of a return ticket; but cases have been brought to notice in which similar fraud has been practised in respect of the first half of such a ticket, and clause 6 of the Bill aims at removing the defect.

5. Although section 136, sub-section (*1*), of the Act prevents the seizure, without the previous sanction of the Governor-General in Council, of certain railway property in execution of any decree or order of a Court, it does not prohibit distraint by municipal and such other bodies in exercise of the powers conferred upon them by various special laws. By the last clause of the Bill it is proposed to extend the provision referred to so as to cover such cases also.

ALEX. EDW. MILLER.

The 8th February 1896.

S. HARVEY JAMES,
Secretary to the Govt. of India,
Legislative Dept.

(Republished by order of the Right Honourable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS : PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 22.

The following Report of the Select Committee on the Bill to amend the Indian Ports Act, 1889, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 13th February 1896:—

From Chief Commissioner, Burma, No. 483-3-P.-3, dated 19th April 1895 [Paper No. 1].
From High Court, Calcutta, No. 864, dated 26th April 1895 [Paper No. 2].
From Government, Madras, No. 116, dated 22nd April 1895, and enclosure [Papers No. 3].
From Chief Commissioner, Burma, No. 16-3-P.-3, dated 3rd June 1895, and enclosure [Papers No. 4].
From Government, Bombay, No. 4048, dated 30th May 1895, and enclosures [Papers No. 5].
From Government, Bengal, No. 788, Marine, dated 11th April 1895, and enclosures [Papers No. 6].

We, the undersigned, Members of the Select Committee to which the Bill to amend the Indian Ports Act, 1889, 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. We have made it clear that only single, not double, curtains can be required by rule, and that the only portions of the deck to be affected by the provisions with respect to awnings, curtains and sheathing are those occupied by, or situated immediately above, the quarters of officers and crew.

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

In English.

Gazette.	Date.
Gazette of India	23rd February 1895.
Fort St. George Gazette	12th March 1895.
Bombay Government Gazette	28th February 1895.
Calcutta Gazette	27th do.
Burma Gazette	9th March 1895.
Sindh Official Gazette	14th do.

In the Vernaculars.

Province.	Language.	Date.
Madras	Telugu	19th March 1895.
	Hindustani	19th do.
	Kanarese	19th do.
	Malayalam	19th do.
	Tamil	26th do.
Bombay	Marathi	21st do.
	Gujarathi	21st do.
	Kanarese	21st do.
Burma	Burmese	23rd do.
Sindh	Sindhi	21st do.

4. 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. WESTLAND.
ALEX. EDW. MILLER.
A. S. LETHBRIDGE.
G. P. GLENDINNING.
P. PLAYFAIR.

The 12th February 1896.

No. II.

A Bill to amend the Indian Ports Act, 1889.

X of 1889.

WHEREAS it is expedient to amend the Indian Ports Act, 1889; It is hereby enacted as follows:—

Amendment of section 6, Act X, 1889.

1. (*1*) In section 6, clause (*o*), of the said Act, the word "and" shall be omitted, and after clause (*p*) of the same section the following shall be added, namely:—

"and

(*q*) for securing the protection from heat of the officers and crew of vessels in any such port by requiring the owner or master of any such vessel—

(*i*) to provide *curtains and* double awnings for screening from the sun's rays *such portions of the deck as are occupied by, or are situated immediately above, the quarters of the officers and crew;*

(ii) to erect windsails so far as the existing port-holes or apertures in the deck admit of their being used for ventilating the quarters of the officers and crew;

(iii) when the deck is made of iron and not wood-sheathed to cover with wooden planks *or other suitable non-conducting material such portions of the deck as are situated immediately above the quarters of the officers and crew;*

(iv) when the quarters used by the crew and the galley are separated by *an* iron bulkhead only, to furnish a *temporary* screen of some suitable non-conducting material between such quarters and the galley."

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

(Republished by order of the Right Honourable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

FORT ST. GEORGE GAZETTE SUPPLEMENT.

TUESDAY EVENING, MARCH 3, 1896.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 22.

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 13th February 1896:—

No. 10 OF 1896.

A Bill to amend the Presidency Small Cause Courts Act, 1882.

WHEREAS it is expedient to amend the Presidency Small Cause Courts Act, 1882; It is hereby enacted as follows:— XV of 1882.

Amendment of section 71, Act XV, 1882.

1. In section 71 of the said Act the words and numerals "section 38 or" are repealed.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to make a purely formal amendment in section 71 of the Presidency Small Cause Courts Act, 1882. Under section 38 of the Act as it stood prior to the last amendment, applications might be made for retrial of small causes under certain conditions, and these applications were, by section 71, made subject to the payment of fees as on plaints. By the Presidency Small Cause Courts Act, 1895, the said section 38 was repealed, and a new section, referring to a totally different proceeding, was inserted in the Act. It has been suggested that the reference to section 38 in section 71, if left standing, might be interpreted to apply to the new section 38: as this would be contrary alike to the reason of the case and the intention of the Legislature, it is now proposed to get rid of the supposed ambiguity.

The 8th February 1896. ALEX. EDW. MILLER.

S. HARVEY JAMES,
Secy. to the Govt. of India, Legislative Dept.

(Republished by order of the Right Honourable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 22.

The following Report of the Select Committee on the Bill to consolidate and amend certain Indian enactments relating to Merchant Shipping and the carriage of passengers by sea was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 13th February 1896 :—

WE, the undersigned, Members of the Select Committee to which the Bill to consolidate and amend certain Indian enactments relating to Merchant Shipping and the carriage of passengers by sea, was referred, have considered the Bill (No. II) and the papers noted in the margin, and have now the honour to submit this our Report, with the Bill as finally amended by us annexed thereto.

Office Memorandum from Department of Revenue and Agriculture, No. 508—25-2, dated the 17th April 1895 [Paper No. 1].

Resolution by Finance and Commerce Department, No. S. R.—1643, dated the 12th April 1895, and enclosures [Papers No. 2].

From High Court, Calcutta, No. 865, dated the 26th April 1895 [Paper No. 3].

From Shipowners' Association, Liverpool, dated the 10th April 1895 [Paper No. 4].

From the Hon'ble P. Playfair, dated the 13th June 1895, and enclosures [Papers No. 5].

From Government, Madras, No. 275 (Marine), dated the 11th September 1895, and enclosures [Papers No. 6].

From the Hon'ble P. Playfair, dated the 14th October 1895, and enclosures [Papers No. 7].

From Government, Bengal, No. 187-T., Marine, dated the 26th October 1895, and enclosures [Papers No. 8].

From Chief Commissioner, Burma, No. 440—4 S.-17, dated the 25th October 1895, and enclosures [Papers No. 9].

From Hon'ble P. Playfair, dated the 18th November 1895, and enclosures [Papers No. 10].

From Government, Bombay, No. 4590, dated the 5th November 1895, and enclosures [Papers No. 11].

From Bengal Chamber of Commerce, dated 9th December 1895, and enclosure [Papers No. 12].

From Chamber of Shipping of United Kingdom, London, dated 15th November 1895, and enclosures [Papers No. 13].

From Government, Bombay, No. 12, dated 10th January 1896, and enclosures [Papers No. 14].

2. We have once more gone carefully over the Bill, and compared its provisions with the corresponding sections of the Merchant Shipping Act, 1894, and have to as great an extent as was possible, brought the provisions and even the phraseology of the former into accord with the latter.

3. The criticisms and suggestions received from the different maritime Governments, and from public bodies and private individuals in England and in India, have also been carefully considered; and a large number of corrections and improvements, many of them of a relatively trifling nature, but some of them of considerable importance, have been made. And in this way it is believed that most of the more serious objections which were made to the Bill as it was left in the spring of 1895 have been obviated.

4. In the first Chapter, besides some minor alterations, definitions of "wages" and "effects" have been added from the Merchant Shipping Act, 1894, and the definition of "Asiatic ship" has been transferred to this Chapter from Chapter IV and made a general definition. Similarly, the definition of "native coasting-ship" has been transferred to this Chapter from Chapter II, and a change has been made in the definition which will be noticed later on.

5. The preamble of Chapter II has been altered so as to bring it into closer accord with the wording of the new Merchant Shipping Act, 1894, and further on changes in the same direction have been made.

6. But the most important changes in this Chapter and in Schedule I, Part B, which is closely connected with it, are those with respect to native coasting-ships. The repeal of the Act (XIX of 1838), under which the native ships carrying on a considerable portion of the coasting-trade of the west of India are registered, has been opposed by the Government of Bombay in accordance with the opinions of all the officers who are best acquainted with the circumstances of the trade, and of the different ports to which the coasting-ships resort. After further enquiry and consideration, we have thought it undesirable to repeal the Act under which such ships were registered, so far as ships not affected by the Merchant Shipping Act, 1894, were concerned, and, even with respect to many of the larger ships, we have thought it best to maintain for the present the existing system which has worked satisfactorily, is known and understood not only by the owners affected but by the considerable number of officials on small pay who conduct the registration, many of whom have but an imperfect knowledge of English. With the object of maintaining the present system of registration for

all the smaller coasting-craft an addition has been made to section 10 of the Bill exempting native coasting-ships registered under Act XIX of 1838 from the provisions of section 2 of the Merchant Shipping Act, 1894. Further, the definition of "native coasting-ship" has been materially changed. The earlier definition paid, after ownership, exclusive attention to rig, and it was represented to us that this was unfair to native ships employed in the coasting-trade in the upper portion of the Bay of Bengal, which are, in accordance with custom ordinarily square-rigged, as those on the West Coast are lateen-rigged. The new definition is, it is believed, more generally fair than the former one, and the tonnage limit imposed will bring under the English law only those vessels of substantial size which frequent the larger ports, and are owned by persons of considerable means. And finally the exemption (section 16) of native coasting-ships from the provisions of Part III of the Bill has relieved this portion of the shipping along our Indian coasts, from a number of rules and restrictions which those who knew that trade best consider unsuitable and injurious. We have not considered it necessary to maintain the Acts under which the country shipping of the Bay of Bengal is at present registered, for owing to various weather characteristics the number of country craft on this part of the coast is comparatively small, and the new law will offer as many facilities for, and inducements to, registration as the existing law does.

7. In Chapter IV the most important change consists of the addition of a proviso to section 31, which prescribes as the condition of a certificate of competency a sufficient knowledge of English, to receive and communicate orders in English in matters relating to lights and the rule of the road at sea. We have held that such knowledge is essential and should be insisted upon.

8. In Chapter V the most important change which we have made consists of the proviso which enables the Governor-General in Council to exempt from the provisions of section 34, foreign-going steam-ships, which call at the Indian ports of Madras and Aden, as an incident in a voyage from or to some foreign port. We think that consideration ought to be paid to established usage in this respect, such as is neither required nor justifiable in the case of a foreign steam-ship engaging in a coasting voyage as such.

9. In this Chapter, as throughout the Bill, we have used the expression "registered tonnage," instead of "tons burden" or its equivalents, unless there was a distinct reason for not doing so.

10. In section 54, Chapter VII, we have added the words "a customary route" to "the direct road," in order to avoid misinterpretation.

11. In section 63 we have added a proviso which will, it is believed, give the master of a ship, a certain amount of security against seamen who ship themselves without any intention of working throughout the voyage for which they engage.

12. In section 73, as also in sections 80, 81, 82 and elsewhere, we have substituted "the Governor-General in Council" for "the Local Government" as the authority prescribing various forms, in order that uniformity may be secured with respect to them throughout India.

13. Section 100 has to a considerable extent been re-drafted, on the basis of the corresponding section of the English Act.

14. In section 106 (*2*) we have inserted a clause, in accordance with a suggestion of the Bengal Chamber of Commerce, in order to prevent delay in the examination of provisions or water on complaint of the crew, and we have added a proviso to section 108, which lays down that inspections shall, if practicable, be made in the presence of the master of the ship.

15. In section 112 we have adopted the phraseology of the Merchant Shipping Act, 1894, as being more distinct, and with the same object we have re-drafted sections 125 (*1*) and 129.

16. In section 139 we have adopted the recommendation of the Liverpool Steamship Owners' Association and of the Bengal Chamber of Commerce, and have empowered the Local Government to tender to his own ship an apprentice imprisoned for a period not exceeding six months, instead of one month as formerly.

17. With respect to section 152 also we have endeavoured to meet the reasonable objections of the same bodies, by limiting the number of distressed seamen who can be forced upon a ship in any one voyage.

18. With respect to Chapter XIX, dealing with the official log, a considerable number of amendments have been found to be necessary. In section 160, sub-section (*2*) of section 239 of the Merchant Shipping Act, 1894, has, with the necessary modification, been inserted. In section 161 the order of the first three clauses has been revised, and two clauses providing for the entry of births and deaths have been added.

Section 163 has also to a considerable extent been re-drafted.

19. In section 166 the punishment is limited by the Merchant Shipping Act, 1894, to £5, whereas in the existing Indian law it amounts to Rs. 200. We have followed a middle course and fixed the amount at Rs. 100.

And, finally, section 167 has been re-drafted on the basis of the corresponding section of the Merchant Shipping Act, 1894.

20. Section 169 has been necessarily modified, owing to the change made in the definition of "native coasting-ship"; and in section 171 the final authority of the Local Government has been restricted to this class of ship, while for other ships the power to make rules has been reserved for the Governor-General in Council. This, like other similar modifications, has been adopted in order to secure uniformity throughout India with respect to British shipping.

21. In sections 172 and 173 also, changes have been made with a view to bring the wording of the Bill into stricter accordance with that of the Merchant Shipping Act, 1894.

22. From Chapter XXII we have omitted section 183B, as we consider that ships, of whatever kind, which keep the sea at night without lights, are a source of danger to themselves and others. It has been ascertained that the Bombay Native craft are already compelled to observe the light rules.

23. In Chapter XXIII we have modified to a considerable extent the arrangements for the survey of steam-ships, and have followed the English Act in making separate provision for the survey of hull and equipments and for the survey of machinery. With these and other objects in view we have substituted section 283, Merchant Shipping Act, 1894, for section 182 (*1*) of the Bill, and we have re-drafted section 188 of the Bill on the basis of sub-sections (*2*), (*3*) and (*4*) of section 272 of the Merchant Shipping Act, 1894. The revision of section 188 will also tend to prevent the possibility of future misunderstanding of the nature pointed out by the Liverpool Steamship Owners' Association and the Bengal Chamber of Commerce, although it does not appear that the existing practice, to which objection has been taken on the part of the shipowners, is warranted by the law as it at present stands or by the Bill as originally drafted.

24. We have also made additions to section 190 which will, it is hoped, tend to prevent in future misunderstandings of the kind complained of.

25. For section 195 (*2*) of the former draft we have substituted, in section 191 (*3*) and (*4*) of the revised Bill, sub-sections (*2*) and (*3*) of section 281 of the Merchant Shipping Act, 1894, and to section 197 we have added a sub-section permitting of the return of the first fee, should the subsequent survey show the refusal of the declaration on the first occasion not to have been justified.

26. In Chapter XXIV we have made certain necessary alterations and additions in order to give effect to those provisions and regulations under the Deck and Load-lines Act, XVII of 1891, which apply to vessels trading in the Indian seas. By the addition of a proviso to section 201 (*2*) we have, it is believed, without changing the directions of the English law with respect to the disc, met in a satisfactory manner the objections of the Liverpool Steamship Owners' Association and of the Bengal Chamber of Commerce; and by the addition of section 236 and by the alterations which we have made in section 238, we have enabled the Governor-General in Council (and no longer the Local Government) to make such rules as may be required in order to define and mark the special allowances, which are necessary in order to meet the varying circumstances of the Indian seas, in different localities, and at different seasons of the year.

27. In section 243, of Chapter XXV, we have, at the request of the British Corporation for the Survey and Registry of Shipping, supported as it is by the Bengal Chamber of Commerce, added the name of the Corporation to those previously entered in clause (*a*).

28. In Chapter XXVI we have somewhat modified section 248 on the lines of the corresponding section of the English Act, and to section 255 as previously drafted (now section 251) we have added with the necessary modifications section 522 of the Merchant Shipping Act, 1894.

29. In Part VII, which deals with Native passenger ships, the enactment of the Pilgrim Ships Act, 1895, has rendered necessary an addition to section 273, and the omission of the eight sections which constituted Chapter XXXII in the former draft, and of the four penal sections in Chapter XXXIII of the former draft which referred to them.

30. In section 275 we have added for the purposes of this Part a definition of "port" which tends to the clearer apprehension of the sections which follow, and has facilitated their revision.

31. In Chapter XXX of the Bill as now drafted, an important modification of section 278 has been made in accordance with official representation, and the lessened period of notice insisted upon, must now occur between sunrise and sunset.

32. We have also endeavoured to meet a serious and strongly pressed objection, made by shipowners, by the addition of section 281 (*2*), which empowers the Local Government to exempt any specified short voyage from the provisions as to food. And we have transferred section 325 of the former draft to its present position as 281.

33. We have to a large extent modified the special provisions as to short, shelter-port and excursion voyages now comprised in Chapter XXXII, and have, it is believed, made these sections clearer than they were.

34. In Chapter XXXVI, section 333, we have extended the qualification of being deemed to be public servants to surveyors appointed under sections 173 and 176; and in section 335 we have provided that, in the case of rules under section 105, the draft shall not be taken into consideration until the expiration of three months from publication, so as to allow, if necessary, a reference to England.

35. We have revised the maximum fees in Schedule II obtained from the English Act at the rate of Rs. 10 to the pound sterling, by substituting a general equivalent of Rs. 15 to the pound sterling, which is more nearly in accordance with the existing rate of exchange, and will involve a less serious loss on the present receipts. We have also revised Schedule V in accordance with the rates at present charged in Bombay and Karachi.

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

In English.

Gazette.	Date.
Gazette of India	23rd March 1895.
Fort Saint George Gazette	21st May 1895.
Bombay Government Gazette	11th April 1895.
Calcutta Gazette	3rd April 1895.
Burma Gazette	13th April 1895.

In the Vernaculars.

Province.	Language.	Date.
Madras	Telegu	27th August 1895.
	Kanarese	3rd September 1895.
	Malayalam	17th September 1895.
	Tamil	8th October 1895.
Bombay	Marathi	19th December 1895.
	Gujarathi	19th December 1895.

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

ALAN CADELL.
ALEX. EDW. MILLER.
J. WESTLAND.
A. S. LETHBRIDGE.
C. C. STEVENS.
G. P. GLENDINNING.
P. PLAYFAIR.

The 12th February 1896.

No. III.

THE INDIAN MERCHANT SHIPPING BILL, 1896.

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No. III.

A Bill to consolidate and amend certain Indian enactments relating to Merchant Shipping and the carriage of passengers by sea.

WHEREAS it is expedient to consolidate and amend certain Indian enactments relating to Merchant Shipping and the carriage of passengers by sea; [Bill of 1867, preamble.]

It is hereby enacted as follows:—

PART I.

CHAPTER I.

PRELIMINARY.

Title and commencement.

1. (*1*) This Act may be called the Indian Merchant Shipping Act, 1896; and

(*2*) Except as provided in section 6 *and section* **266**, it shall come into force on the first day of————.

Repeal.

2. (*1*) On and from the first day of———— the enactments mentioned in Part A of Schedule I shall be repealed to the extent specified in the third column thereof. [Act IX of 1879, s. 2; Act V of 1883, s. 2; Act VI of 1884, s. 3 (*2*); Act X of 1887, s. 4 (*2*); Bill of 1867, s. 2; Bill of 1882, s. 2.]

(*2*) But all offices established or constituted, officers appointed, persons nominated or authorised, powers conferred, ports and places appointed, directions given, rules, declarations and exemptions made, bonds executed, forms sanctioned, fees or scales fixed, investigations held, certificates granted, suspended or cancelled, agreements made, proceedings commenced and other things duly done under any enactment repealed by sub-section (*1*) or under any enactment repealed by any enactment repealed by sub-section (*1*), shall, so far as may be practicable, be deemed to have been respectively established, constituted, appointed, nominated, authorised, conferred, given, made, executed, sanctioned, fixed, held, granted, suspended or cancelled, commenced and done under this Act.

(*3*) For the purposes of sub-section (*2*), certificates of *competency or service as engineer in the sea service or second engineer in the sea service respectively* granted under *the Burmese Steamer Survey Act or Bombay Act IV of 1873* (*an Act to amend Bombay Act No. II of 1864 providing for the periodical survey of steam-vessels, and to provide for the examination of engineers of steam-vessels*) or the Steam Boat Survey Amendment Act, 1868, shall be deemed to be certificates *as first class and second class engineer respectively*, and to have been granted under the provisions of *Chapter IV of* this Act. [Act VI of 1884, s. 3 (*3*).] XVI of 1871. Ben. I of 1868.

(*4*) Any enactment or document referring to any enactment repealed by sub-section (*1*), or to any enactment repealed by any enactment repealed by sub-section (*1*), shall, so far as may be practicable, be construed to refer to this Act or the corresponding portion thereof. [Act X of 1887, s. 4 (*3*); and cf. Act XIII of 1889, s. 2 (*3*).]

General definitions.

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

(*1*) "ship" includes a steam-ship:

(*2*) "steam-ship" means every description of vessel used in navigation and propelled wholly or in part by the agency of steam: [Act VII of 1884, s. 3.]

(*3*) "home-trade ship" means a ship employed in trading between any ports in British India, or between any port in British India and any port or place on the continent of India or in the Maldive or Laccadive Islands or in the Straits Settlements or in the Island of Ceylon: [Act I of 1859, s. 118 (am. by Act VI of 1891, s. 5); Bill of 1867, s. 3; Bill of 1882, s. 3.] Cf. *1894*, s. 742.

[Act I of 1859, s. 118 (am. by Act VI of 1891, s. 5); Bill of 1867, s. 3; Bill of 1882, s. 3.] Cf. *1894*, s. 742.

(*4*) "foreign-going ship" means a ship, **not being a "home-trade ship" as hereinbefore defined**, employed in trading between any port in British India and any **other** port or place:

(*5*) "*Asiatic ship*" *means a sailing ship navigated and manned exclusively by Arabs, lascars or other Asiatic masters and seamen*:

(*6*) "native coasting-ship" means a **home-trade ship being a** sailing ship of not **more than two hundred tons burden** which is owned by one or more Indian subjects of Her Majesty:

[Act I of 1859, s. 118; Act XIII of 1876, s. 2; Bill of 1867, s. 3; Bill of 1882, s. 3.] Cf. *1894*, s. 742.

(*7*) "seaman" means every person (except masters, pilots, harbour-masters and apprentices *duly indentured*) employed or engaged in any capacity on board any ship:

Cf. *1894*, s. 742.

(*8*) "**wages**" **includes emoluments**:

Ib.

(*9*) "**effects**" **includes clothes and documents**:

57 & 58 Vict., c. 60.

(*10*) "Board of Trade certificate" means a certificate, either of competency or service, as master, mate or engineer, as the case may be, granted by the Board of Trade under the Merchant Shipping Act, 1894, *or any Act repealed by that* Act:

(*11*) "Colonial certificate" means a certificate of competency as master, mate or engineer, as the case may be, granted—

(*a*) in British India, under Chapter IV of this Act, or

(*b*) in any other British Possession, under the authority of the Legislature of that Possession,

and which has been declared by Order in Council under the Merchant Shipping (Colonial) Act, 1869, *or the Merchant Shipping Act, 1894*, **section 102**, to be of the same force as if it had been granted under the Merchant Shipping Acts *therein respectively mentioned*:

53 & 43 Vict., c. 11. 57 & 58 Vict., c. 60.

(*12*) "local certificate" means—

(*i*) a certificate, either of competency or service, as master, mate or engineer, or

(*ii*) a certificate of competency as engine-driver, as the case may be, granted by a Local Government under Chapter IV of this Act, *not being a Colonial certificate as hereinbefore defined*:

[Act IX of 1870, s. 3.] Cf. *1894*, s. 742. VIII of 1878.

(*13*) "Customs-collector" means a Customs-collector appointed under the Sea Customs Act, 1878, and includes, for the purposes of Chapter XXXV, any person appointed by the Local Government by name or by virtue of his office to discharge the functions of a Customs-collector under that chapter at any port:

[Act VII of 1884, s. 3. Cf. *1894*, s. 267.

(*14*) "passenger" includes any person carried in a ship other than the master and crew and the owner, his family and servants: and

[Act VII of 1880, s. 4; Act VII of 1884, s. 3.] Cf. *1894*, s. 742.

(*15*) "prescribed" means prescribed by a rule made under this Act.

Provisions as to steam-ships to apply to ships propelled by electricity, etc.

4. The provisions of *this Act applying* to steam-ships shall apply to ships propelled by electricity or other mechanical power, with such modifications as the Governor-General in Council may, by notification in the *Gazette of India*, direct for purposes of adaptation.

Exemption of public ships.

5. (*1*) Nothing in this *Act* except Chapter XVIII shall apply to any ship belonging to, or in the service of, Her Majesty or the Government of India, *or to any ship of war belonging to any foreign Prince or State*. [Act I of 1859, s. 114; Act IX of 1879, s. 1; Act VII of 1880, ss. 3, 80; Act V of 1883, s. 5; Act VII of 1884, s. 5 (*c*); Act X of 1887, s. 2 (*2*) (i), (ii), (iii); Bill of 1867, s. 4; Bill of 1882, s. 4.] Cf. *1894*, s. 741.

(*2*) Nothing in *this Act*, except Chapters *VII, VIII and* XVIII, shall apply to any ship belonging to any foreign Prince or State when employed mainly on the public service of the Prince or State. [Act I of 1859, s. 114; Act VII of 1880, s. 80; Act V of 1883, s. 5; Act VII of 1884, s. 5 (*d*); Bill of 1867, s. 4; Bill of 1882, s. 4.]

PART II.

CHAPTER II.

MEASUREMENT AND REGISTRY OF BRITISH SHIPS.

Whereas certain classes of British ships are now registered in British India under *certain* Acts passed by the Governor-General of India in Council;

And whereas certain *other* classes of ships *are now and* have *for many years* been registered in British India under the *Merchant Shipping* Act, *1854*, as amended for the time being by subsequent Acts; 17 & 18 Vict., c. 104.

And whereas it is enacted in section **735** of the Merchant Shipping Act, **1894**, that "the **legislature** of any British Possession **may**, by any Act or Ordinance, confirmed by Her Majesty in Council, repeal, wholly or in part, any provisions of this Act (**other than those of the Third Part thereof which relate to emigrant ships**) relating to ships registered in **that** Possession; but **any** such Act or Ordinance shall **not** take effect until the approval **of Her Majesty** has been proclaimed in the Possession, or until such time thereafter as may be fixed by the Act or Ordinance for the purpose;" 57 & 58 Vict., c. 60.

And whereas it is expedient that certain provisions of the said **Merchant Shipping Act, 1894**, should be repealed *so far as relates to* British ships *registered* in British India, and that other provisions should be enacted in place thereof;

It is hereby enacted as follows:—

Commencement.

6. This chapter shall come into force *on the day on which* Her Majesty's approval *thereof is* published in the Gazette of India.

Repeal.

7. (*1*) On and from the commencement of this chapter, the enactments mentioned in Part B of Schedule I shall be repealed to the extent specified in the third column thereof.

(*2*) Any enactment or document referring to any enactment repealed by sub-section (*1*) shall, so far as may be practicable, be construed to refer to the Merchant Shipping Act, 1894, as amended by this chapter, 57 & 58 Vict., c. 60.

Re-registration of ships registered under Indian Acts.

8. (*1*) Any British ship registered under Act XIX of 1838 or Act X of 1841 may, within a period of twelve months after the commencement of this chapter,

or, if the ship is not within a port of registry in British India at any time before the expiration of the said period, then within one month after her next return to a port of registry in British India,

57 & 58 Vict., c. 60.

be re-registered under the Merchant Shipping Act, 1894, as amended by this chapter.

(2) No fee shall be payable for the measurement of the tonnage of any ship for the purposes of re-registration under sub-section (1).

(3) If any ship registered under Act XIX of 1838 or Act X of 1841 is not re-registered as provided by sub-section (1), she shall cease to be recognised as a British ship:

Provided that this sub-section shall not apply in the case of any ship referred to in section 9.

57 & 58 Vict., c. 60.

Registration of certain native coasting-ships and of inland ships not to be required.

9. (1) Notwithstanding anything in section 2 of the Merchant Shipping Act, 1894, it shall not be obligatory on any person to register under that Act any **native coasting-ship which is for the time being registered under Act XIX of 1838 or any** British ship which is for the time being registered under Bombay Act I of 1863 (*an Act for the registry of vessels and levy of pilotage fees on the river Indus*) or any other British ship which plies solely on inland water.

Cf. Act VI of 1884, s. 5, clause (3) (am. by Act III of 1890, s. (1) and clause (4), and s. 65.)

(2) The expression "inland water" means any canal, river, lake or navigable water in British India.

(3) The Local Government may, by notification in the official Gazette, define how much of any tidal water shall be deemed to be inland water for the purposes of this section.

Measurement and marking of tonnage of native coasting-ships.

10. (1) So far as regards any ship the tonnage of which is measured, ascertained and marked in accordance with rules made under sub-section (2), the rules and orders on the same subjects prescribed by or under the Merchant Shipping Act, 1894, *or under any other Act repealed by that Act*, are hereby repealed.

57 & 58 Vict., c. 60.

[Act XI of 1850, s. 3.]

(2) The Local Government may make rules to provide for measuring and ascertaining, whether for the purpose of registry or otherwise, the tonnage of native coasting ships, and for marking the tonnage on such ships; and it shall be optional to the owner of any such ship to have her tonnage measured, ascertained and marked in accordance either with rules made under this sub-section or with the rules and orders referred to in sub-section (1).

(3) Rules made under sub-section (2) may provide, among other matters, that if any alteration be made in a native coasting-ship after she has been registered in pursuance of the said rules, the certificate of registry shall be cancelled and the ship re-measured in accordance with the said rules.

(4) The word "alteration" in sub-section (3) means any change, whether temporary or permanent, either in the structure of a native coasting-ship or in the use to which any part of a native coasting-ship is put, by which the capacity of the ship for carrying cargo is, either directly or in directly, increased.

[S. 15 in Bill as introduced.] 57 & 58 Vict., c. 60. [Act X of 1841, s. 3 (am. by Act VII of 1891, s. 2).]

Registrars.

11. (1) Clauses (*d*) *and* (*e*) of section 4 of the Merchant Shipping Act, 1894, are hereby repealed.

(2) The following persons *shall be Registrars of* British ships in British India, *namely*:—

(*a*) at the ports of Calcutta, Madras, Bombay, Karachi, Aden and Rangoon, the Port Officer or any other person appointed by the Local Government in this behalf by notification in the official Gazette, and

(*b*) at any other port which has been approved under section 89 of the Merchant Shipping Act, 1894, for the registry of ships, any person appointed by the Local Government in this behalf by a like notification.

57 & 58 Vict., c. 60.

Substitution of Local Government for Board of Trade and Governor of a British Possession.

12. In the application of *the Merchant Shipping Act, 1894*, **to British India—**

[S. 12 in Bill as introduced.] 57 & 58 Vict., c. 60. [Act X of 1841, s. 11 (am. by Act VII of 1891, s. 3).]

sections 7, 47, 77 (2), 78, 80, 85, 86 **and** *724 (4) and clause 5 of Rule I of the Second Schedule* shall be read and construed as if the Local Government were therein named instead of the Board of Trade, **and**

section 89 shall be read and construed as if the Local Government were therein named instead of **the Governor of a British Possession.**

Fees.

13. (1) *The following portions of the Merchant Shipping Act, 1894, namely, sections 64 (1) and 77 (2), so far as they relate to fees, and sections 83 and 210 (3), and clauses (6), (7) and (8) of the sixth schedule, are hereby repealed.*

57 & 58 Vict., c. 60.

(2) The fees payable in British India in respect of the matters mentioned in schedule II shall be such sums, not exceeding those specified in that schedule, as the Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the official Gazette, appoint.

Mortgage and sale of native coasting-ships.

14. Sections *31 to 46* (both inclusive) of the Merchant Shipping Act, 1894, are hereby repealed so far as regards native coasting-ships.

[S. 16 in Bill as introduced.] 57 & 58 Vict., c. 60.

Deduction from register tonnage on account of crew space.

15. (1) *Clauses (2), (3), (4) and (5) of the sixth schedule to the Merchant Shipping Act, 1894, are hereby repealed.*

[S. 13 in Bill as introduced.] 57 & 58 Vict., c. 60.

(2) No place in any British ship registered in British India which is occupied by seamen or apprentices engaged under this Act and appropriated to their use shall authorise a deduction from register tonnage, unless there *be* in the ship one or more properly constructed privy or privies for the use of the crew; such privy or privies to be of such number and of such construction as may be approved by a surveyor appointed under section *727 of the Merchant Shipping* Act, *1894*.

(3) *Every place so occupied and appropriated* as aforesaid shall, whenever the ship is registered or re-registered in British India, be inspected by a surveyor appointed as aforesaid, who shall, if satisfied that the same is in all respects such as is required by section 112 of this Act, give to the Registrar a certificate to that effect; and *if such certificate is obtained, but not otherwise*, such space shall be deducted from the register tonnage.

(4) No such deduction shall be authorised unless there is permanently cut in a beam, and cut in or painted on or over the doorway or hatchway of *every* place *so occupied and appropriated*, the number of men which it is constructed to accommodate, with the words "Certified to accommodate seamen."

(5) Upon any complaint concerning any place *so occupied and appropriated* as aforesaid, any surveyor appointed as aforesaid may inspect the same, and, if he finds that any of the provisions of section 112 of this Act with respect thereto are not complied with, he shall report the fact to the Registrar at the port where the ship is registered, and thereupon the register tonnage shall be altered, and the deduction aforesaid disallowed, unless and until it is certified by the same surveyor, or by some other surveyor appointed as aforesaid, that the provisions of the said section in respect of such place are fully complied with.

PART III.

MASTERS, SEAMEN AND APPRENTICES.

[Act I of 1859, preamble; Bill of 1882, preamble.] 17 & 18 Vict., c. 104.

Whereas *it is enacted in* section 288 of the Merchant Shipping Act, 1854, that if the Governor General of India in Council *should* by any Acts, Ordinances, or other appropriate legal means, apply or adapt any of the provisions in the Third part of *that* Act contained to any British ships registered at, trading with or being at any place within *his* jurisdiction, and to the owners, masters, mates and crews thereof, such provisions, when so applied and adapted as aforesaid, and as long as they remain in force, *should*, in respect of the ships and persons to which the same are applied, be enforced, and penalties and punishments for the breach thereof *should* be recovered and inflicted, throughout Her Majesty's dominions, in the same manner as if such provisions had been so adapted and applied, and such penalties and punishments had been expressly imposed, *by that Act;*

57 & 58 Vict., c. 60.

And whereas the *said* Merchant Shipping Act, *1854, and the other Acts amending the same have been repealed by the Merchant Shipping Act, 1894, and the above recited provision of the first mentioned Act has been re-enacted in substance by section 264 of the last mentioned Act;*

And whereas by Act 1 of 1859 (*an Act for the amendment of the law relating to Merchant Seamen*), and later Acts passed by the Governor- General of India in Council, certain *of the* provisions *aforesaid have been applied or adapted to British ships, and certain other provisions enacted* with respect to foreign ships, and the owners, masters, mates and crews thereof, *respectively*, and it is expedient that the said provisions should be re-enacted with the amendments hereinafter appearing;

It is hereby enacted as follows:—

Exemption of native coasting-ships.

16. Nothing in this Part shall apply to any native coasting-ship.

CHAPTER III.

MERCANTILE MARINE OFFICES.

[Act I of 1859, ss. 2, 3; Bill of 1867, ss. 100, 101; Bill of 1882, ss. 5, 6.] Cf. 1894, s. 266 (3), 247 (2).

Mercantile Marine Offices and establishments.

17. (1) **A Mercantile Marine Office shall be established at such ports as the Governor-General in Council may deem necessary.**

(2) For every such office there shall be a Superintendent, with such Deputy Superintendents, clerks and servants (if any) as the Local Government may consider necessary.

(3) Superintendents and Deputy Superintendents of Mercantile Marine Offices shall be appointed by the Local Government.

(4) Every act done by or before a Deputy Superintendent shall have the same effect as if done by or before a Superintendent.

[Act I of 1859, s. 8; Bill of 1867, s. 106; Bill of 1882, s. 41.] Cf. 1894, s. 248 (3).

Power to direct that business of Mercantile Marine Office be transacted at Custom-house or elsewhere.

18. The Local Government may direct that, at any port at which no separate Mercantile Marine Office is established, the whole or any part of the business of the Mercantile Marine Office shall be conducted at the Custom-house, or at the office of the Port Officer, or at such other office as the Local Government shall direct, and thereupon the same shall be there conducted accordingly;

and in respect of such business such Custom-house or office as aforesaid shall for all purposes be deemed to be a Mercantile Marine Office, and the officer to whom such business is committed shall for all purposes be deemed to be a Superintendent of a Mercantile Marine Office within the meaning of this Act.

[Bill of 1867, s. 107.] Cf. 1894, s. 249.

Power to dispense with Superintendence of Superintendent of Mercantile Marine Office.

19. The Local Government may, by special order in any particular case, dispense with the transaction before a Superintendent of a Mercantile Marine Office or in a Mercantile Marine Office of any matters required by this Act to be so transacted; and thereupon *those* matters if otherwise duly transacted, *shall* be as valid as if *they were* transacted before a Superintendent of, or in, a Mercantile Marine Office.

[Act I of 1859, s. 4; Bill of 1867, s. 102; Bill of 1882, s. 7.] Cf. 1894, ss. 105, 247 (1).

Business of Superintendents of Mercantile Marine Offices.

20. It shall be the general business of Superintendents of Mercantile Marine Offices—

(*a*) to superintend and facilitate the engagement of seamen for, and the discharge of seamen from, British ships, in manner hereinafter mentioned,

(*b*) to provide means for securing the presence on board at the proper times of men who are so engaged,

(*c*) to give to all persons desirous of apprenticing boys to the sea-service, and duly authorised so to do by Act XIX of 1850 (*concerning the binding of apprentices*), and also to owners and masters of British ships requiring apprentices, such assistance as may be in their power for faciliating the making of such apprenticeships, and

(*d*) to perform such other duties relating to seamen and British or foreign ships as are for the time being committed to them by or under this Act or the Merchant Shipping Act, 1894.

57 & 58 Vict., c. 60.

[Act I of 1859, ss. 5, 6, 25, 116; Bill of 1867, ss. 103, 104, 125, 129; Bill of 1882, ss. 8, 9, 32, 38.]

Fees to be paid upon engagements and discharges of seamen.

21. (1) Such fees, not exceeding those specified in Table A in Schedule III, as may be fixed by the Local Government with the previous sanction of the Governor-General in Council and published in the local official Gazette shall be payable—

(*a*) by owners or masters of British ships, upon all engagements and discharges of seamen effected before a Superintendent of a Mercantile Marine Office, and

(*b*) by masters of foreign ships, upon all engagements and discharges before a Superintendent of a Mercantile Marine Office of seamen who have been engaged under section 64.

(2) Scales of the fees payable for the time being shall be conspicuously placed in the Mercantile Marine Offices; and all Superintendents, Deputy Superintendents, clerks and servants may refuse to proceed with any engagement unless the fees payable thereon are first paid.

(3) Any owner or master who has paid the fees fixed under sub-section (1) in respect of any engagement or discharge of seamen may, for the purpose of in part re-imbursing himself, deduct, in respect of each such engagement or discharge, from the wages of all seamen so engaged or discharged, and retain, any sums not exceeding the sums specified in that behalf in Table B in Schedule III:

Provided as follows :—

(*i*) if the Local Government has in any case fixed, under sub-section (*1*), fees lower than those specified in the said Table A, the sums which may be deducted and retained by owners or masters shall not exceed such sums as may be fixed in this behalf by the Local Government with the previous sanction of the Governor-General in Council and published in the local official Gazette;

(*ii*) the sums so fixed shall bear as nearly as may be the same proportion to the sums specified in the said Table B as the fees fixed under sub-section (*1*) bear to the fees specified in the said Table A;

(*iii*) if in any case the sums which an owner or master is authorized by this sub-section to deduct exceed the amount of the fees payable by him, such excess shall be paid by him to the Superintendent in addition to such fees.

(*4*) For the purpose of determining the fees to be paid upon the engagement and discharge of seamen engaged under a running agreement made under Chapter VII, the crew shall be considered to be engaged when the agreement is first signed, and to be discharged on the termination of the agreement; and all intermediate engagements and discharges shall be considered to be engagements and discharges of single seamen.

(*5*) In sub-section (*4*) "termination" means, when an agreement has been renewed under section 62, the termination of the period for which the agreement has been renewed.

(*6*) The Local Government, with the previous sanction of the Governor-General in Council, may, if it thinks fit, at any time abolish or suspend, by notification in the local official Gazette, the fees payable under sub-section (*1*) upon engagements and discharges; and in the event of such abolition, or during such suspension, no deduction shall be made under sub-section (*3*) from the wages of any person engaged or discharged.

[Act I of 1859, s. 7; Bill of 1867, s. 105; Bill of 1882, s. 10.] Cf. 1894, s. 250.

Penalty on Superintendent, etc., taking other remuneration.

22. Any Superintendent or Deputy Superintendent, or any clerk or servant in a Mercantile Marine Office, who demands or receives any remuneration whatever, either directly or indirectly, for hiring or supplying any seaman for any ship, excepting the fees payable under section 21, shall be *liable to* fine which may extend to two hundred rupees, and may also be dismissed from his office.

CHAPTER IV.

EXAMINATION OF, AND GRANT OF CERTIFICATES TO, MASTERS, MATES, ENGINEERS AND ENGINE-DRIVERS.

[Act I of 1859, ss. 9, 10; Act VII of 1884, s. 26; Bill of 1867, ss. 108, 109; Bill of 1882, ss. 12, 13.] Cf. 1894, ss. 94, 96, 109.

Appointment of examiners.

23. The Local Government may appoint persons for the purpose of examining the qualifications of persons desirous of obtaining—

(*a*) certificates of competency as masters or mates, or

(*b*) certificates of competency as engineers or engine-drivers.

[Act I of 1859, s. 11 (am. by Act V of 1883, s. 35); Act VII of 1884, s. 27 (1); Bill of 1867, s. 110; Bill of 1882, s. 14.] Cf. 1894, ss. 93, 99.

Grant of certificates of competency as master, mate, engineer or engine-driver.

24. The Local Government shall grant—

(*a*) to every person who is reported by the examiners to possess the necessary qualifications and to have given satisfactory evidence of his sobriety, experience, ability and general good conduct on board ship, a certificate of competency to the effect that he is competent to act as master or first mate or only mate or second mate of a foreign-going ship, or as master or mate of a home-tradeship, *or as master* **or mate** *of an Asiatic ship*, as the case may be, and

(*b*) to every person who is reported by the examiners to possess the necessary qualifications and to have given satisfactory evidence of his sobriety, experience and ability a certificate of competency to the effect that he is competent to act as a first-class engineer, or a second-class engineer, or as an engine-driver, as the case may be:

Provided that the Local Government may, in any case in which it has reason to believe that the report has been unduly made, require, before granting a certificate, a re-examination of the applicant or a further enquiry into his testimonials and character.

Grant of local certificates of service as master or first mate of a foreign-going ship or as first or second class engineer.

[Act I of 1859, s. 12 (am. by Act VI of 1891, s. 2); Bill of 1867, s. 111; Bill of 1882, s. 15.] Cf. 1894, s. 99.

25. (*1*) Local certificates of service, differing in form from certificates of competency, shall be granted by the Local Government as follows, that is to say,—

(*a*) *every* person who has attained or shall attain the rank of lieutenant, **sub-lieutenant, navigating lieutenant or navigating sub-lieutenant in Her Majesty's Navy,** or of *lieutenant* in the Royal Indian Marine, shall be entitled to a local certificate of service as master for a foreign-going-ship **without examination:**

(*b*) *every* person who has attained or shall attain the rank of **sub-lieutenant** in the Royal Indian Marine shall be entitled to a local certificate of service as first mate for a foreign-going ship **without examination:**

(*c*) *every person who has attained or shall attain the rank of engineer or assistant engineer in Her Majesty's Navy or* **the Royal** *Indian Marine shall be entitled* **without examination,** *if an engineer, to a local certificate of service as first-class engineer, and, if an assistant engineer, to a local certificate of service as second-class engineer.*

(*2*) A certificate of service granted under sub-section (*1*) shall have the same effect as a local certificate of competency granted under section 24.

Certificates of service as master of a home-trade ship.

26. *Every person who before the passing of this Act has served as master of a home-trade ship of one hundred tons or upwards* **registered tonnage** *shall be entitled to a certificate of service as master of a home-trade ship of three hundred tons or under* **registered tonnage.**

Contents and delivery of certificates of service.

27. Every *certificate of service shall contain particulars of the name and of the length and nature of the previous service of the person to whom it is delivered; and the Local Government shall deliver every such certificate of service to the person entitled thereto upon his proving himself to have served as aforesaid and upon his giving a full and satisfactory account of the particulars aforesaid.*

Certificates to be in prescribed form and to be made in duplicate.

[Act I of 1859, s. 15; Act VII of 1884, ss. 29 (3), 29; Bill of 1867, s. 114; Bill of 1882, s. 18.] Cf. 1894, ss. 99 (3), 100.

28. Every certificate of competency or service granted under this Chapter shall be in *the* prescribed form, and shall be made in duplicate, and one copy shall be delivered to the person entitled to the certificate, and the other shall be kept by the Local Government and recorded in the prescribed manner.

[Act I of 1859; s. 15; Bill of 1867, s. 114; Bill of 1882, s. 18.] Cf. 1894, s. 100.

Record of orders affecting certificates.

29. A note of all orders made for suspending, cancelling, altering or otherwise affecting any certificate of competency or service in pursuance of the powers contained in this Act shall be entered on the copy of the certificate kept by the Local Government.

[Act I of 1859, s. 16; Act VII of 1884, s. 30; Bill of 1867, s. 115; Bill of 1882, s. 19.] Cf. 1894, s. 101

Copy of certificate to be granted in certain cases.

30. Whenever a master, mate, engineer or engine-driver proves, to the satisfaction of the Local Government which granted his certificate, that he has, without fault on his part, lost or been deprived of *a certificate already granted to him, the Local Government shall, and in any other case may, upon payment of such fee, if any, as the Governor-General in Council may direct, cause* a copy of the certificate to which, by the record kept as provided by law, he appears to be entitled *to* be granted to him, and *such copy* shall have all the effect of the original.

[Act I of 1859, s. 10 (am. by Act V of 1883, s. 34); Act VII of 1884, s. 36; Bill of 1867, s. 109; Bill of 1882, s. 13.] Cf. 1894, ss. 94, 96, 100.

Power to make rules as to grant of certificates of competency or service.

31. (*1*) The Governor-General in Council may make rules to regulate the granting of certificates of competency under this Chapter, and may by such rules—

(*a*) provide for the conduct of the examination of persons desirous of obtaining certificates of competency as masters, mates, engineers or engine-drivers;

(*b*) prescribe the qualifications to be respectively required of persons desirous of obtaining certificates of competency as masters, first mates, only mates, second mates, *masters* **or mates** *of Asiatic ships*, first-class engineers, second-class engineers or engine-privers;

(*c*) fix the fees to be paid by all applicants for examination;

(*d*) prescribe the form in which such certificates are to be framed, and the manner in which the copy of the certificate which is kept by the Local Government is to be recorded; *and*

(*e*) *fix the fees to be paid for copies of certificates granted under section 29:*

Provided that no person shall obtain a certificate of any of the kinds mentioned in clause (b) **unless he is able to receive and communicate orders in English in matters relating to lights and the rule of the road at sea.**

[Act VI of 1884, s. 29 (am. by Act XIII of 1891, s. 1).]

(*2*) The Governor-General in Council may also make rules with respect to the grant of local certificates of service to masters, mates *and engineers* under this Chapter, and may by such rules—

(*a*) fix the fees to be paid for such certificates; and

(*b*) prescribe the form in which such certificates are to be framed, and the manner in which the copy of the certificate which is kept by the Local Government is to be recorded.

CHAPTER V.

SHIPS REQUIRED TO CARRY CERTIFICATED OFFICERS.

[Act I of 1859, ss. 13, 14; Bill of 1867, ss. 112, 113; Bill of 1882, ss. 16, 17.] Cf. 1894, s. 92.

British ships required to carry certificated masters and mate or mates.

32. (*1*) A foreign-going British ship shall not proceed to sea from any port in British India unless she has, as her master, a person possessing a Board of Trade, Colonial or local certificate as master of a foreign-going ship.

(*2*) A foreign-going British ship of one hundred tons or upwards **registered tonnage** shall not proceed to sea from any port in British India unless she has—

(*a*) as her only mate, a person possessing a Board of Trade, Colonial or local certificate as only mate or first mate or master of a foreign-going ship, or

(*b*) as her first and second mates, two certificated mates,—

(*i*) the first possessing a Board of Trade, Colonial or local certificate as first mate or master of a foreign-going ship, and

(*ii*) the second possessing a Board of Trade, wolonial or local certificate as second mate of a foreign-going ship *or a certificate of a higher grade.*

(*3*) A home-trade British ship carrying passengers, or a home-trade British ship of one hundred tons or upwards **registered tonnage** not carrying passengers, shall not proceed to sea from any port in British India unless she has, as her master, a person possessing a local certificate as master of a home-trade ship, or a Board of Trade, Colonial or local certificate as master of a foreign-going ship.

(*4*) A home-trade British ship of one hundred tons or upwards **registered tonnage** shall not proceed to sea from any port in British India unless she has, as her only or first mate, a person possessing a local certificate as mate *of a* home-trade ship, or a Board of Trade, Colonial or local certificate as only *or* first mate of a foreign-going ship *or a certificate of a higher grade:*

[Act V of 1883, s. 37; Bill of 1867, s. 116; Bill of 1882, s. 20.]

(*5*) *Provided that, notwithstanding anything in the foregoing provisions of this section,*—

a home-trade British ship of three hundred tons registered tonnage or under may proceed to sea from any port in British India if she has a master possessing a local certificate of service granted under section 26, and

an Asiatic ship may proceed to sea from any port in British India if she has a master possessing a local certificate as master of an Asiatic ship.

[Act VII of 1884, ss. 31, 32, 33; Bill of 1867, s. 112.] Cf. 1894, s. 93.

British steam-ships required to carry certificated engineers, engineer or engine-driver.

33. (*1*) A foreign-going British steam-ship shall not proceed to sea from any port in British India unless she has,—

(*a*) if the steam-ship has engines of one hundred nominal horse-power or upwards, as her first and second engineers, two certificated engineers,—

(*i*) the first possessing a Board of Trade, Colonial or local certificate as first-class engineer, and

(*ii*) the second possessing a Board of Trade, Colonial or local certificate as second-class engineer or first-class engineer;

(*b*) if the steam-ship has engines of under one hundred nominal horse-power, as her only or first engineer, an engineer possessing a Board of Trade, Colonial or local certificate as second-class engineer or first-class engineer.

(*2*) A home-trade British steam-ship shall not proceed to sea from any port in British India unless she has—

(*a*) if the steam-ship has engines of fifty nominal horse-power or upwards, as her only or first engineer, an engineer possessing a Board of Trade, Colonial or local certificate as second-class engineer or first-class engineer;

(*b*) if the steam-ship has engines of under fity nominal horse-power, as her engineer, a person possessing a local certificate as

engine-driver, or a Board of Trade, Colonial or local certificate as second-class engineer or first-class engineer.

(3) *The Governor of Bombay in Council, with the previous sanction of the Governor-General in Council, may, by notification in the official Gazette, declare that all or any British steam-ships proceeding from Aden to any foreign port on the coast of Arabia or Africa not being more than six hundred miles distant from Aden shall be deemed for the purposes of this section to be home-trade ships.*

(4) **The foregonig provisions** of this section shall not apply to any steam-ship to which the provisions of *the Inland Steam-vessels Act, 1884*, are applicable.

VI of 1884. [Act VII of 1884, ss. 31, 32.] Cf. *1894, s. 92.*

Foreign steam-ships required to carry British certificated master, mate, engineer or engine-driver.

34. (1) A foreign steam-ship shall not carry passengers from any port in British India to any other port in British India unless she has—

(a) as her master, a person possessing a local certificate as master of a home-trade ship or a Board of Trade, Colonial or local certificate as master of a foreign-going ship;

(b) if the steam-ship is of one hundred tons or upwards **registered tonnage**, as her only or first mate, a person possessing a local certificate as mate of a home-trade ship or a Board of Trade, Colonial or local certificate as mate of a foreign-going ship *or a certificate of a higher grade*;

(c) if the steam ship has engines of fifty nominal horse-power or upwards, as her only or first engineer, an engineer possessing a Board of Trade, Colonial or local certificate as second-class engineer, or first-class engineer;

(d) if the steam-ship has engines of under fifty nominal horse power, as her engineer, a person possessing a local certificate as engine-driver or a Board of Trade, Colonial or local certificate as second-class engineer or first-class engineer:

Provided that the Governor-General in Council may, by notification in the Gazette of India, exempt from the operation of this sub-section any specified foreign-going steam-ship carrying passengers between Calcutta and Madras or between Bombay and Aden, provided that such ship is also carrying passengers to or from Calcutta or Bombay, as the case may be, from or to some foreign port.

[Act VII of 1884, s. 33.] *VI of 1884.* [Act I of 1859, s. 18; Act VII of 1864, s. 34; Bill of 1867, s. 112; Bill of 1882, s. 16.] Cf. *1894, s. 93.*

(2) So much of sub-section (1) as relates to engineers or engine-drivers shall not apply to any steam-ship to which the provisions of *the Inland Steam vessels Act, 1884*, are applicable.

Penalty for serving, or engaging a person to serve, as master, mate, engineer or engine-driver without a certificate.

35. (a) If any person who has been engaged to serve in any of the capacities referred to in section 32, section 33 or section 34 in any ship to which those sections apply, respectively, proceeds in the ship in that capacity without being at the time entitled to, and possessed of, the certificate thereby required, *or a certificate of a higher grade*, or

(b) if any person employs any person in any capacity referred to in section 32, section 33 or section 34 in any ship to which those sections apply, respectively, without ascertaining that he is at the time entitled to, and possessed of, the certificate thereby required, *or a certificate of a higher grade*,

he shall be *liable to* fine which may extend to five hundred rupees.

CHAPTER VI.

SUSPENSION AND CANCELLATION OF CERTIFICATES OF MASTERS, MATES, ENGINEERS AND ENGINE-DRIVERS, AND GRANT OF NEW CERTIFICATES.

Saving of powers conferred by English Acts and Orders in Council in reference to Board of Trade and Colonial certificates.

36. Nothing in this Act shall affect— [Act V of 1883, s. 18; Bill of 1882, s. 147.]

(a) the powers conferred by the Merchant Shipping Act, *1894*, on Courts making investigations referred to in section 254 or section 257 or holding enquiries under section 256 of this Act to suspend or cancel Board of Trade or Colonial certificates, or [57 & 58 Vict., c. 60.]

(b) any powers conferred on any Local Government by order in Council made under the Merchant Shipping (Colonial) Act, 1869, *or under the Merchant Shipping Act*, 1894, **section 102**, for dealing with, or granting, Colonial certificates in place of Board of Trade or Colonial certificates which have been suspended or cancelled. [32 & 33 Vict., c. 11. *57 & 58 Vict., c. 60.*]

Power to grant local certificates in lieu of Board of Trade or Colonial certificates which have been suspended or cancelled.

37. (1) When any Court referred to in clause (a) of section 36 suspends or cancels any Board of Trade or Colonial certificate, the Local Government may, if it thinks fit, whether or not a recommendation to that effect has been made by the Court, grant, without examination, to the holder of the certificate, when the certificate is a certificate as master, a local certificate of competency as mate, and, when the certificate is a certificate as mate or engineer, a local certificate of competency as mate or engineer, as the case may be, of a grade lower than that which he held at the time of the suspension or cancellation: [Act V of 1883, s. 19; Bill of 1882, s. 147.]

Provided that the power conferred by this sub-section shall not be exercised by any Local Government which is for the time being empowered to grant Colonial certificates in place of Board of Trade *or* Colonial certificates which have been suspended or cancelled.

(2) A certificate granted under sub-section (1) shall have the same effect as if it had been granted after examination.

Power of Court to suspend or cancel local certificates of masters, mates or engineers.

38. (1) A local certificate (whether of competency or service) granted to a master, mate or engineer may, if a Court conducting an investigation under Chapter XXVII finds that the loss or abandonment of, or *serious* damage to, any ship, or any loss of life, has been caused by the wrongful act or default of the master, mate or engineer, or that he is incompetent or has been guilty of any gross act of drunkenness, tyranny or other misconduct, be suspended or cancelled by the Court: [Act V of 1883, s. 24A (1), (2) (added by Act VI of 1891, s. 13); Bill of 1867, ss. 195, 196; Bill of 1882, s. 148.] Cf. *1894, s. 470* (1), (3), (4).

Provided that the Court shall not suspend or cancel a certificate unless the holder of the certificate was furnished before the commencement of the investigation with the copy of the report or statement required by section 256 or section 257, as the case may be.

(2) At the conclusion of the investigation, or as soon afterwards as possible, the Court shall state in open Court the decision to which it may have come with respect to the suspension or cancellation of any certificate.

[Act V of 1883, s. 20 (rep. in part by Act VI of 1891, s. 12); Bill of 1867, s. 199; Bill of 1882, s. 148.] Cf. *1894, s. 469.*

Power of Local Government to suspend or cancel local certificates of masters, mates or engineers.

39. A local certificate (whether of competency or service) granted to a master, mate or engineer may be suspended or cancelled, either by the Local Government which granted the same or by any other Local Government, in any of the following cases, that is to say:—

(a) if, on any investigation made beyond British India under the Merchant Shipping Act, *1894*, or on any investigation made beyond British India by any Court or tribunal for the time being authorised by the Legislature of any British Possession to make inquiry into charges of incompetency or misconduct on the part of masters, mates or engineers of ships, or as to shipwrecks or other casualties affecting ships, the Court or tribunal reports that the master, mate or engineer is incompetent, or has been guilty of any gross act of misconduct, drunkenness or tyranny, or that the loss or abandonment of, or *serious* damage to, any ship, or loss of life, has been caused by his wrongful act or default; [57 & 58 Vict., c. 60.]

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

(c) if, in the case of a master, he has been superseded by the order of any Admiralty Court, or of any Naval Court constituted as provided by the Merchant Shipping Act, *1894* or by any other law for the time being in force.

[Act VII of 1884, s. 28.]

Power of Local Government to suspend or cancel local certificates of engine-drivers.

40. Notwithstanding anything in the foregoing provisions of this chapter, the Local Government may at any time, *after such enquiry as it may think necessary*, suspend or cancel any local certificate granted by it to an engine-driver, if, in its opinion, the holder is, or has become, unfit to act as an engine-driver.

[Act V of 1883, s. 21, s. 24A (3), (4) (added by Act VI of 1891, s. 13); Bill of 1867, s. 200; Bill of 1882, s. 149.] Cf. *1894, s. 473.*

Obligation to deliver up local certificate on suspension or cancellation.

41. (1) Every master, mate or engineer whose certificate has been suspended or cancelled by a Court under section 38 shall deliver the certificate to the Court, and the Court shall forward the same to the Local Government, together with the report which it is required by section 263, sub-section (1), to transmit to that Government.

(2) Every master, mate, engineer or engine-driver whose certificate has been suspended or cancelled under section 39 or section 40 shall deliver the certificate to the Superintendent of the Mercantile Marine Office or to such other person as the Local Government which suspended or cancelled the certificate may direct.

(3) Any master, mate, engineer or engine-driver failing to deliver a certificate as required by this section shall be *liable to* fine which may extend to five hundred rupees.

[Act V of 1883, ss. 22; Bill of 1867, ss. 196, 200; Bill of 1882, s. 150.]

Report to other Local Governments.

42. If the Local Government which suspends or cancels a certificate under section 39 is not the Local Government which granted the certificate, the Local Government so suspending or cancelling the certificate shall report the proceedings, and the fact of suspension or cancellation, to the Local Government which granted the certificate.

[Act V of 1883, s. 23; Bill of 1867, s. 196; Bill of 1882, s. 151.]

Report to Board of Trade.

43. Every Local Government suspending or cancelling a certificate under section 39 shall, as soon as may be practicable, report to the Board of Trade the fact of such suspension or cancellation.

[Act V of 1883, s. 24; Bill of 1867, s. 200; Bill of 1882, s. 152.] Cf. *1894, s. 474.*

Power to revoke suspension or cancellation and to grant new local certificate.

44. (1) Any Local Government may, at any time, revoke *or alter* any order of suspension or cancellation which it may have made under section 39 or section 40, or grant, without examination, to any person whose certificate it has so cancelled, a new local certificate of the same or of any lower grade.

(2) A certificate granted under sub-section (1) shall have the same effect as if it had been granted after examination.

[Act V of 1883, s. 24A (5) (added by Act VI of 1891, s. 13).]

Powers of Local Government where a local certificate has been suspended or cancelled by a Court.

45. (1) The Local Government to which a Court has forwarded a certificate under section 41 *may, if it thinks that the justice of the case requires it, re-issue and return the certificate of a master, mate or engineer which has been suspended or cancelled, or shorten the time for which it was suspended, or grant in place thereof a certificate of the same or any lower grade.*

(2) A local certificate for a home trade ship shall be deemed, for the purposes of this *and the next preceding* section, to be of a lower grade than a local certificate for a foreign-going ship.

[Act VI of 1891, s. 14.]

General provision with respect to surrender of certificates.

46. (1) When any Board of Trade, Colonial or local certificate of a master, mate, engineer or engine-driver is suspended or cancelled under any law for the time being in force, he shall deliver to the Court or person entitled to receive delivery from him of such suspended or cancelled certificate every other Board of Trade, Colonial or local certificate, if any, held by him.

(2) If any master, mate, engineer or engine-driver fails to comply with the requirement of sub-section (1) he shall be *liable to* fine which may extend to five hundred rupees.

CHAPTER VII.

ENGAGEMENT OF SEAMEN.

[Act I of 1859, s. 18; Bill of 1867, s. 117; Bill of 1882, s. 21.] Cf. *1894, s. 110.*

Licenses to procure seamen or apprentices.

47. (1) The Local Government, or any Board or officer authorised by the Local Government in this behalf, may grant to such persons as may be deemed fit for ships licenses to engage or supply seamen *or apprentices*.

(2) Such licenses shall be granted on such terms, shall continue for such periods, and shall be revocable on such conditions, as the Local Government may think proper.

[Act I of 1859, s. 19, Bill of 1867, s. 118; Bill of 1882, s. 22.] Cf. *1894, s. 111.*

Penalty for engaging seamen or apprentices without license.

48. (1) *A person shall not engage or supply a seaman or apprentice to be entered on board any ship unless that person either holds a license granted under the last preceding section, or is the owner or master or mate of the ship, or is bonâ fide the servant and in the constant employment of the owner, or is a Superintendent of a Mercantile Marine Office.*

(2) *A person shall not employ for the purpose of engaging or supplying a seaman or apprentice to be entered on board any ship any person, unless that person either holds a license granted as aforesaid or is the owner or master or mate of the ship, or is bonâ fide the servant and in the constant employment of the owner, or is a Superintendent as aforesaid.*

(3) *A person shall not receive or accept to be entered on board any ship any seaman or apprentice, if that*

person knows that the seaman or apprentice has been engaged or supplied in contravention of this section.

(4) If a person acts in contravention of this section, he shall, for each seaman or apprentice in respect of whom an offence is committed, be liable to fine which may extend to two hundred rupees, and, if a licensed person, shall forfeit his license.

[*Act I of 1859, s. 20; Bill of 1867, s. 119; Bill of 1882, s. 23.*] *Cf. 1894, s. 112.*

49. *(1) A person shall not demand or receive directly or indirectly from a seaman or apprentice to the sea service or from a person seeking employment as a seaman or apprentice to the sea service or from a person on his behalf, any remuneration whatever for providing him with employment other than any fees authorised by this Act.*

Penalty for receiving remuneration from seamen or apprentices for engagement.

(2) If a person acts in contravention of this section, he shall for each offence be liable to fine which may extend to fifty rupees.

[*Act V of 1883, s. 26; Bill of 1867, s. 120; Bill of 1882, s. 24.*] *Cf. 1894, s. 115 (1).*

50. *The master of every foreign-going British ship shall enter into an agreement in accordance with this Act with every seaman whom he carries to sea as one of his crew from any port in British India.*

Agreement with crew.

[Act V of 1883, ss. 27, 28, 29; Bill of 1867, s. 120; Bill of 1882, ss. 25, 26, 27.] *Cf. 1894, s. 114 (1), (2), (3).*

51. *(1)* Every such agreement shall be in a form sanctioned by the Governor-General in Council, shall be dated at the time of the first signature thereof, *and shall be signed by the master or the agent of the owner before any seaman signs the same.*

Form, dating, signature and contents of agreement.

(2) Every such agreement shall contain the following particulars as terms thereof (that is to say)—

(*a*) either—

(*I*) the nature and, as far as practicable, the duration of the intended voyage or engagement, or

(*II*) the maximum period of the voyage or engagement and (*i*) the places or parts of the world to which the voyage or engagement is to extend, or (*ii*) the places or parts of the world to which the voyage or engagement is not to extend;

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

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

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

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

(*f*) a scale of the provisions which are to be furnished to each seaman, such scale being, in the case of lascars or other native seamen, not less than a scale to be fixed by the Governor-General in Council and published in the Gazette of India;

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

(*h*) where it is agreed that the service of any lascar or other native seaman shall end at any port not in British India, a stipulation *to provide him either* fit employment on board some other ship bound to the port at which he was shipped, or *to such* other port in British India as may be agreed on, or a passage to some port in British India free of charge, or on such other terms as may be agreed on:

Provided that, for the purpose of this section, Aden shall not be deemed to be a port in British India except in the case of seamen *shipped from, or ordinarily resident in, that port:*

Provided also that a statutory native of India of European race or extraction shall not, except with his own express consent, be deemed to be a native seaman within the meaning of this section.

(3) Every such agreement shall be so framed as to admit of such stipulations, to be adopted at the will of the master and seaman in each case, whether respecting the advance and allotment of wages, supply of warm clothing, or otherwise, as are not contrary to law.

(*4*) Every stipulation referred to in clause (*h*) of *sub-section* (*2*) shall be signed by the owner of the ship or his agent.

52. (*1*) Every such agreement shall, subject to the provisions of sub-section (*4*), be signed by each seaman in the presence of a Superintendent of a Mercantile Marine Office.

Signature of agreement, explanation of agreement to seamen, and disposal of copies.

[Act I of 1859, s. 22; Act V of 1883, ss. 27, 29; Bill of 1867, ss. 120, 123; Bill of 1882, ss. 25, 27, 29.] *Cf. 1894, ss. 114 (1), 115 (1), (2), (3), (4).*

(*2*) The Superintendent shall cause the agreement to be read over and explained to each seaman, in a language understood by him, or shall otherwise ascertain that each seaman understands the same before he signs it, and shall attest each signature.

(*3*) When the crew is first engaged the agreement shall be signed in duplicate. One copy shall be retained by the Superintendent, and the other shall be delivered to the master and *shall* contain a special place or form for the descriptions and signatures of substitutes or persons engaged subsequently to the first departure of the ship.

(4) Where a substitute is engaged in the place of a seaman who duly signed the agreement, and whose services are within twenty-four hours of the ship's putting to sea lost by death, desertion or other unforeseen cause, the engagement shall, when practicable, be made before some Superintendent of a Mercantile Marine Office and, when not practicable, the master shall, before the ship puts to sea, if practicable, and if not as soon afterwards as possible, cause the agreement to be read over and explained to the substitute, and the substitute shall thereupon sign the same in the presence of a witness, and the witness shall attest the signature.

53. (*1*) If the master of any foreign-going British ship belonging to the United Kingdom or any British Possession other than British India has an agreement with his crew, made in due form according to the law of the place to which the ship belongs, or in which her crew were engaged, and engages single seamen, not being lascars or other native seamen, at any port in British India, *each* seaman may sign the agreement so made, and, notwithstanding anything in section 51, it shall not be necessary for him to sign an agreement in the form required by that section.

Engagement of a single seaman for a foreign-going ship belonging to the United Kingdom or a British Possession.

[Act I of 1859, s. 23; Act V of 1883, s. 30; Bill of 1867, ss. 120, 123; Bill of 1882, ss. 28, 29.] *Cf. 1894, s. 114 (4).*

(*2*) *Each* seaman signing an agreement under sub-section (1) shall do so in the presence of a Superintendent of a Mercantile Marine Office.

(*3*) The Superintendent shall cause the agreement to be read over and explained to the seaman, in a language understood by him, or shall otherwise ascertain that the seaman understands the same before he signs it, and shall attest his signature.

[*Act I of 1859, s. 23; Bill of 1867, s. 127; Bill of 1882, s. 30.*] *Cf. 1894, s. 115 (5), (6).*

54. (*1*) In the case of any foreign-going British ship making voyages averaging *less than* six months in duration, a running agreement with the crew may be made to extend over two or more voyages, but every such agreement shall terminate either within six months from the date on which it was executed, or on the first arrival of the ship at her port of destination in British India after the expiration of that period, or on the discharge of cargo consequent upon such arrival, *whichever of these dates shall be the latest:*

Running agreements for foreign-going British ships making short voyages.

Cf. Board of Trade's Instructions No. 446, dated March, 1892.

Provided that no such agreement shall continue in force if, after the expiration of such period *of six months* as aforesaid, the ship proceeds on a voyage from a port out of British India to any other such port which is not on the direct road or a customary route to her port of destination in British India.

(*2*) The provisions of sections 51 and 52 shall apply to every running agreement made under sub-section (1); and every seaman shall sign the same, whether engaged upon the first commencement thereof or otherwise.

[Act I of 1859, ss. 26, 32 (*1*); Act V of 1883, s. 26; Bill of 1867, ss. 120, 130, 136 (*1*); Bill of 1882, ss. 24, 33, 42 (1).] *Cf. 1894, ss. 113, 114, 116.*

55. (*1*) The master of every home trade British ship of eighty tons or upwards *registered tonnage* shall enter into an agreement with every seaman whom he engages at, and carries to sea from, any port in British India as one of his crew.

Agreements for home-trade British ships.

(*2*) The provisions of sections 51 to 54 (both inclusive) shall apply to every such agreement, as if the ship were a foreign-going ship:

Provided as follows:—

(*a*) the agreement need not, unless the master thinks fit, be signed by the seamen in the presence of a Superintendent of a Mercantile Marine Office;

(*b*) where any seaman has not so signed the agreement, the master shall, before the ship puts to sea, if practicable, and, if not, as soon afterwards as possible, cause the agreement to be read over and explained to him, and the seaman shall thereupon sign the same in the presence of a witness, who shall attest his signature;

[Act I of 1859, s. 27, s. 32, second para. (added by Act VI of 1891, s. 3); Bill of 1867, s. 131; Bill of 1882, s. 34.]

(*c*) where several home-trade ships of eighty tons or upwards **registered tonnage** belong to the same owner, then—

(*i*) the agreement with the seamen may be made by the owner instead of by the master, and the seamen may be engaged to serve in any two or more of such ships, provided that the names of the ships and the nature of the service are specified in the agreement; and

(*ii*) the owner or his agent may enter into time-agreements, in forms to be sanctioned by the Governor-General in Council, with individual seamen to serve in any one or more of such ships, which agreements need not terminate within six months from the dates on which they were respectively executed.

[Act I of 1859, s. 28; Bill of 1867, s. 132; Bill of 1882, s. 35.] *Cf. 1894, s. 113 (2).*

56. (*1*) If in any case a master of a British ship carries any seaman to sea *with whom no agreement has been entered into* in the form and manner and at the place and time hereby in such case required, the master, in the case of a foreign-going ship, and the master or the owner, in the case of a home-trade ship, shall be *liable to* fine which may extend to fifty rupees for each such seaman.

Penalties.

(*2*) If any master or owner of a British ship enters into an agreement with a lascar or other native seaman for a scale of provisions less than the scale fixed under section 51, clause (*f*), he shall be *liable to* fine which may extend to two hundred rupees for each such seaman.

[Act V of 1883, s. 28; Bill of 1882, s. 26.]

57. (*1*) For the purpose of preventing seamen from being taken on board any British ship at any port in British India contrary to the provisions of this Act, any Superintendent or Deputy Superintendent of a Mercantile Marine Office may enter at any time on board any such ship upon which he has reason to believe that seamen have been shipped, and may muster and examine the several seamen employed therein.

Power to board British ship and muster seamen.

[Act I of 1859, s. 30; Bill of 1867, s. 134; Bill of 1882, s. 37.] *Cf. 1894, s. 723.*

(*2*) Any person who obstructs a Superintendent or Deputy Superintendent in the exercise of his powers under sub-section (*1*) shall be *liable to* fine which may extend to one hundred rupees.

58. (*1*) If any agreement made under this chapter (other than an agreement signed under section 53) between a master or owner of a British ship and a seaman contains a stipulation which is inconsistent with any provision of this Act, such stipulation shall be void.

Irregular stipulations and alterations in agreements to be void.

[Act I of 1859, s. 48; Bill of 1867, s. 168; Bill of 1882, s. 60.] *Cf. 1894, s. 156 (1).*

(*2*) Every erasure, interlineation or alteration in any agreement as aforesaid (except additions made under this chapter for shipping substitutes or persons engaged subsequently to the first departure of the ship) shall be inoperative unless proved to have been made with the consent of all the persons interested in such erasure, interlineation or alteration by the written attestation—

[Act I of 1859, s. 33; Bill of 1867, s. 137; Bill of 1882, s. 43.] *Cf. 1894, s. 122.*

(*a*) (if made in Her Majesty's dominions) of some Superintendent of a Mercantile Marine Office, Justice, officer of Customs or other public functionary, or

(*b*) (if made out of Her Majesty's dominions) of a British consular officer, or, where there is no such officer, of two respectable British merchants.

59. (*1*) The master of every British ship for which an agreement has been made under this chapter (other than an agreement signed under section 53) shall, at the commencement of every voyage or engagement, cause a legible copy of the agreement, and if necessary a translation thereof in a language understood by the majority of the crew (omitting the signatures), to be placed or posted up in the ship so as to be accessible to the crew.

Copy of agreement to be made accessible to crew.

[Act I of 1859, s. 34; Bill of 1867, s. 138; Bill of 1882, s. 44.] *Cf. 1894, s. 120.*

(*2*) If the master fails without reasonable cause to comply with sub-section (1), he shall **for each offence be** *liable to* fine which may extend to fifty rupees.

60. (*1*) The master of every foreign-going British ship of which the crew has been engaged before a Superintendent of a Mercantile Marine Office in British India shall, before finally leaving British India, sign and send to the nearest Superintendent of a Mercantile Marine Office a full and accurate statement, in a form sanctioned by the Governor-General in Council, of every change which takes place in his crew before finally leaving British India.

Changes in crew of foreign-going British ship to be reported.

[Act I of 1859, s. 29; Bill of 1867, s. 133; Bill of 1882, s. 36.] *Cf. 1894, s. 117.*

(*2*) Such statements shall be admissible in evidence.

(*3*) If the master fails without reasonable cause to comply with sub-section (1), he shall **for each offence be** *liable to* fine which may extend to fifty rupees.

[Act I of 1859, s. 24; Bill of 1867, s. 128; Bill of 1882, s. 31.] Cf. *1894, s. 115* (7), (8).

Discharge and engagement of seamen of foreign-going British ship during pendency of a running agreement.

61. (*1*) The master of every foreign-going British ship for which a running agreement is made under section 54 shall, upon every return to any port in British India before the termination of the agreement, discharge or engage before the Superintendent of the Mercantile Marine Office at such port any seaman whom he is required by law so to discharge or engage;

and shall, upon every such return, endorse on the agreement a statement (as the case may be) either that no such discharges or engagements have been made or are intended to be made before the ship again leaves port, or that all such discharges or engagements have been duly made as hereinbefore required;

and shall deliver the agreement so endorsed to the Superintendent.

(*2*) Any master who wilfully makes a false statement in such endorsement shall be *liable to* fine which may extend to two hundred rupees.

(*3*) The Superintendent shall also sign an endorsement on the agreement to the effect that the provisions of this Act relating to such agreement have been complied with, and shall redeliver the agreement so endorsed to the master.

(*4*) In this section "termination" means, when an agreement has been renewed under section 62, the termination of the period for which the agreement has been so renewed.

[Act I of 1859, s. 24A (inserted by Act VI of 1891, s. 2).]

Renewal of running agreement for foreign-going British ship.

62. (*1*) When a running agreement with the crew of a foreign-going British ship has been made under section 54, and the ship arrives, after the expiration of a period of six months from the date on which the agreement was executed, at a port of destination in British India which is not the port at which the crew have agreed to be discharged, the master may, with the previous sanction of the Superintendent of the Mercantile Marine Office, renew the agreement or he may be required by the Superintendent to renew the same, for the voyage from such port of destination to the port in British India at which the crew have agreed to be discharged.

(*2*) If the master is required by the Superintendent to renew the agreement and refuses so to do, any expenses which may be incurred by the Government for the subsistence of the crew and their conveyance to the port at which they have agreed to be discharged shall be a charge upon the ship, and shall be recoverable as if they were expenses incurred in respect of distressed seamen under the provisions of Chapter XVIII.

[Act I of 1859, s. 35; Bill of 1867, s. 139; Bill of 1882, s. 45.] Cf. *1894, s. 169.*

Compensation to seamen of British ship discharged before voyage.

63. (*1*) Any seaman belonging to a British ship who has signed an agreement under this chapter, and is afterwards discharged, *otherwise than in accordance with the terms thereof*, before the commencement of the voyage or before one month's wages are earned, without fault on his part justifying such discharge and without his consent, shall be entitled to receive from the master or owner, in addition to any wages he may have earned, due compensation for the damage thereby caused to him, not exceeding one month's wages; and may, on adducing such evidence as the Court or Magistrate hearing the case may deem satisfactory of his having been discharged as aforesaid, recover such compensation as if it were wages duly earned:

Provided that the master may at any time before the commencement of the voyage require any seaman to be examined by a properly qualified medical practitioner with a view to ascertain whether he is or not physically fit to proceed to sea and perform his duty; and should he be certified to be unfit to do so may thereupon discharge him without compensation.

(*2*) A refusal on the part of any seaman to undergo an examination under sub-section (1) if required shall be deemed to be a fault on his part justifying his discharge without compensation.

[Act I of 1859, s. 115 (am. by Act VI of 1891, s. 4, and Act XII of 1891); Bill of 1867, s. 124; Bill of 1882, s. 38.]

Engagements between masters of foreign ships and native seamen.

64. (*1*) Whenever the master of a foreign-going foreign ship or a home-trade foreign ship of eighty tons or upwards **registered tonnage** makes an engagement—

(*a*) at **Aden**, with a seaman being a native of Asia or Africa, or

(*b*) at any other port in British India, with a seaman being a native of India,

to proceed to sea, he shall enter into an agreement with such seaman.

(*2*) The provisions of section 51, section 52, sub-sections (*1*), (*2*) and (*3*), and sections 58, 59, 60 and 63 shall apply to every agreement made for a foreign-going foreign ship under this section, as if the ship were a British ship.

(*3*) The provisions of section 51, section 52, sub-sections (*1*), (*2*) and (*3*), and sections 58, 59 and 63 shall apply to every agreement made for a home-trade foreign ship under this section, as if the ship were a British ship:

Provided as follows:—

(*i*) the agreement need not, unless the master thinks fit, be signed by the seaman in the presence of a Superintendent of a Mercantile Marine Office;

(*ii*) where any seaman has not so signed the agreement, the master shall, before the ship puts to sea if practicable, and, if not, as soon afterwards as possible, cause the agreement to be read over and explained to him, and the seaman shall thereupon sign the same in the presence of a witness, who shall attest his signature.

(*4*) Whenever an agreement for a foreign-going foreign ship has been made under this section, the master shall give to the Superintendent of the Mercantile Marine Office before whom the agreement was signed a bond, with the security of some approved person resident in British India, for an amount calculated at the rate of one hundred rupees for every seaman signing the agreement and conditioned for the due observance of the agreement and of the provisions referred to in sub-section (*2*), and for the repayment to the Secretary of State for India in Council of all expenses which may be incurred by the Government in respect of any such seaman who may be discharged or left behind at any port out of India and becomes distressed and is relieved under the provisions of the Merchant Shipping Act, 1894, section *191*.

57 & 58 Vict., c. 60.

[Act I of 1859, s. 117; Bill of 1867, s. 126; Bill of 1882, s. 40.]

Penalty for master of foreign ship illegally engaging native seamen.

65. If any master of a foreign ship engages any seaman referred to in section 64 to proceed to sea, otherwise than in accordance with the provisions of that section, he shall be *liable to* fine which may extend to one hundred rupees for each such seaman.

[Act I of 1859, s. 117; Bill of 1867, s. 126; Bill of 1882, s. 40.] Cf. *1894, s. 733.*

Power to board foreign ship and muster seamen.

66. (*1*) Any Superintendent or Deputy Superintendent of a Mercantile Marine Office may enter at any time on board any foreign ship upon which he has reason to believe that any such seaman has been shipped, and may muster and examine the several seamen employed therein.

(*2*) Any person who obstructs a Superintendent or Deputy Superintendent in the exercise of his powers under sub-section (*1*) shall be *liable to* fine which may extend to one hundred rupees.

[Act XIII of 1876, s. 5; Bill of 1882, s. 46.]

Power to prohibit engagement of native seamen.

67. (*1*) The Local Government, or such officer as it may appoint in this behalf, may, by order in writing signed by one of its Secretaries or by such officer, prohibit any person from engaging in the territories subject to the said Government, or in any specified portion of such territories, any native of India to serve as a seaman on board any ship whether British or foreign, specified in the order; but in every case the reasons for the prohibition shall be stated in writing.

(*2*) Whoever wilfully disobeys any such prohibition shall be *liable to* imprisonment for a term which may extend to three months, or *to* fine which may extend to one thousand rupees, or *to* both.

CHAPTER VIII.

PRODUCTION OF CERTIFICATES OF OFFICERS AND AGREEMENTS WITH SEAMEN.

[Act I of 1859, s. 31; Act VII of 1884, s. 35; Bill of 1867, s. 135; Bill of 1882, s. 41.] Cf. *1894, ss. 103, 118.*

Production of certificates and agreements in the case of foreign-going British ships.

68. (*1*) The master of every foreign-going British ship for which an agreement is made under Chapter VII (other than an agreement signed under section (53) shall, on signing the agreement, produce to the Superintendent of the Mercantile Marine Office before whom the same is signed the certificate or certificates which the master, mate or mates (if any) and engineer or engineers (if any) are required by Chapter V to possess; and, upon such production being duly made, and the agreement being duly executed as required by Chapter VII, the Superintendent shall sign and give to the master a certificate to that effect.

(*2*) Where a running agreement for a foreign-going British ship has been made under section 54, the Superintendent of the Mercantile Marine Office shall, before the second and every subsequent voyage made after the commencement of the agreement, sign and give to the master, on his complying with the provisions contained in Chapter VII with respect to such agreements, and producing to the Superintendent the certificate of any mate or engineer then first engaged by him, a certificate to that effect.

(*3*) The master of every ship referred to in sub-section (*1*) or sub-section (*2*) shall, before proceeding to sea, produce the certificate given to him thereunder to the officer authorised to grant a port-clearance.

(*4*) No officer as aforesaid shall grant a port-clearance for any such ship unless such certificate is so produced; and, if any attempt is made to take any such ship to sea without a clearance, *the ship may be detained* until such certificate is so produced.

(*5*) *In the case of a voyage terminating in British India*, the master of every foreign-going British ship shall, within forty-eight hours after the ship's arrival at her final port of destination, or upon the discharge of the crew at that port, whichever first happens, deliver the agreement with the crew (whether the same was made under this Act or any other law) to the Superintendent of the Mercantile Marine Office.

(*6*) Such Superintendent shall thereupon give to the master a certificate of such delivery; and no officer of Customs shall permit the entry of any such ship inwards unless such certificate is produced to him.

(*7*) If any master fails to deliver the agreement with the crew to the Superintendent as directed by sub-section (*5*), he shall be *liable to* fine which may extend to fifty rupees.

[Act I of 1859, s. 32; Act VI of 184, s. 35; Bill of 1867, s. 136; Bill of 1882, s. 42.] Cf. *1894, ss. 103, 119.*

Production of certificates and agreements in the case of home-trade British ships.

69. (*1*) Within a period of twenty-one days after the thirtieth day of June and the thirty-first day of December in every year, or, if the ship is not at any port in British India within such period in any year, then within forty-eight hours after her next arrival at any port in British India,—

(*a*) the master or owner of every home-trade British ship which is required by Chapter V to carry a certificated officer or certificated officers shall produce to some Superintendent of a Mercantile Marine Office in British India the certificate or certificates which the master, *mates, engineers and engine-drivers* are required by that chapter to possess, and

(*b*) the master or owner of every home-trade British ship of **more than** eighty tons **registered tonnage** shall transmit or deliver to some Superintendent as aforesaid every agreement made with the crew within the six calendar months next preceding the said thirtieth day of June or thirty-first day of December, as the case may be.

(*2*) Such Superintendent shall thereupon sign and give to the master or owner a certificate of such production, transmission or delivery, as the case may be.

(*3*) The master of every ship referred to in sub-section (*1*) shall, before proceeding to sea, produce the certificate or certificates given to him under sub-section (*2*) to the officer authorised to grant a port-clearance.

(*4*) No officer as aforesaid shall grant a port-clearance for any such ship unless such certificate or certificates is or are so produced; and, if any attempt is made to take any such ship to sea without a clearance, *the ship may be detained* until such certificate or certificates is or are so produced.

(*5*) If any agreement made with the crew of any such ship is not transmitted or delivered to a Superintendent as directed by sub-section (*1*), the master *or* owner, *as the case may be*, shall be *liable to* fine which may extend to fifty rupees.

Production of certificates and agreements in the case of foreign ships.

70. (*1*) The master of every foreign steam-ship which is required by section 34 to carry an officer or officers possessing a local, Board of Trade or Colonial certificate shall, before *taking the ship from* any port in British India, produce the said certificate or certificates to the Superintendent of the Mercantile Marine Office; and, upon such production being duly made, the Superintendent shall sign and give to the master a certificate to that effect.

(*2*) When any agreement between the master of a foreign ship and a seaman has been duly executed under Chapter VII at any port, and (in the case of a foreign-going ship) the master has given a bond under section 64, sub-section (*4*), the Superintendent of the Mercantile Marine Office at that port shall sign and give to the master a certificate to that effect.

(*3*) The master of every ship referred to in sub-sections (*1*) and (*2*) shall, before proceeding to sea, produce the certificate or certificates given to him thereunder to the officer authorised to grant a port-clearance.

(*4*) No officer as aforesaid shall grant a port-clearance for any such ship unless such certificate or certificates is or are so produced; and, if any attempt is made to take any such ship to sea

without a clearance, the *ship may be detained* until such certificate or certificates is or are so produced.

(5) The master of every foreign ship for which an agreement has been made under section 64 shall, within forty-eight hours after the ship's arrival at her port of final destination in British India, or upon the discharge of the crew at that port, whichever first happens, deliver the agreement to the Superintendent of the Mercantile Marine Office.

(6) Such Superintendent shall thereupon give to the master a certificate of such delivery; and no officer of Customs shall permit the entry of any such ship inwards unless such certificate is produced to him.

(7) If any master fails to deliver the agreement with the crew to the Superintendent as directed by sub-section (5), he shall be *liable to* fine which may extend to fifty rupees.

CHAPTER IX.

WAGES AND DISCHARGE OF SEAMEN AND APPRENTICES, AND SETTLEMENT OF CLAIMS.

Advance of Wages.

[Act I of 1859, ss. 36, 37; Bill of 1867, ss. 140, 141; Bill of 1882, ss. 47, 48.] Cf. *1894, s. 140.*

71. (1) Any agreement with a seaman of a British ship made under Chapter VII may contain a stipulation for payment to *or on behalf of* the seaman, conditionally on his going to sea in pursuance of the agreement, of a sum not exceeding the amount of one month's wages payable to the seaman under the agreement.

Advance of wages.

(2) *Stipulations for the allotment of a seaman's wages may be made in accordance with this Act.*

(3) Any agreement made otherwise than as authorised by this section, by or on behalf of the employer of a seaman of a British ship, for the payment of money to or on behalf of the seaman conditionally on his going to sea from any port in British India, shall be void, and no money paid in satisfaction or in respect of any such agreement shall be deducted from the seaman's wages, and no person shall have any right of action, suit or set-off against the seaman or his assignee in respect of any money so paid or purporting to have been so paid.

(4) Nothing in this section shall affect any allotment made under this chapter.

Allotment of Wages.

[Act I of 1859, s. 38; Bill of 1867, s. 142; Bill of 1882, s. 49.] Cf. *1894, ss. 140 (b), 141.*

72. (1) Every agreement with a seaman of a British ship made under Chapter VII shall, if the seaman so require, stipulate for the allotment during his absence of any part not exceeding one-half of the wages of the seaman in favour of any *near relative* of the seaman.

Stipulation for allotment to be inserted in the agreement.

(2) Every such stipulation shall be signed by the owner of the ship or his agent.

[Act I of 1859, s. 38; Bill of 1867, s. 142; Bill of 1882, s. 49.] Cf. *1894, s. 141.*

73. (1) Every such allotment shall be made by means of an allotment-note.

Allotment-notes.

(2) Every allotment-note shall be in a form **prescribed by the Governor-General in Council**, and shall be made for the benefit only of a *near* relative of the seaman to be named in the note.

(3) *For the purpose of the provisions of this Act with respect to allotment-notes, the expression "near relative" means one of the following persons, namely, the wife, father, mother, grandfather, grandmother, child, grandchild, brother or sister of the seaman.*

[Act I of 1859, ss. 39, 40; Bill of 1867, ss. 143, 144; Bill of 1882, ss. 50, 51.] Cf. *1894, ss. 143, 144.*

74. (1) A payment under an allotment-note shall begin at the expiration of one month from the date of the agreement *with the crew* or at such later date as may be fixed by the agreement, and shall be made at the expiration of every subsequent month, or of such other periods as may be fixed by the agreement, and shall be made only in respect of wages earned before the date of payment.

Payment of sums allotted.

(2) The owner or any agent who has authorised the drawing of an allotment-note shall pay to the Superintendent of the Mercantile Marine Office on demand the sums due under the note, and, if he fails to do so, the Superintendent may sue for and recover the same with costs:

Provided as follows:—

(a) no such sum shall be recoverable if it is shown to the satisfaction of the Court or Magistrate trying the case that the seaman has forfeited, or ceased to be entitled to, the wages out of which the allotment was to have been paid;

(b) the seaman shall be presumed to be duly earning his wages unless the contrary is shown to the satisfaction of the Court or Magistrate, either by a statement made under section 60 of the change in the crew caused by his absence, or by a duly certified copy of some entry in the official log to the effect that he has died or left the ship, or by a credible letter from the master of the ship to the same effect, or by such other evidence, of whatever description, as the Court or Magistrate may consider sufficient.

(3) The Superintendent, on receiving any such sum as aforesaid, shall pay it over to the person named in that behalf in the allotment-note.

(4) All such receipts and payments shall be entered in a book to be kept for the purpose, and all entries in the said book shall be authenticated by the signature of the Superintendent or the Deputy Superintendent.

(5) The said book shall be at all reasonable times open to the inspection of the parties concerned.

Legal Rights to Wages and Salvage.

[Act I of 1859, s. 48; Bill of 1867, s. 160; Bill of 1882, s. 60.] Cf. *1894, s. 156.*

75. (1) No seaman of a British ship shall by any agreement forfeit his lien upon the ship or be deprived of any remedy for the recovery of his wages to which he would otherwise have been entitled.

Seamen not to forfeit lien on ship, remedy for recovery of wages, or salvage rights.

(2) Every stipulation in any agreement by which a seaman of a British ship consents to abandon his rights to wages in case of the wreck or loss of the ship, or to abandon any right which he may have or obtain in the nature of salvage, shall be wholly inoperative.

[Bill of 1867, s. 160.]

(3) Nothing in this section shall apply to any stipulation made by the seamen belonging to any British ship which, according to the terms of the agreement, is to be employed on salvage service, with respect to the remuneration to be paid to them for salvage services to be rendered by such ship to any other ship.

[Act I of 1859, s. 49; Bill of 1867, s. 161; Bill of 1882, s. 61.] Cf. *1894, s. 157 (1).*

76. (1) The right of a seaman of a British ship to wages shall not be dependent on the earning of freight.

Wages not to be dependent on the earning of freight.

(2) Every seaman and apprentice of a British ship who would be entitled to demand and recover any wages if the ship had earned freight shall, subject to all other rules of law and conditions applicable to the case, be entitled to claim and recover the same notwithstanding that freight has not been earned; but, in all cases of wreck or loss of the ship, proof that he has not exerted himself to the utmost to save the ship, cargo and stores shall bar his claim.

[Act I of 1859, s. 51; Bill of 1867, s. 163; Bill of 1882, s. 63.] Cf. *1894, s. 158.*

77. Where the service of any seaman of a British ship terminates before the period contemplated in the agreement, by reason of the wreck or loss of the ship, or by reason of his being left on shore under a certificate of unfitness or inability to proceed to sea granted under section *188* of the Merchant Shipping Act, 1894, or this Act, the seaman shall be entitled to wages for the time of service prior to such termination as aforesaid, but not for any further period.

Right of seaman to wages to cease with termination of service by wreck or by being left on shore under a certificate.

57 & 58 Vict., c. 60.

[Act I of 1859, s. 52; Bill of 1867, s. 164; Bill of 1882, s. 64.] Cf. *1894, s. 159.*

78. No seaman or apprentice of a British ship shall be entitled to wages for any period during which he unlawfully refuses or neglects to work when required, whether before or after the time specified in the agreement for his beginning work; nor, unless the Court or Magistrate hearing the case otherwise directs, for any period during which he is lawfully imprisoned for any offence committed by him.

Wages not to accrue during refusal to work or during imprisonment.

Discharge and Payment of Wages, and Settlement of Claims.

[Act I of 1859, s. 41; Bill of 1867, s. 145; Bill of 1882, s. 52.] Cf. *1894, ss. 127, 131.*

79. (1) All seamen discharged from any foreign-going British ship at any port in British India shall be discharged and receive their wages *through or* in the presence of a Superintendent of a Mercantile Marine Office; except in cases where some competent Court otherwise directs.

Discharge and payment before Superintendent.

(2) Any master or owner who discharges any seaman or pays his wages in contravention of the provisions of sub-section (1) shall be *liable to* fine which may extend to one hundred rupees.

(3) In the case of home-trade British ships of **more than** eighty tons **registered tonnage**, seamen may, if the owner or master so desires, be discharged and receive their wages in the presence of a Superintendent of a Mercantile Marine Office *at a port in British India* except in cases where some competent Court otherwise directs.

[57 & 58 Vict., c. 60, s. 132.]

80. (1) *The master of every British ship shall, before paying off or discharging a seaman, deliver at the time and in the manner provided by this Act, a full and true account, in a form* **prescribed by the Governor-General in Council**, *of the seaman's wages, and of all deductions to be made therefrom on any account whatever.*

Master to deliver account of wages.

(2) *The said account shall be delivered—*

(a) **where** *the seaman is not to be discharged before a Superintendent, to the seaman himself not less than twenty-four hours before the discharge or payment off, and*

(b) **Where** *the seaman is to be discharged before a Superintendent, either to the seaman himself at or before the time of his leaving the ship, or to the Superintendent not less than twenty-four hours before the discharge or payment off.*

(3) *If the master of a British ship fails without reasonable cause to comply with this section, he shall for each offence be liable to fine which may extend to fifty rupees.*

(4) No deduction from the wages of any seaman of a British ship (except in respect of any matter happening after such delivery as aforesaid) shall be allowed unless it is included in the account delivered under sub-section (1).

(5) **The** master of **every** British ship shall during the voyage enter the various matters in respect of which such deductions are made, with the amounts of the respective deductions, as they occur, in a book to be kept for the purpose, and shall, if required, produce such book at the time of the payment of wages and also upon the hearing before any competent authority of any complaint or question relating to such payment.

[Act I of 1859, s. 43; Bill of 1867, s. 147; Bill of 1882, s. 54.] Cf. *1894, ss. 128, 129.*

81. (1) **The** master of **every** British ship shall, upon the discharge of any seaman, or upon payment of his wages, sign and give him a certificate of discharge, in a form **prescribed by the Governor-General in Council**, specifying the period of his service and the time and place of his discharge; and shall in default be *liable to* fine which may extend to one hundred rupees.

Certificates of discharge, *reports of seaman's character*, and return of certificates to mates and engineers.

Cf. *1894, s. 129 (1).*

(2) **Where** *a seaman is discharged* **from a British ship** *before a Superintendent, the master shall make and sign, in a form* **prescribed** *by the* **Governor-General in Council** *a report of the conduct, character and qualifications of the seaman discharged, or may state in the said form that he declines to give any opinion upon such particulars or upon any of them, and the Superintendent before whom the discharge is made shall, if the seaman desires, give to him or endorse on his certificate of discharge a copy of such report.*

(3) **The** master of **every** British ship shall, upon the discharge of any certificated *officer* whose certificate has been delivered to and retained by him, return such certificate, and shall, *if without reasonable cause he fails to do so*, be *liable to* fine which may extend to two hundred rupees.

[Act I of 1859, s 46; Bill of 1867, s. 157; Bill of 1882, s. 57.] Cf. *1894, s. 136 (1)* to *(4)*

82. (1) Upon the completion in the presence of a Superintendent of a Mercantile Marine Office of any discharge and settlement, as between the master or owner of a British ship and a seaman, the master or owner and the seaman shall respectively, in the presence of the Superintendent, sign, in a form sanctioned by the **Governor-General in Council**, a mutual release of all claims in respect of the past voyage or engagement, and the Superintendent shall also attest the release and shall retain the same.

Release to be signed on settlement of claims.

(2) Such release, so signed and attested, shall operate as a mutual discharge and settlement of all demands between the parties thereto in respect of the past voyage or engagement.

(3) A copy of such release, certified under the hand of such Superintendent to be a true copy, shall be given by him to any party to the release who may require the same, and such copy shall be admissible in evidence upon any future question touching such claims as aforesaid, and shall have all the effect of the original.

(4) In cases in which discharge and settlement **through or** in the presence of a Superintendent of a Mercantile Marine Office are required by section 79, sub-section (1), no payment, receipt, settlement or discharge otherwise made shall operate as, or be admissible in evidence of, the release or satisfaction of any claim.

Cf. *1894, s. 134 (b).*

83. Notwithstanding anything *hereinbefore contained*, the final settlement of the wages of a seaman of a British ship may, if the seaman consent, be left to the Superintendent of a Mercantile Marine Office under rules (if any) made by the Local Government; and the receipt of the Superintendent shall in that case operate as a release by the seaman under section 82.

Settlement of wages by Superintendent.

[Act I of 1859, s. 46; Bill of 1867, s. 157.; Bill of 1882, s. 57.] Cf. *1894, s. 336 (5).*

Statement of payments made to be given to master, and to be evidence.

84. Upon any payment being made by a master of a British ship *before a* Superintendent of a Mercantile Marine Office, the Superintendent shall, if so required, sign and give to the master a statement of the whole amount so paid; and such statement shall, as between the master and his employer, be admissible in evidence that he has made the payments therein mentioned.

[Act I of 1859, s. 53; Bill of 1867, s. 165; Bill of 1882, s. 65.] Cf. *1894, s. 134.*

Period within which wages *of seamen of foreign-going British ship* are to be paid.

85. (*1*) The owner or master of every *foreign-going* British ship shall pay to each seaman, *on account*, at *the time when he* lawfully leaves *the* ship at the end of his engagement, twenty rupees or one-fourth of the balance *of wages* due to him, whichever is least, and shall *pay him* the remainder of his wages within two clear days (exclusive of any Sunday or public holiday) after he so leaves the ship.

(*2*) In the event of a seaman's wages or any part thereof not being paid or settled as by this section required, then, unless the delay is due to the act or default of the seaman, or to some reasonable dispute as to liability or to some other cause not being the *wrongful* act or default of the owner or master, the seaman's wages shall continue to run and be payable until the time of the final settlement thereof.

[Act I of 1859, s. 53; Bill of 1867, s. 165; Bill of 1882, s. 65.] Cf. 1894, s. 135.

Period within which wages of seamen of home-trade British ship are to be paid.

86. (*1*) The master or owner of every *home-trade* British ship shall pay to *every* seaman his wages within *two days* after the *termination of the agreement with the crew or at the time when the seaman is discharged, whichever first happens.*

(*2*) *If a master or owner fails without reasonable cause to make payment at that time, he shall pay to the seaman a sum not exceeding the amount of two days' pay for each of the days during which payment is delayed beyond that time, but the sum payable shall not exceed ten days' double pay.*

(*3*) *Any sum payable under this section may be recovered as wages.*

[Act I of 1859, s. 54 (am. by Act XIII of 1876, s. 10); Bill of 1867, s. 166; Bill of 1882, s. 66.] Cf. *1894, s. 139.*

Rate of exchange for payment of seamen or apprentices in British Indian money.

87. (*1*) Where an agreement with the master of a British ship stipulates for the payment of wages or any other money to a seaman or apprentice in British sterling or any other currency not being British Indian currency, any payment in British India, if made in British Indian currency, shall, notwithstanding anything in the agreement, be made at the rate of exchange for the time being current at the place where the payment is made.

(*2*) The Governor-General in Council may, by notification in the *Gazette of India*, declare what shall be deemed, for the purposes of sub-section (*1*), to be the rate of exchange for the time being current at any place in British India.

[Act I of 1859, s. 44; Bill of 1867, s. 155; Bill of 1882, s. 55.] Cf. *1894, s. 137.*

Award by Superintendent.

88. (*1*) Any Superintendent of a Mercantile Marine Office may hear and decide any question as to wages which is raised before him between the master or owner of a British ship and a seaman or apprentice, provided the amount in question does not exceed fifty rupees and the Superintendent does not consider that the question ought to be decided by a Court of law.

(*2*) Subject to the provisions of sub-section (*1*), every Superintendent of a Mercantile Marine Office shall hear and decide any question whatever between a master or owner of a British ship and a seaman or apprentice which both parties agree in writing to submit to him.

(*3*) Every award made by a Superintendent under sub-section (*1*) or sub-section (*2*) shall be binding on both parties, and shall, in any legal proceeding which may be taken in the matter before any Court or Magistrate, be deemed to be conclusive as to the rights of the parties.

(*4*) Any document purporting to be an agreement or award made under this section shall *not require to be stamped and shall* be admissible in evidence.

[Act I of 1859, s. 45; Bill of 1867, s. 156; Bill of 1882, s. 56.] Cf. *1894, s. 138.*

Master and others to produce ship's papers to Superintendents, and give evidence.

89. (*1*) In any proceeding relating to the wages, discharge or claims of any seaman or apprentice of a British ship which is carried on before a Superintendent of a Mercantile Marine Office under the provisions of this Act, the Superintendent may call upon the owner or his agent, the master, or any mate or other member of the crew, to produce any logs, papers or other documents in their respective possession or power relating to any matter in question in such proceeding, and may call before him and examine on any such matter any of such persons being then at or near the place where such office is situate.

(*2*) *If any person so required fails without reasonable cause to comply with the requisition, he* shall *for each offence* be *liable to* fine which may extend to fifty rupees.

[Act I of 1859, s. 55; Act XVI of 1891; Bill of 1867, s. 167; Bill of 1882, s. 67.] Cf. *1894, s.*

Application to Magistrate for recovery of wages not exceeding five hundred rupees.

90. (*1*) Any seaman or apprentice of a British ship, or any person duly authorised on his behalf, may apply to any Magistrate **having jurisdiction in the** place at which the service has terminated or at which the seaman or apprentice has been discharged, or at which any person upon whom the claim is made is or resides, for the recovery of any amount of wages due to such seaman or apprentice not exceeding five hundred rupees.

(*2*) Every application dealt with by a Magistrate under sub-section (*1*) shall be heard and determined in a summary manner, and the order of the Magistrate thereon shall be final.

[Act I of 1859, s. 57; Act XVI of 1891; Bill of 1867, s. 169; Bill of 1882, s. 69.] Cf. *1894, s. 165.*

Bar of jurisdiction of superior Civil Courts in suits for wages not exceeding five hundred rupees.

91. No suit or proceeding for the recovery of wages not exceeding the sum of five hundred rupees shall be instituted by or on behalf of any seaman or apprentice of a British ship in any Colonial Court of Admiralty or (where there is a Court of Small Causes) in any Civil Court other than a Court of Small Causes, unless the owner of the ship is adjudged bankrupt or declared insolvent, or unless the ship is under arrest or has been sold by the authority of any such Court, or unless the Magistrate *to whom application has been made under* section 90 refers the parties to such Court.

CHAPTER X.

MASTER'S WAGES, DISBURSEMENTS AND LIABILITIES.

[Act I of 1859, s. 58; Act XVI of 1891; Bill of 1867, s. 170; Bill of 1882, s. 70.] Cf. *1894, s. 167.*

Remedies for recovery of master's wages and disbursements and for liabilities incurred by master.

92. (*1*) **The** master of **every** British ship shall, so far as the case permits, have the same rights, liens and remedies for the recovery of his wages as by this Act or any other law or any custom a seaman has for the recovery of his wages.

(*2*) **The** master of **every** British ship, and every person lawfully acting as master of a British ship by reason of the disease or incapacity from illness of the master of the ship, shall, so far as the case permits, have the same rights, liens and remedies for the recovery of disbursements properly made by him on account of the ship and for liabilities properly incurred by him on account of the ship, as a master of a British ship has, by sub-section (*1*) or any other law or any custom, for the recovery of his wages.

(*3*) If in any proceeding in any Colonial Court of Admiralty touching the claim of a master of a British ship, or any person lawfully acting as master of a British ship, to wages or such disbursements as aforesaid, or on account of such liabilities as aforesaid, any right of set-off or counter claim is set up, it shall be lawful for the Court to enter into and adjudicate upon all questions and to settle all accounts then arising or outstanding and unsettled between the parties to the proceeding, and to direct payment of any balance which is found to be due.

CHAPTER XI.

POWER TO RESCIND CONTRACTS.

Cf. *1894, ss. 168, 742.*

Power to rescind contracts.

93. (*1*) Where a proceeding is instituted in or before any Court in relation to any dispute between an owner or master of a British ship and a seaman or apprentice *to the sea service*, arising out of or incidental to their relation as such, or is instituted for the purposes of this section, the Court, if, having regard to all the circumstances of the case, it thinks it just so to do, may rescind any contract between the owner or master and the seaman or apprentice, or any contract of apprenticeship, upon such terms as the Court may think just.

(*2*) The power conferred by this section shall be in addition to any other jurisdiction which the Court can exercise independently of this section.

(*3*) For the purposes of this section, "Court" includes any Magistrate having jurisdiction in the matter to which the proceeding relates.

CHAPTER XII.

WAGES AND EFFECTS OF DECEASED SEAMEN AND APPRENTICES.

[Act I of 1859, s. 9; Bill of 1867, s. 172; Bill of 1882, s. 73.] Cf. *1894, s. 169.*

Property of seamen and apprentices who die during voyage.

94. (*1*) **If any** seaman or apprentice dies during a voyage in a British ship which is to terminate at a port in British India, the master shall take charge of all money and effects **belonging to such seaman or apprentice** which **are** on board **the ship.**

(*2*) *The master may, if he think fit, cause any of the effects to be sold by auction at the mast or otherwise by public auction.*

(*3*) *The master shall enter in the official log-book the following particulars:—*

(*a*) *a statement of the amount of the money and a description of the effects;*

(*b*) *in case of a sale, a description of* **each** *article sold and the sum received for each;*

(*c*) *a statement of the sum due to the deceased for wages and of the amount of deductions (if any) to be made from the wages.*

(*4*) *The entry shall be signed by the master and attested by a mate and some other member of the crew.*

[Act I of 1859, s. 60; Bill of 1867, s. 173; Bill of 1882, s. 73.] Cf. *1894, s. 170.*

Effects to be delivered, and money and wages paid, to Superintendent, with full account.

95. (*1*) The master shall, within forty-eight hours after his arrival at his port of destination in British India, deliver such effects as aforesaid remaining in his hands, and pay all money which he has so taken charge of or received, and also the wages due to the deceased, to the Superintendent of the Mercantile Marine Office at such port, and shall give to such Superintendent an account of the effects, money and wages so to be delivered and paid.

(*2*) No deductions claimed in such account shall be allowed unless verified,—

(*a*) if there is an official log-**book**, by the entry therein required by section **94**, **sub-section (3)**, clause (*c*), and

(*b*) by such other vouchers (if any) as may be reasonably required by the Superintendent.

[Act I of 1859, s. 61; Bill of 1867, s. 174; Bill of 1882, s. 74.] Cf. *1894, s. 171.*

Penalties for contravening section 94 or section 95.

96. If any master fails to take charge of any money or effects of a seaman or apprentice or to make or cause to be made entries in respect thereof, or to make delivery or payment, or to give an account, as hereinbefore directed, he shall be accountable for the money, wages and effects of the seaman or apprentice to such Superintendent as aforesaid, and shall pay and deliver the same accordingly; and shall in addition be *liable to* fine which may extend to treble the value of the money, wages and effects, or, if such value is not ascertained, to five hundred rupees.

Cf. *1894, s. 174.*

Wages of seamen and apprentices lost with their ship to be paid to Superintendent.

97. Where a seaman or apprentice of a British ship registered in British India has been lost with his ship, his wages shall be paid by the owner of the ship to some Superintendent of a Mercantile Marine Office in British India.

Cf. *1894, s. 175.*

Wages and effects of seamen and apprentices dying in British India to be made over to Superintendent.

98. If any seaman or apprentice dies in British India, and is at the time of his death entitled to claim from the master or owner of any British ship in which he has served any unpaid wages or undelivered effects, such master or owner shall pay such wages, and deliver or account for such effects, to the Superintendent of the Mercantile Marine Office at the port at which the seaman or apprentice was discharged or was to have been discharged, and in default of so doing shall be *liable to* fine which may extend to treble the value of the money and effects, or, if such value is not ascertained, to five hundred rupees.

[Act I of 1859, s. 61; Bill of 1867, s. 174; Bill of 1882, s. 74.] Cf. *1894, ss. 171 (5), 174 (1).*

Procedure for recovery of money, wages and effects of deceased seamen and apprentices.

99. Any money, wages or effects referred to in section 94, section 95, section 97 or section 98 may be recovered by the Superintendent of a Mercantile Marine Office in the manner provided by Chapter IX or any other law for the time being in force for the recovery of a seaman's wages.

Cf. *1894, s. 174 (2), (3).*

Evidence as to loss of ship *with reference to the recovery of wages.*

100. (*1*) In any proceeding for the recovery of the wages of a seaman or apprentice of a British ship registered in British India who has been lost with his ship,

if it is shown by some official return produced out of the custody of any officer authorised to grant a port-clearance, or by other evidence, that the ship has, twelve months or upwards before the institution of the proceeding, left a port of

departure, she shall be deemed to have been lost with all hands on board, either immediately after the time at which she was last heard of, or at such later time as the Court may think probable, **unless it is shown that she** has been heard of within **twelve months after that departure.**

(*2*) The production out of the custody of the Superintendent of any Mercantile Marine Office

of any duplicate agreement or list of the crew made out, **or statement of a change of crew delivered, under this Act,** at the time of the last departure of the ship from British India, or

of a certificate purporting to be a certificate from a Consular or other public officer at any port beyond British India stating that certain seamen or apprentices were shipped in the ship from such port,

shall, **in the absence of proof** to the contrary, be sufficient evidence that the seamen or apprentices therein named **as belonging to the ship** were on board at the time of the loss.

[Act I of 1859, s. 62 (am. by Act XII of 1891); Bill of 1867, s. 175; Bill of 1882, s. 75.] Cf *1894, s. 176.*

101. When money, wages or effects left by or due to any deceased seaman or apprentice who belonged to a British ship is or are received by a Superintendent of a Mercantile Marine Office, then, subject to such deductions for expenses incurred in respect of the seaman or apprentice or of his said money, wages or effects as the Superintendent may think proper to allow, the Superintendent may pay and deliver the said money, wages and effects to any claimants who can prove themselves to his satisfaction to be entitled thereto, and the Superintendent shall be thereby discharged from all further liability in respect thereof;

Disposal by Superintendent of money, wages and effects of deceased seaman and apprentice.

or, if he thinks fit so to do, the Superintendent may require probate or letters of administration, or a certificate under the Succession Certificate, Act, 1889, to be taken out, and thereupon pay and deliver the said money, wages and effects to the legal representative of the deceased.

VII of 1889.

[Act I of 1859, s. 63 (rep. in part by Act XII of 1876); Bill of 1867, s. 176; Bill of 1882, s. 76.] Cf. *1894, s. 179.*

102. (*1*) Where the money, wages or effects of any deceased seaman or apprentice who belonged to a British ship has or have been received by a Superintendent of a Mercantile Marine Office, and no claim thereto is substantiated within one year from such receipt, the Superintendent shall cause such effects to be sold and pay the proceeds of the sale, together with the unclaimed money and wages, into the public treasury.

Procedure where money, wages or effects of deceased seaman or apprentice not claimed within one year.

(*2*) If, after any money has been so paid into the public treasury, any claim is made thereto, then,

if the claim is established to the satisfaction of the Superintendent, the amount or so much as shall appear to be due to the claimant shall be paid to him, and

if the claim is not so established, the claimant may apply by petition to a Magistrate; and such Magistrate, after taking evidence, either orally or on affidavit, shall make such order on the petition as shall seem just:

Provided that, after the expiration of six years from the receipt of such unclaimed money, wages or effects by the Superintendent, no claim to such money or wages or to the proceeds of the sale of such effects shall be entertained without the sanction of the Local Government.

103. The provisions of this chapter as to wages shall apply to wages due to any seaman or apprentice of a British ship under section 76 and remaining unpaid at the date of his death.

[Act I of 1859, s. 50; Bill of 1867, s. 162; Bill of 1882, s. 62.] Cf. *1894, s. 157* (*2*).

Recovery of wages where freight has not been earned.

CHAPTER XIII.

PROVISIONS, HEALTH AND ACCOMMODATION.

104. The right of a seaman of a British ship to **wages and** provisions shall be taken to **begin** either at the time at which he **commences** work, or at the time specified in the agreement for his **presence** on board or **commencement of** work, whichever first happens.

[Act I of 1859, s. 47; Bill of 1867, s. 159; Bill of 1882, s. 59.] Cf. *1894, s. 155.*

Right to **wages and** provisions when to **begin.**

105. (*1*) All beef or pork in barrels, preserved meat or vegetables in tins, and flour or biscuits in casks, and all water, intended for the use of the crew of any British ship which is about to proceed to sea from a port in British India *on a voyage through the Suez Canal or round the Cape of Good Hope or Cape Horn* shall be inspected by an officer appointed by the Local Government in this behalf:

Cf. *1894, s. 206.*

Inspection of provisions and water for crews of **certain** ships, prior to departure of ship.

Provided that no provisions which have been certified under section 206 of the Merchant Shipping Act, 1894, **or under this section,** *for use in any such voyage, shall be so inspected.*

57 & 58 Vict., c. 60.

(*2*) Such inspection shall be made, if practicable, before the articles are placed on board the ship, and shall be made in the prescribed manner.

(*3*) If the said officer is satisfied that the said articles are fit for such use as aforesaid, he **shall** sign and give to the master of the ship a certificate to that effect.

(*4*) *The inspecting officer may at any time proceed on board any such ship to ascertain whether the stores and water provided have been duly inspected, or, if not, whether they are of a quality fit for the use of the crew of the ship; and, if he finds the same not to have been inspected and to be deficient in quality, the ship shall be detained until the defects are remedied to his satisfaction.*

(*5*) The Local Government may make rules to regulate the inspection of provisions and water under sub-section (*1*).

(*6*) *No fee for an inspection under this section shall be levied on the ship.*

106. (*1*) Any three or more members of the crew of any British ship may complain to any Superintendent of a Mercantile Marine Office or to any officer appointed by the Local Government in this behalf that the provisions or water provided for the use of the crew are or is at any time of bad quality, unfit for use or deficient in quantity.

[Act I of 1859, s. 64; Bill of 1867, s. 177; Bill of 1882, s. 77.] Cf. *1894, s. 198* (*1*), (*3*).

Examination of provisions or water on complaint of crew.

(*2*) Any officer to whom such complaint is made *shall* thereupon, **within twenty-four hours or so soon thereafter as may be practicable, by himself or some other duly authorised officer,** examine the said provisions or water or cause them or it to be examined; and if, on examination any of such provisions or water are or is found to be of bad quality and unfit for use or to be deficient in quantity, the person making such examination shall signify the same in writing to the master of the ship.

(*3*) If the master does not thereupon provide other proper provisions or water in place of any so signified to be of bad quality and unfit for use, or does not procure the requisite quantity of any so signified to be deficient in quantity, or uses any provisions or water which have or has been so signified to be of bad quality and unfit for use, he shall be *liable to* fine which may extend to two hundred rupees.

(*4*) When any such examination as aforesaid has been made, the officer to whom complaint was made as aforesaid shall enter a statement of the result of the examination in the official log (if any), and shall, unless he is himself the Superintendent of a Mercantile Marine Office, send a report thereof to such Superintendent.

(*5*) Such report, if produced out of the custody of such Superintendent, shall be admissible in evidence.

107. If any officer to whom a complaint is made under section 106 certifies in such statement as aforesaid that there was no reasonable ground for the complaint, each of the parties so complaining shall be liable to forfeit to the owner out of his wages a sum not exceeding the amount of one week's wages.

[Act I of 1859, s. 65; Bill of 1867, s. 178; Bill of 1882, s. 78.] Cf. *1894, s. 198* (*4*).

Forfeiture for frivolous complaint.

108. (*1*) The Superintendent or Deputy Superintendent of the Mercantile Marine Office at any port in British India may enter at any time on board of any British ship upon which seamen or apprentices have been shipped at such port, and inspect any of the provisions or water provided for the use of the crew, other than provisions or water **exempted from inspection** under section 105:

[Act I of 1859, s. 71; Bill of 1867, s. 184; Bill of 1882, s. 84.]

Inspection of provisions or water by Superintendent or Deputy Superintendent.

Provided that such inspection shall, if practicable, be made in the presence of the master.

(*2*) If on any such inspection any of the provisions or water are or is found to be of bad quality and unfit for use, or deficient in quantity, the Superintendent shall proceed as provided in section 106, and the penalty provided by that section shall be incurred by any default of the master of the ship in respect of such provisions or water.

109. (*1*) In either of the following cases (that is to say)—

[Act I of 1859, s. 66; Bill of 1867, s. 179; Bill of 1882, s. 79.] Cf. *1894, s. 199.*

Allowance for short or bad provisions.

(*a*) if during a voyage in a British ship the allowance of any of the provisions for which a seaman has stipulated by his agreement is reduced *except in accordance with any regulations for reduction by way of punishment contained in the agreement with the crew, and also except for any time during which the seaman willfully and without sufficient cause refuses or neglects to perform his duty or is lawfully under confinement for misconduct either on board or on shore; or*

(*b*) if it is shown that any of such provisions are or have during the voyage been bad in quality and unfit for use;

the seaman shall receive by way of compensation for such reduction or bad quality, according to the time of its continuance, the following sums, to be paid to him in addition to and to be recoverable as wages (that is to say)—

(*i*) if his allowance is reduced by any quantity not exceeding one-third of the quantity specified in the agreement, a sum not exceeding four annas *per diem* in the case of a European seaman or other person shipped on the same footing as a European seaman, or one anna *per diem* in the case of a lascar or other native seaman:

(*ii*) if his allowance is reduced by more than one-third of such quantity, eight annas *per diem* in the case of a European seaman or other person shipped on the same footing as a European seaman, or two annas *per diem* in the case of a lascar or other native seaman:

(*iii*) in respect of such bad quality as aforesaid, a sum not exceeding twelve annas *per diem* in the case of a European seaman or other person shipped on the same footing as a European seaman, or three annas *per diem* in the case of a lascar or other native seaman:

Provided that, if it is shown to the satisfaction of the Court or Magistrate trying the case that any provisions, the allowance of which has been reduced, could not be procured, or supplied in proper quantities, and that proper and equivalent substitutes were supplied in place thereof, the Court or Magistrate shall take such circumstances into consideration, and shall modify or refuse the compensation payable under this *sub*-section, as the justice of the case may require.

(*2*) *The Court or Magistrate trying the case may, before making an order awarding compensation under sub-section* (*1*), *require the Superintendent of the Mercantile Marine Office, or any other officer appointed by the Local Government in this behalf, to inspect any provisions which are alleged to be bad in quality and unfit for use, and to report to such Court or Magistrate the result of such inspection.*

110. (*1*) All foreign-going British ships, all home-trade British ships carrying passengers, and all home-trade British ships of eighty tons or upwards **registered tonnage** not carrying passengers, shall have always on board a sufficient supply of medicines, medical stores, disinfectants and medical appliances suitable for diseases and accidents likely to happen on sea voyages, according to such scale **or scales** as may be fixed by the Governor-General in Council and published in the Gazette of India.

[Act I of 1859, s. 67 (rep. in part by Act XII of 1876; Bill of 1867, s. 180; Bill of 1882, s. 80.] Cf. *1894, s. 200.*

Medicines, medical stores, disinfectants and medical appliances to be provided and kept on board certain ships.

(*2*) If in any ship medicines, medical stores, disinfectants or medical appliances are not provided or kept on board as required by sub-section (*1*), the owner or master of the ship shall be deemed to be in fault and shall be *liable to* fine which may extend to two hundred rupees, unless he can prove that the non-compliance with the said requirements was not caused by any inattention, neglect or wilful default on his part; and, if it is proved that some person other than the owner or master is in fault, such person shall be *liable to* fine which may extend to two hundred rupees.

(*3*) Nothing in this section shall apply to ships navigating from the United Kingdom and complying with the provisions of section 200 of the Merchant Shipping Act, 1894.

57 & 58 Vict., c. 60.

111. (*1*) **The** master of **every** British ship shall keep on board proper weights and measures for the purpose of determining the quantities of the several provisions and articles served out to the crew, and shall allow the same to be used at the time of serving out such provisions and articles in the presence of a witness whenever any dispute arises in regard to such quantities.

[Act I of 1859, s. 68; Bill of 1867, s. 181; Bill of 1882, s. 81.] Cf. *1894, s. 201.*

Weights and measures.

(*2*) **If the** master **fails without reasonable cause** to comply with **sub**-section (*1*), he shall be *liable to* fine which may extend to one hundred rupees.

[Act I of 1859, s. 70. (am. by Act XIII of 1876, s. 9) Bill of 1867, s. 183; Bill of 188. 83. Cf. *1894, s. 210.*

Provision of accommodation for seamen and apprentices.

112. (*1*) Every place in any British ship which is occupied by seamen or apprentices engaged under this Act and appropriated to their use shall have,—

(*a*) for each European seaman or apprentice or other person shipped on the same footing as a European seaman, a space of seventy-two cubic and twelve superficial feet, and

(*b*) for each lascar or other native seaman or person shipped on the same footing as a lascar, a space of thirty-six cubic and six superficial feet,

measured on the deck or floor of such place.

(*2*) Every such place shall be **so constructed** as to make the space aforesaid available for the proper accommodation of the seamen or apprentices who are to occupy it, **and** shall be securely constructed, properly lighted and ventilated, properly protected from weather and sea and, as far as practicable, properly shut off and protected from effluvium which may be caused by cargo or bilge-water.

(*3*) No place under the top-gallant forecastle shall be occupied by or appropriated to the use of any lascar or other native seaman or person shipped on the same footing as a lascar unless the forecastle deck is not less than five feet six inches above the deck immediately below it.

(*4*) Every place referred to in sub-section (*1*) shall be kept free from stores or goods of any kind, not being the personal property of the crew in use during the voyage, **and** if any such place is not **so** kept free the master shall forfeit and pay to each seaman or apprentice lodged **in that place** the sum of eight annas for each day during which, after complaint **has been** made to him by any two **or more of the seamen so lodged, it is not so kept free.**

(*5*) If in any other respect the provisions of this section are not observed with respect to any such place, the owner of the ship shall **for each offence** be *liable to* fine which may extend to two hundred rupees.

[Act I of 1859, s. 71; Bill of 1867, s. 184; Bill of 1882, s. 84.] Cf. *1894, s. 202.*

Inspection of medicines, medical stores, disinfectants, medical appliances and accommodation.

113. The Superintendent **or** Deputy Superintendent of the Mercantile Marine Office, *or* **any** *officer appointed for the purpose by the Local Government*, at any port in British India, may enter at any time on board of **any** British ship upon which seamen or apprentices have been shipped at such port, and inspect the medicines, medical stores, disinfectants and medical appliances, and the accommodation for seamen or apprentices, prescribed by or under this Act or the Merchant Shipping Act, 1894.

57 & 58 Vict., c. 60.

[Act. I of 1859, s. 69; Bill of 1867, s. 182; Bill of 1882, s. 82.] Cf. *1894, ss. 160, 207.*

Expenses consequent upon illness of master, seaman or apprentice how to be defrayed.

114. (*1*) The following expenses in respect of the illness or burial of the master or any seaman or apprentice of any British ship registered in British India shall be defrayed by the owner of the ship, without any deduction on that account from the wages of the master, seaman or apprentice:—

(*a*) when any such master, seaman or apprentice receives any hurt or injury in the service of the ship—the expenses of providing the necessary surgical and medical advice and attendance, with medicines, and of his subsistence, until **he is cured, or is brought back to the port from which he was shipped or other port agreed upon, and the expenses of** his conveyance to such port, and *in case of death* the expenses (if any) of his burial;

(*b*) when any such master, seaman or apprentice is, on account of illness, temporarily removed from the ship for the purpose of preventing infection, or otherwise for the convenience of the ship, and subsequently returns to his duty—the expenses of such removal, and of providing the necessary surgical and medical advice and attendance, with medicines, and of his subsistence, while away from the ship;

(*c*) when any such master, seaman or apprentice is ill otherwise than as mentioned in clause (*a*)—the expenses of all medicines and surgical or medical advice and attendance given to him while on board his ship:

Provided that where a seaman or apprentice is during any period, by reason of illness, incapable of performing his duty, and it is proved that such illness has been caused by his own wilful act or default, he shall not be entitled to wages for that period.

(*2*) Whenever it is shown that any seaman or apprentice of any British ship registered in British India is ill and has, through the neglect of the owner or master, not been provided with proper food or water according to his agreement, or with such medicines, medical stores, medical appliances, anti-scorbutics or accommodation as are required by or under this Act or the Merchant Shipping Act, 1894, as the case may be, then, unless it can be shown that the illness has been produced by other causes,

57 & 58 Vict., c. 60.

the owner or master shall be liable to pay all expenses properly and necessarily incurred by reason of such illness (not exceeding in the whole three months' wages), either by the seaman or apprentice himself or on his behalf by—

(*a*) any Local Government or Superintendent of a Mercantile Marine Office in British India, or

(*b*) any officer authorised in that behalf by the Government of any other British Possession, or

(*c*) any British Consular officer.

(*3*) Nothing in sub-section (*2*) shall affect—

[Bill of 1867, s. 180, last clause.]

(*a*) any further liability to which any owner or master is subject in respect of such neglect as aforesaid, or

(*b*) any remedy which any seaman or apprentice would have but for that sub-section.

(*4*) In cases not provided for by sub-section (*1*) or sub-section (*2*), any reasonable expenses duly incurred by the owner of a British ship registered in British India—

(*a*) for a master or seaman in respect of illness, or

(*b*) in respect of the burial of a master, seaman or apprentice dying while on service,

shall, if duly proved, be deducted from the wages of such master, seaman or apprentice.

(*5*) Where any expenses referred to in sub-section (*1*) have been paid by the master, seaman or apprentice himself, or where any expenses are payable under sub-section (*2*), the same may be recovered as if they were wages duly earned; and, if any such expenses are paid or allowed out of any moneys forming part of the revenues of India, the amount shall be a charge upon the ship, and may be recovered with full costs of suit by the Secretary of State for India in Council.

CHAPTER XIV.

COMPLAINTS BY SEAMEN AND APPRENTICES.

[Act I of 1859, s. 72; Bill of 1867, s. 186; Bill of 1882, s. 85.] Cf. *1894, s. 211.*

Seaman or apprentice to be allowed to go ashore to make complaint to a Magistrate or Superintendent.

115. (*1*) If any seaman or apprentice, while on board any British ship, states to the master that he desires to make complaint to a Magistrate or a Superintendent of a Mercantile Marine Office against the master or any member of the crew, the master shall,

if the ship is then at a place where there is a Magistrate or a Superintendent of a Mercantile Marine Office, so soon as the service of the ship will permit, or, if the ship is not then at such a place, so soon after her first arrival at such a place as the service of the ship will permit,

allow such seaman or apprentice to go ashore, or send him ashore in proper custody, so that he may be enabled to make such complaint.

(*2*) If the master **fails without reasonable cause** to comply with sub-section (**1**), **he** shall be *liable to* fine which may extend to one hundred rupees.

CHAPTER XV.

PROTECTION OF SEAMEN AND APPRENTICES FROM IMPOSITION.

[Act I of 1859, s. 73; Bill of 1867, s. 187; Bill of 1882, s. 86.] Cf. *1894, ss. 213.*

Protection of wages and salvage from encumbrances.

116. (*1*) No wages due or accruing to any seaman or apprentice of a British ship shall be subject to attachment by order of any Court.

(*2*) Every payment of wages to a seaman *or apprentice* of a British ship shall be valid in law, notwithstanding any previous sale or assignment of such wages or any encumbrance thereon.

(*3*) No assignment or sale of wages or salvage made by a seaman *or apprentice* of a British ship prior to the accruing thereof shall bind the *person making the same*, and no power-of-attorney or authority for the receipt of wages or salvage due or accruing to such a seaman *or apprentice* shall be irrevocable.

(*4*) *Nothing in this section shall affect the provisions of this Act with respect to allotment-notes.*

[Act I of 1859, s. 74; Bill of 1867, s. 188; Bill of 1882, s. 87.] Cf. *1894, s. 213.*

Debt exceeding three rupees when recoverable.

117. No debt exceeding in amount three rupees, incurred by any seaman of a British ship after he has engaged to serve, **shall be recoverable** until the service agreed for is concluded.

[Act I of 1859, s. 75; Bill of 1867, s. 189; Bill of 1882, s. 88.] Cf. *1894, s. 215.*

Penalty for overcharge by lodging-house-keeper.

118. If any person demands or receives from any seaman or apprentice of a British ship payment in respect of his board or lodging in the house of such person for a longer period than that during which the seaman or apprentice has actually boarded or lodged therein, he shall *for each offence* be *liable to* fine which may extend to one hundred rupees.

[Act I of 1859, s. 76; Bill of 1867, s. 190; Bill of 1882, s. 89.] Cf. *1894, s. 216.*

Penalty for retaining money or effects of seaman or apprentice.

119. (*1*) If any person receives or takes into his possession or under his control any moneys or effects of any seaman or apprentice of a British ship, and does not return the same or pay the value thereof when so required by the seaman or apprentice, subject to the deduction of any sum which may be justly due to him from the seaman or apprentice in respect of board or lodging or otherwise, or absconds with any such moneys or effects, he shall *for each offence* be *liable to* fine which **may extend to one hundred rupees.**

(*2*) Any Magistrate imposing a fine under sub-section (*1*) may direct the amount or value of such moneys or effects as aforesaid, subject to such deduction as aforesaid, to be forthwith paid to the seaman or apprentice.

[Act I of 1859, s. 77; Bill of 1867, s. 191; Bill of 1882, s. 90.] Cf. *1894, s. 218.*

Penalty for being on boardship without permission before seamen leave.

120. Where a British ship is about to arrive is arriving or has arrived at the end of her voyage, every person, not being in Her Majesty's service or not being duly authorised by law for the purpose, who—

(*a*) goes on board the ship, without the permission of the master, before the seamen lawfully leave the ship at the end of their engagement, or are discharged (whichever last happens), **or,**

(*b*) being on board the ship, remains there after being warned to leave by the master, or by a police-officer **or by an officer of sea customs,**

shall *for each offence* be *liable to* fine which may extend to two hundred rupees, or **to** imprisonment for a term which may extend **to** six months; and the master of the ship may take him into custody, and deliver him up forthwith to a police-officer to be taken before a Court or Magistrate capable of taking cognizance of the offence and dealt with according to law.

[Act I of 1859, s. 78; Bill of 1867, s. 192; Bill of 1882, s. 91.] Cf. *1894, s. 217.*

Penalty for solicitations by lodging-house-keepers.

121. If, within twenty-four hours after the arrival of any British ship at any port in British India, any person then being on board the ship solicits any seaman or apprentice to become a lodger at the house of any person letting lodgings for hire or takes out of the ship any effects of any seaman or apprentice, except under the personal direction of the seaman or apprentice and with the permission of the master, he shall be *liable to* fine which may extend to fifty rupees.

CHAPTER XVI.

DISCIPLINE.

[Act I of 1859, s. 80 Act V of 1883, s. 4 (2) Act XVI of 1891; Bill of 1867, ss. 194, 201; Bill of 1882, s. 107.] Cf. *1894, s. 272.*

Power of Admiralty and Criminal Courts to remove master and appoint a new master.

122. Any Colonial Court of Admiralty in British India, or the principal Court of ordinary criminal jurisdiction at any port in British India where there is no Colonial Court of Admiralty, may,

upon application by the owner, a part owner, the agent of the owner, the consignee, any certificated mate, or one-third or more of the members of the crew, of any British ship being within the jurisdiction of the Court, and upon proof on oath to the satisfaction of the Court that the removal of the master of the ship is necessary, remove him accordingly; and

may, with the consent of the owner or his agent, or the consignee of the ship, or, if there is no owner or agent of the owner or consignee of the ship within the jurisdiction of the Court, then without such consent, appoint a new master in his stead; and

may make such order, and require such security, in respect of costs in the matter, as it may think fit.

[Act I of 1859, s. 99; Bill of 1867, s. 218; Bill of 1882, s. 127.] Cf. *1894, s. 258.*

On change of master, documents to be handed over to successor.

123. (*1*) If, during the progress of a voyage, the master of any British ship registered in British India is *removed or* superseded, or for any other reason quits the ship, and is succeeded in the command by some other person, he shall deliver

to his successor the various documents relating to the navigation of the ship and to the crew thereof which are in his custody; and shall in default be *liable to* fine which may extend to one thousand rupees.

(*2*) Such successor shall, immediately on assuming the command of the ship, enter in the official log a list of the documents so delivered to him.

[Act I of 1859, s. 79 (am. by Act V of 1883, s. 36); Bill of 1867, s. 193; Bill of 1882, s. 106.] Cf. *1894*, s. *220*.

124. If any master, seaman or apprentice of a British ship, by wilful breach of duty, or by neglect of duty, or by reason of drunkenness,—

Punishment for misconduct endangering ship, life or limb.

(*a*) does any act tending to the immediate loss, destruction or *serious* damage of the ship, or tending immediately to endanger the life or limb of any person belonging to or on board of the ship, or

(*b*) refuses or omits to do any lawful act proper and requisite to be done by him for preserving the ship from immediate loss, destruction or *serious* damage, or for preserving any person belonging to or on board of the ship from immediate danger to life or limb,

he shall be *liable to* fine which may extend to one thousand rupees, or *to* imprisonment for a term which may extend to two years, or *to* both.

[Act I of 1859, s. 83; Bill of 1867, s. 202; Bill of 1882, s. 108.] Cf. *1894*, *ss. 221, 225*. X of 1882.

125. Whenever any seaman of a British ship who has been lawfully engaged, or any apprentice of a British ship, commits any of the following offences, he shall, notwithstanding anything in Chapter XXII of the Code of Criminal Procedure, 1882, be liable to be tried in a summary way and to be punished as follows (that is to say)—

Punishment of seamen and apprentices for certain other offences.

Desertion.

(*1*) for desertion he shall be liable—

(*a*) to forfeit all or any part of *the effects he leaves on board and of* the wages which he has then earned, and also

(*b*) if the desertion takes place at any place not in British India, at the discretion of the Court, to forfeit all or any part of the wages which he may earn in any other ship in which he may be employed until his next return to a port in British India, and to satisfy any excess of wages paid by the master or owner of the ship from which he deserts to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him, and also

(*c*) *except in the United Kingdom, to imprisonment for any period not exceeding twelve weeks, with or without hard labour;*

Failing to join ship, or absence without leave.

(*2*) for neglecting or refusing, without reasonable cause, to join his ship or proceed to sea in his ship, or for absence without leave at any time within twenty-four hours *of* the ship's sailing from any port either at the commencement or during the progress of any voyage, or

for absence at any time without leave and without sufficient reason from his ship or from his duty, where such absence does not amount to desertion or is not treated as such by the master,

he shall be liable to forfeit out of his wages a sum not exceeding two days' pay, and, in addition, for every twenty-four hours of absence, either a sum not exceeding six days' pay or any expenses which have been properly incurred in hiring a substitute, *and* shall *also, except in the United Kingdom, be liable to imprisonment for any period not exceeding ten weeks, with or without hard labour;*

Quitting without leave before ship is secured.

(*3*) for quitting his ship without leave after her arrival at her port of delivery and before she is placed in security, he shall be liable to forfeit out of his wages a sum not exceeding one month's pay;

Disobedience.

(*4*) for wilful disobedience to any lawful command he shall be *liable to* imprisonment for a term which may extend to four weeks, and shall also be liable, at the discretion of the Court, to forfeit out of his wages a sum not exceeding two days' pay:

Continued disobedience or neglect of duty.

(*5*) for continued wilful disobedience to lawful commands, or continued wilful neglect of duty, he shall be *liable to* imprisonment for a term which may extend to twelve weeks, and shall also be liable, at the discretion of the Court, to forfeit, for every twenty-four hours' continuance of such disobedience or neglect, either a sum not exceeding six days' pay or any expenses which have been properly incurred in hiring a substitute:

Assault on officer.

(*6*) for assaulting the master or any mate *or certificated engineer* of his ship, he shall be *liable to* imprisonment for a term which may extend to twelve weeks:

Combining to disobey, or to neglect duty, etc.

(*7*) for combining with any other member or members of the crew to disobey lawful commands, or to neglect duty, or to impede the navigation of the ship or the progress of the voyage, he shall be *liable to* imprisonment for a term which may extend to twelve weeks:

Wilful damage, theft or criminal misappropriation.

(*8*) for wilfully damaging his ship, or committing theft *or criminal misappropriation* in respect of, or wilfully damaging, any of her stores or cargo, he shall be liable to forfeit out of his wages a sum equal in amount to the loss thereby sustained, and also, at the discretion of the Court, to imprisonment for a term which may extend to twelve weeks:

Act of smuggling, causing loss or damage to owner or master.

(*9*) for any act of smuggling of which he is convicted, and whereby loss or damage is occasioned to the owner or master, he shall be liable to pay to the owner or master such sum as is sufficient to make good such loss or damage; and the whole or a proportionate part of his wages may be retained in satisfaction or an account of such liability, without prejudice to any further remedy.

Cf. *1894*, s. *220*.

126. Nothing in section 125 shall be deemed to take away or limit any remedy which an owner or master would have but for that section for any breach of contract in respect of matters constituting an offence against that section; but no owner or master shall be compensated more than once in respect of the same damage.

Section 125 not to take away remedy for breach of contract.

[Act I of 1859, ss. 84; Bill of 1867, s. 203; Bill of 1882, s. 109.] Cf. *1894*, s. *223*.

127. (*1*) Upon the commission of any offence mentioned in section 125, *or if any act of misconduct* is committed *for which* under *the offender's agreement a fine* may be imposed *and it is intended to enforce the fine*, the master shall make, or cause to be made, an entry thereof in the official log (if any), and such entry shall be signed by the master and also by the mate or some other member of the crew.

Entry of offences *and acts of misconduct* in official log.

(*2*) The offender, if still in the ship, shall, before the next subsequent arrival of the ship at any port, or, if she is at the time in port, before her departure therefrom, either be furnished with a copy of such entry or have the same read over distinctly and audibly to him, and may thereupon make such reply thereto as he may think fit.

(*3*) A statement that a copy of the said entry has been so furnished, or that the same has been so read over as aforesaid, and the reply (if any) made by the offender, shall likewise be entered and signed in manner aforesaid.

(*4*) In any subsequent legal proceeding, the entries hereinbefore required shall, if practicable, be produced or proved, and in default of such production or proof the Court hearing the case may, at its discretion, refuse to receive evidence of the offence *or act of misconduct*.

[Act I of 1859, s. 95; Bill of 1867, s. 214; Bill of 1882, s. 123.] Cf. *1894*, s. *227*.

128. (*1*) If any seaman of a British ship, on or before being engaged, wilfully and fradulently makes a false statement as to the name of his last ship, or last alleged ship, or wilfully and fraudulently makes a false statement as to his own name, he shall be *liable to* fine which may extend to fifty rupees.

Penalty for false statement as to last ship or as to name.

(*2*) Such fine may be deducted from any wages which the seaman may earn by virtue of such engagement as aforesaid, and may be applied in whole or in part in re-imbursement of the loss and expenses (if any) occasioned by any previous desertion.

[Act I of 1859, ss. 86, 87; Bill of 1867, ss. 205, 206; Bill of 1882, ss. 111, 112.] Cf. *1894*, *ss. 222, 223, 224*.

129. (*1*) Whenever, either at the commencement or during the progress of a voyage, any seaman or apprentice deserts from, or neglects or refuses to join or proceed to sea in, any British ship in which he is duly engaged to serve, or is found otherwise absenting himself therefrom without leave,

Procedure in case of desertion, failure to join ship, or absence without leave.

if such desertion or absence takes place in British India, the master or any mate, or the owner, ship's husband or consignee may, with or without the assistance of police-officers, who are hereby directed to give the same if required, convey him on board:

Provided that, if the seaman or apprentice so requires, he shall first be taken before some Court capable of taking cognizance of the matter, to be dealt with according to law.

(2) If such desertion or absence takes place out of British India, the master, any mate, the owner, ship's husband or consignee may, in any place in Her Majesty's dominions out of British India, with or without the assistance of the local police-officers or constables, and also at any place out of Her Majesty's dominions, if and so far as the laws in force at that place will permit, arrest him without first procuring a warrant.

(3) Any person so arresting a seaman or apprentice may in any case, and shall in case the seaman or apprentice so requires and it is practicable, convey him before some Court or Magistrate having jurisdiction in the matter to be dealt with according to law, and for that purpose may detain him in custody for a period not exceeding twenty-four hours or such shorter time as may be necessary; but if the seaman or apprentice does not require to be so taken before a Court, or if there is no Court or Magistrate at or near the place capable of taking cognisance of the matter, the person arresting him may at once convey him on board his ship.

(*4*) If any master, mate, owner, ship's husband or consignee—

(*a*) conveys a seaman or apprentice on board without first complying with any requisition made by him to be taken before a Court as aforesaid, or

(*b*) conveys a seaman or apprentice on board, or takes him before a Court, on grounds which appear to the Court to be improper or insufficient,

he shall be *liable to* fine which may extend to two hundred rupees; but such fine, if inflicted, shall be a bar to any suit for false imprisonment in respect of that arrest.

(*5*) Whenever any seaman or apprentice is brought before any Court on the ground of his having deserted from, or neglected or refused to join or proceed to sea in, any British ship in which he is engaged to serve, or of having otherwise absented himself therefrom without leave,

the Court may, if the master or the owner or his agent so requires, cause the seaman or apprentice to be conveyed on board for the purpose of proceeding on the voyage, or deliver him to the master or any mate of the ship, or the owner or his agent, to be by him so conveyed, and

may in such case order any costs and expenses properly incurred by or on behalf of the master or owner by reason of the offence to be paid by the seaman or apprentice, and if necessary to be deducted from any wages which he has then earned, or which by virtue of his then existing engagement he may afterwards earn.

Cf. *1894*, s. *463*.

130. (*1*) Whenever in any proceeding against *any* seaman or apprentice *belonging to* a British ship for *the offence of* desertion or *absence without leave* or for otherwise being absent *from his ship* without leave, it is alleged by one-fourth, or, if their number exceeds twenty, by not less than five, of *the seamen belonging to the ship*, that the ship is, *by reason of unseaworthiness, overloading, improper loading* or *defective equipment, or for any other reason, not in a fit condition to proceed to sea*, or that the accommodation *in the ship* is insufficient, the Court *having cognizance of the case* shall take such means as may be in its power to satisfy itself concerning the truth or untruth of the allegation, and shall for that purpose receive the evidence of the persons making the *same*, and may summon any other witnesses whose evidence it may think it desirable to hear, *and shall*, if satisfied that the allegation is *groundless*, adjudicate *in the case*, but if not so satisfied shall *before adjudication cause the ship to be surveyed.*

Survey of ship alleged by seamen to be unseaworthy or to have insufficient accommodation.

(*2*) *A seaman or apprentice charged with desertion, or with quitting his ship without leave, shall not have any right to apply for a survey under this section unless he has before quitting his ship complained to the master of the circumstances so alleged in justification.*

(*3*) *For the purposes of this section the Court shall require any surveyor of ships appointed under this Act, or, if such a surveyor cannot be obtained without unreasonable expense or delay, or is not, in the opinion of the Court, competent to deal with the special circumstances of the case, then any other competent person appointed by the Court, and having no interest in the ship, her freight, or cargo, to survey the ship, and to answer any question concerning her which the Court thinks fit to put.*

(*4*) *Such surveyor or other person shall survey the ship, and make his written report to the Court, including an answer to every question put to him by the Court, and the Court shall cause the report to be communicated to the parties; and, unless the opinions expressed in the report are proved to the satisfaction of the Court to be erroneous, shall determine the questions before it in accordance with those opinions.*

(*5*) *Any person making a survey under this section shall for the purposes thereof have all the powers of a Superintendent of a Mercantile Marine Office under this Act.*

(6) *The costs (if any) of the survey shall be determined according to a scale of fees to be fixed by the Local Government, and shall be paid in the first instance out of the general revenues.*

(7) *If it is proved that the ship is in a fit condition to proceed to sea, or that the accommodation is sufficient, as the case may be, the costs of the survey shall be paid by the person upon whose demand or in consequence of whose allegation the survey was made, and may be deducted by the master or owner out of the wages due or to become due to that person, and shall be paid over to the Government.*

(8) *If it is proved that the ship is not in a fit condition to proceed to sea, or that the accommodation is insufficient, as the case may be, the master or owner of the ship shall pay the costs of the survey to* the *Government, and* shall be liable to pay to the seaman or apprentice, who *has been detained in consequence of the said proceeding before the Court under this section,* such compensation for his detention as the Court may award.

[Act XIII of 1876, s. 6; Bill of 1882, s. 118.]

131. (1) Whenever any seaman or apprentice not shipped in British India deserts or otherwise absents himself without leave from a British ship in which he is engaged to serve, the master of the ship shall, *if practicable,* within forty-eight hours of discovering such desertion or absence, report the same to the Superintendent of a Mercantile Marine Office or to such other officer (if any) as the Local Government may, by notification in the official Gazette, appoint in this behalf, unless in the meantime the deserter or absentee returns.

Report of desertions and absences without leave.

(2) Any master wilfully neglecting to comply with sub-section (1) shall be *liable to* fine which may extend to one hundred rupees, or *to* imprisonment for a term which may extend to one month, or *to* both.

[Act I of 1859, s. 89; Bill of 1867, s. 208; Bill of 1882, s. 117.] Cf. *1894, s. 220.*

132. (1) Whenever a seaman or apprentice shipped in British India on a British ship registered in British India deserts therefrom while the ship is out of British India, the master shall produce the entry in the official log (if any) of such desertion to the person or persons required or authorised by section *188* of the Merchant Shipping Act, 1894, to endorse on the agreement a certificate of such desertion.

Entries and certificates of desertion abroad to be copied, sent to British India and admitted in evidence.

57 & 58 Vict., c. 60.

(2) Such person or persons shall thereupon make and certify a copy of such entry and a copy of the said certificate of desertion.

(3) The master shall forthwith transmit such copies to the Superintendent of the Mercantile Marine Office at the port at which the seaman or apprentice was shipped, and the Superintendent shall, if required, cause the same to be produced in any legal proceeding.

(4) Such copies, if purporting to be so made and certified as aforesaid shall in any legal proceeding relating to such desertion be admissible in evidence.

[Act I of [illegible], s. 90; [illegible] of 1867, [illegible]; Bill of [illegible], s. 118.] [illegible] 1894, [illegible].

133. (1) Whenever a question arises whether the wages of any seaman or apprentice of a British ship are forfeited for desertion, it shall be sufficient for the party insisting on the forfeiture to show that the seaman or apprentice was duly engaged in, or that he belonged to, the ship from which he is alleged to have deserted, and that he quitted such ship before the completion of the voyage or engagement, or, if the voyage was to terminate at any port in British India, and the ship has not returned to British India, that he is absent from her, and that an entry of the desertion has been duly made in the official log (if any).

Facilities for proving desertion so far as concerns forfeiture of wages.

(2) Thereupon the desertion shall, so far as relates to any forfeiture of wages under the provisions hereinbefore contained, be deemed to be proved, unless the seaman or apprentice can produce a proper certificate of discharge or can otherwise show to the satisfaction of the Court that he had sufficient reason for leaving his ship.

[Act I of 1859, s. 92; Bill of 1867, s. 211; Bill of 1882, s. 120.] Cf. *1894, s. 234.*

134. (1) Where a seaman of a British ship contracts for wages by the voyage or by the run or by the share, and not by the month or any other stated period of time, the amount of forfeiture to be incurred under this Act shall be taken to be an amount bearing the same proportion to the whole wages or share as a month or other the period hereinbefore mentioned in fixing the amount of such forfeiture (as the case may be) bears to the whole time spent in the voyage *or run.*

Amount of forfeiture how to be ascertained when seaman contract for the voyage.

(2) If the whole time spent in the voyage *or run* does not exceed the period for which pay is to be forfeited, the forfeiture shall extend to the whole wages or share.

[Act I of 1859, s. 94; Bill of 1867, s. 213; Bill of 1882, s. 122.] Cf. *1894, s. 233.*

135. Any question concerning the forfeiture of or deductions from the wages of any seaman or apprentice of a British ship may be determined in any proceeding lawfully instituted with respect to such wages, notwithstanding that the offence in respect of which such question arises, though hereby made punishable by imprisonment as well as forfeiture, has not been made the subject of any criminal proceeding.

Questions of forfeitures may be decided in suits for wages.

[Act I of 1859, s. 93; Bill of 1867, s. 212; Bill of 1882, s. 121.] Cf. *1894, s. 232.*

136. (1) All wages and *effects* which, under the provisions hereinbefore contained, are forfeited for desertion, shall be applied in the first instance in or towards the re-imbursement of the expenses occasioned by such desertion to the master or owner of the ship from which the desertion has taken place, and may, if earned subsequently to the desertion, be recovered by such master or by the owner or his agent in the same manner as the deserter might have recovered the same if they had not been forfeited; and in any legal proceeding relating to such wages the Court may order the same to be paid accordingly; and, subject to such re-imbursement, the same shall be paid into the public treasury and carried to the account of the Government.

Application of forfeitures.

(2) In all other cases of forfeiture of wages under the provisions hereinbefore contained, the forfeiture shall, in the absence of any specific directions to the contrary, be for the benefit of the master or owner by whom the wages are payable.

[Act I of 1859, s. 91; Bill of 1867, s. 210; Bill of 1882, s. 119.] Cf. *1894, s. 161.*

137. Whenever, in any proceeding relating to a seaman's or apprentice's wages, it is shown that any seaman or apprentice of a British ship has in the course of the voyage been convicted of any offence by any competent tribunal and rightfully punished therefor by imprisonment or otherwise, the Court hearing the case may direct a part of the wages due to such seaman or apprentice, not exceeding thirty rupees, to be applied in re-imbursing any costs properly incurred by the master in procuring such conviction and punishment.

Power to deduct from wages costs of procuring conviction.

[Act I of 1859, s. 88; Act XIII of 1876, s. 7; Bill of 1876, s. 207; Bill of 1882, ss. 114, 115.] Cf. *1894, s. 223 (4).*

138. (1) (*a*) *If any seaman or apprentice is imprisoned on the ground of his having neglected or refused to join, or to proceed to sea in, any* British *ship in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave, or of having committed any other breach of discipline, or*

Power to send on board seaman or apprentice who is undergoing imprisonment.

(*b*) if any seaman or apprentice of a British ship who was not shipped in British India is imprisoned for any offence for which he has been sentenced to imprisonment for a term not exceeding one month, and if during such imprisonment and before his engagement is at an end *the* services *of such seaman or apprentice* are required on board his ship.

any Magistrate may, at the request of the master or of the owner or his agent, cause the seaman or apprentice to be conveyed on board the ship for the purpose of proceeding on the voyage, or to be delivered to the master or any mate of the ship or to the owner or his agent, to be by him so conveyed, notwithstanding that the period for which he was sentenced to imprisonment has not terminated.

(2) The officer in charge of the jail in which such seaman or apprentice is confined shall obey all orders given by a Magistrate under this section.

[Act XIII of 1876, s. 6 (am. by Act XII of 1891); Bill of 1882, s. 116.]

139. (1) If any seaman or apprentice of a British ship, who was not shipped in British India, is imprisoned, on complaint made by or on behalf of the master or owner of the ship, for any offence for which he has been sentenced to imprisonment for a term not exceeding one month in the case of a seaman or six months in the case of an apprentice, then—

Procedure where seaman or apprentice not shipped in British India is imprisoned on complaint of master or owner.

(*a*) while such imprisonment lasts, no person shall, without the previous sanction in writing of the Local Government or of such officer as it may appoint in this behalf, engage any native of India to serve as a seaman on board such ship; and

(*b*) the Local Government, or such officer as it may appoint in this behalf, may tender such seaman or apprentice to the master or owner of the ship, and if such master or owner, without assigning reasons satisfactory to the Local Government or to such officer as aforesaid, refuses to receive him on board, may require such master or owner to deposit in the local Mercantile Marine Office—

(*i*) the wages due to such seaman or apprentice, and his money and effects, and

(*ii*) such sum as may in the opinion of the Local Government or such officer as aforesaid be sufficient to defray the cost of the passage of the said seaman or apprentice to the port at which he was shipped, according to the scale of cost usual in the case of distressed seamen.

(2) Whoever wilfully disobeys the prohibition contained in clause (*a*) of sub-section (1) shall be *liable to* imprisonment for a term which may extend to three months, or *to* fine which may extend to one thousand rupees, or to both.

(3) Any master or owner refusing or neglecting to deposit any wages, money, effects or sum when required under clause (*b*) of sub-section (1) so to do shall be *liable to* fine which may extend to five hundred rupees, *and, in default of payment of such fine, to imprisonment* for a term which may extend to three months.

[Act I of 1859, s. 96; Bill of 1867, s. 215; Bill of 1882, s. 124.] Cf. *1894, s. 235.*

140. (1) Every fine imposed on a seaman of a British ship for any act of misconduct for which under his agreement a fine may be imposed shall be deducted and paid over as follows (that is to say),—

Recovery of fines levied under agreement.

(*a*) if the offender is discharged at any port in British India,

and the offence, and the entries in respect thereof required by section 127, are proved, in the case of a foreign-going ship, to the satisfaction of the Superintendent of a Mercantile Marine Office before whom the offender is discharged, and, in the case of a home-trade ship, to the satisfaction of the Superintendent of the Mercantile Marine Office at or nearest to the place at which the crew is discharged,

the master or owner shall deduct the fine from the wages of the offender and pay the same over to such Superintendent:

(*b*) if, before the final discharge of the crew in British India, the offender enters into any of Her Majesty's ships or is discharged at any place not in British India,

and the offence and such entries as aforesaid are proved to the satisfaction of the officer in command of the ship into which he so enters, or of the consular officer, officer of Customs or other person by whose sanction he is so discharged,

the master or owner shall deduct the fine from the wages of the offender, and the master shall make or cause to be made an entry of such deduction in the official log (if any), and such entry shall be signed by such officer or other person as aforesaid, and on the return of the ship to British India the master or owner shall pay over the fine, in the case of a foreign-going ship, to the Superintendent of a Mercantile Marine Office before whom the crew is discharged, and in the case of a home-trade ship to the Superintendent of the Mercantile Marine Office at or nearest to the place at which the crew is discharged.

(2) If any master or owner fails without reasonable cause to pay over any fine to a Superintendent of a Mercantile Marine Office as required by sub-section (1), he shall be *liable to* fine which may extend to six times the amount of the fine retained by him.

(3) No act of misconduct for which a fine has been deducted under sub-section (1) shall be otherwise punished under the provisions of this Act.

[Act XIII of 1856, s. 54; Act I of 1859, s. 97; Ben. Act IV of 1866, s. 42; Mad. Act III of 1883, s. 70; Bill of 1867, s. 216; Bill of 1882, s. 125.] Cf. 1894, s. 236.

141. (1) *If a* person *by any means whatever persuades or attempts to persuade a* seaman or apprentice *to* neglect or refuse to join or proceed to sea in or to desert from his ship or otherwise to absent himself from his duty *he* shall for each *offence in respect of* each seaman or apprentice be *liable to* fine which may extend to *fifty* rupees.

Penalty for enticing to desert or harbouring deserter.

(2) *If a* person wilfully harbours or secretes *a* seaman or apprentice who has wilfully neglected or refused to join, or has deserted from, his ship knowing or having reason to believe *the* seaman or apprentice to have so done, *he* shall for *every* seaman or apprentice *so harboured or secreted* be *liable to* fine which may extend to *two* hundred rupees.

[Act I of 1859, s. 98; Bill of 1867, s. 217; Bill of 1882, s. 126.] Cf. *1894, s. 237 (1).*

142. Any person who secretes himself and goes to sea in any British ship without the consent of the master or owner or some other person entitled to give such consent shall be *liable to* fine which may extend to two hundred rupees, or *to* imprisonment for a term which may extend to four weeks.

Penalty for obtaining passage surreptitiously.

[Act I of 1859, s. 85; Bill of 1867; s. 204; Bill of 1882. s. 110.] Cf. *1894, s. 237 (2).*

143. Every seafaring person whom the master of a British ship is, under the authority of this Act or any other law, compelled to take on board and convey, and every person who goes to sea in a British ship without the consent of the master or owner or some other person entitled to give such consent,

Seafaring persons whom masters of ships are compelled to convey, and persons going in ships without leave, to be subject to laws for preserving discipline.

shall, so long as he remains in the ship, be subject to the same laws and regulations for preserving discipline, and to the same penalties and punishments for offences constituting or tending to a breach of discipline, to which he would be subject if he were a member of the crew and had signed the agreement.

CHAPTER XVII.

LEAVING SEAMEN OR APPRENTICES IN BRITISH INDIA.

[Bill of 1867, s. 148.] Cf. *1894, s. 286.*

144. (*1*) Whenever a British ship, other than a home-trade ship of less than eighty tons **registered tonnage,** is transferred or disposed of at any port in British India, and any seaman or apprentice belonging to the ship does not, in the presence of the Superintendent of the Mercantile Marine Office, signify his consent in writing to complete the voyage if continued, the master—

Discharge of seamen or apprentices on disposal of ship in British India, and procedure thereupon.

shall give to each such seaman or apprentice a certificate of discharge, in the form mentioned in section 81, and,

where a certificated mate or engineer whose certificate has been delivered to and retained by the master is so discharged, shall return such certificate, and

shall, besides paying the wages to which such seaman or apprentice is entitled, either—

(*a*) provide him with adequate employment on board some other British ship bound to the port in Her Majesty's dominions at which he was originally shipped, or to such other port in Her Majesty's dominions as may be agreed to by him, or

(*b*) provide the means of sending him back to such a port, or

(*c*) provide him with a passage home, or

(*d*) deposit with such Superintendent as aforesaid such a sum of money as may by such Superintendent be deemed sufficient to defray the expenses of his subsistence and passage home.

(*2*) Such Superintendent shall indorse upon the agreement of the ship which the seaman or apprentice is leaving the particulars of every such payment, provision or deposit.

(*3*) If any master of a British ship **fails without reasonable cause** to comply with the requirements of this section in respect of any seaman or apprentice, the expenses of the subsistence of the seaman or apprentice and of his passage home shall, unless the seaman or apprentice has been guilty of barratry, be recoverable as follows, that is to say:—

(*i*) if such expenses are defrayed by such Superintendent as aforesaid, they shall be a charge upon the ship and upon the owner for the time being thereof, and may be recovered from such owner, with costs, as a debt due to the Secretary of State for India in Council, either by ordinary process of law, or in the manner provided by Chapter IX or any other law for the time being in force for the recovery of a seaman's wages;

(*ii*) if such expenses are defrayed by the seaman or apprentice himself, they may be recovered as wages due to him.

[Act XIII of 1876, s. 4; Bill of 1867, ss. 149, 158; Bill of 1882, s. 58.] Cf. *1894, s. 188.*

Discharge, or leaving behind, in British India, of seamen or apprentices not shipped in British India.

145. (*1*) No seaman or apprentice of a British ship who was not shipped in British India—

(*a*) shall be discharged at any port in British India without the previous sanction in writing of the Superintendent of the Mercantile Marine Office, or

(*b*) shall be left behind at any place in British India without a certificate in writing previously obtained from some Superintendent of a Mercantile Marine Office and indorsed on the agreement with the crew, stating the fact and whether the cause thereof is unfitness or inability to proceed to sea, desertion or disappearance.

(*2*) Such sanction or certificate shall be given or withheld at the discretion of the Superintendent; but whenever it is withheld, the reasons for withholding it shall be recorded by him in writing.

(*3*) The Superintendent to whom any application for a certificate is made under sub-section (*1*) shall enquire in a summary way into any allegation of unfitness, inability, desertion or disappearance as aforesaid, and may for that purpose, if he thinks fit so to do, administer oaths.

(*4*) Any person discharging or leaving behind a seaman or apprentice in wilful disobedience to the prohibition contained in sub-section (*1*) shall be *liable to* imprisonment for a term which may extend to three months, or *to* fine which may extend to one thousand rupees, or *to* both.

[Bill of 1867, s. 150.] Cf. *1894, s. 188 (4).*

Proof of sanction or certificate on whom to lie.

146. Upon the trial of any proceeding against any person for discharging or leaving behind any seaman or apprentice contrary to the provisions of section 145, it shall lie upon such person either to produce the sanction or certificate, as the case may be, required by that section, or to prove that he had obtained the same previously to having discharged or left behind such seaman or apprentice, or that it was impracticable for him to obtain such sanction or certificate.

[Bill of 1867, ss. 151, 152.] Cf. *1894, s. 189.*

Wages to be paid when seaman or apprentice is left behind on ground of unfitness or inability.

147. (*1*) The master of every British ship who leaves any seaman or apprentice on shore at any place in British India under a certificate of his unfitness or inability to proceed to sea shall deliver to the Superintendent of the Mercantile Marine Office by whom such certificate is granted a full and true account of the wages due to such seaman or apprentice, and shall pay such wages to the *Superintendent of the Mercantile Marine Office* either in money or by a bill drawn upon the owner:

Provided that whenever it is practicable so to do, such payment shall be made in money and not by bill.

(*2*) Whenever a bill is so drawn, such Superintendent shall by indorsement certify thereon that the same is drawn for money due on account of a seaman's or apprentice's wages,

and shall indorse the amount for which such bill is drawn, with such further particulars in respect of the case as the Board of Trade may require, upon the agreement of the ship.

(*3*) Where a bill is so drawn, the owner of the ship shall be liable to pay the amount of the same to the holder or indorsee thereof; and it shall not be necessary in any proceeding against the owner upon any such bill to prove that the master had authority to draw the same.

(*4*) Any bill produced out of the custody of a Superintendent of a Mercantile Marine Office and purporting to be drawn in pursuance of this section, and to be indorsed as herein required, and any indorsement on any such bill purporting to be made in pursuance of this section, and to be signed by the Superintendent of a Mercantile Marine Office,

shall be admissible in evidence.

(*5*) If a master **fails** *without reasonable cause* to deliver an account of wages, or to pay any wages, as required by sub-section (*1*), **he** shall be *liable to* fine which may extend to one hundred rupees; and if he delivers a false account of such wages **he** shall be *liable to* fine which may extend to two hundred rupees; without prejudice in either case to his liability to pay the said wages.

CHAPTER XVIII.

DISTRESSED SEAMEN AND APPRENTICES.

[Act VII of 1880, s. 54; Bill of 1882, s. 92.]

Definition of "Local Authority."

148. In this chapter "local authority" means such person as the Local Government may, subject to the control of the Governor-General in Council, appoint by name or in virtue of his office to exercise the powers conferred, and to perform the duties imposed, on the local authority under this Chapter.

[Act VII of 1880, s. 55; Bill of 1867, s. 158; Bill of 1882, s. 93.] Cf. *1894, s. 191 (1).*

Relief of distressed seamen and apprentices at British Indian ports.

149. Subject to any rules made under section 157, the local authority may provide for the subsistence—

(*a*) of all seamen and apprentices, being Native Indian subjects of Her Majesty, who have been shipwrecked, discharged or left behind at any place in British India, whether from any British ship employed in the merchant service, or from any *ship belonging to or in the service of Her Majesty or the Government of India*, or who have been engaged by any person (whether acting as principal or agent) to serve in any ship belonging to any foreign Prince or State, or to the subject of any foreign Prince or State, and who are in distress in any such place; and

(*b*) of all seamen and apprentices, not being Native Indian subjects of Her Majesty, who have been shipwrecked, discharged or left behind at any place in British India from any British ship registerd in British India and who are in distress in any such place,

until such time as such authority is able to provide them with a passage under the provisions hereinafter contained.

[Act VII of 1880, ss. 56, 57; Bill of 1867, s. 135; Bill of 1882, ss. 94, 95.] Cf. *1894, s. 191 (2).*

Distressed seamen and apprentices to be sent home.

150. (*1*) Subject as aforesaid, the Local Authority may cause such seamen or apprentices to be put on board some ship belonging to any subject of Her Majesty which is in want of men to make up its complement and is bound—

(*a*) in the case of seamen or apprentices who are Native Indian subjects of Her Majesty, to their home or to a port in British India near their home;

(*b*) in the case of other British seamen or apprentices, to any port in the United Kingdom or the British Possession to which they belong (as the case requires); and

(*c*) in the case of seamen or apprentices not being subjects of Her Majesty, to such place as the local authority, subject to the control of the Governor-General in Council, may in each case determine.

(*2*) In default of any such ship, the local authority may, subject as aforesaid, provide such seamen or apprentices with a passage in any ship (whether British or foreign) bound as aforesaid.

[Act VII of 1880, s. 58; Bill of 1867, s. 153; Bill of 1882, s. 96.] Cf. *1894, s. 191 (3).*

Name and other particulars with regard to seamen and apprentices to be indorsed on agreement of British ship.

151. The local authority shall indorse on the agreement of any British ship on board of which any seaman or apprentice is sent under section 150 the name of every person so sent on board thereof, with such particulars concerning the case as may be prescribed.

[Act VII of 1880, ss. 59, 60; Bill of 1867, s. 154; Bill of 1882, ss. 97, 98.] Cf. *1894, s. 192.*

Master of British ship compelled to convey and give subsistence to such seamen and apprentices.

152. (*1*) The master of every British ship bound as aforesaid shall receive and afford a passage and subsistence to all seamen and apprentices whom he is required to take on board his ship under the provisions of section 150, not exceeding one for every fifty tons burden, **and not exceeding five in any one voyage,** and shall, during the passage, provide every such seaman or apprentice with a proper berth or sleeping-place effectually protected against sea and weather.

(*2*) If the master of any such ship fails *without reasonable cause* to receive on board his ship, or to give a passage or subsistence to, or to provide for, any such seaman or apprentice contrary to the provisions of sub-section (*1*), he shall, for each seaman and apprentice with respect to whom he so fails, be *liable to* fine which may extend to one thousand rupees.

[Act VII of 1880, s. 61; Bill of 1882, s. 90.] Cf. *1894, s. 192.*

Conditions under which master may claim payment.

153. (*1*) When any master of a British ship has conveyed a seaman or apprentice in excess of the number (if any) wanted to make up the complement of his crew to any place in accordance with the requisition of a local authority under this Chapter, such master shall be entitled to be paid by the Secretary of State for India in Council in respect of the subsistence and passage of such seaman or apprentice such sum *per diem* as the Governor-General in Council may appoint:

Provided that no payment shall be made under this section except on the production of the following documents (that is to say):

(*a*) a certificate signed by the Local Authority by whose direction such seaman or apprentice was received on board, specifying the name of such seaman or apprentice and the time when he was received on board; and

(*b*) a declaration in writing by such master, stating—

(*i*) the number of days during which such seaman or apprentice received subsistence and was provided for as aforesaid on board his ship;

(*ii*) the number of men and boys forming the complement of his crew;

(*iii*) the number of seamen and apprentices employed on board his ship during the time such

seaman or apprentice was on board; and

(*iv*) every variation (if any) of such number.

(*2*) The declaration required by clause (*b*) of sub-section (*1*) shall, in the case of a ship conveying Native Indian subjects of Her Majesty to a port in British India, be made before a Superintendent of a Mercantile Marine Office or such officer as the Local Government may appoint; and

shall, in other cases, be made and verified in the same manner as declarations made under section *192* of the Merchant Shipping Act, 1894.

57 & 58 Vict., c. 60.

[Act VII of 1880, s. 62; Bill of 1882, s. 100.] Cf. *1894, s. 193.*

154 (*a*) If any seaman or apprentice, being a Native Indian subject of Her Majesty and belonging to any British ship, is discharged or left behind at any place in British India without full compliance on the part of the master with all the provisions in that behalf of the law for the time being in force, and becomes distressed and is relieved under the provisions of this Chapter; or

Wages of, and expenses incurred in respect of, distressed seamen and apprentices to be charged in certain cases upon ship to which they belong.

(*b*) if any seaman or apprentice, being a Native Indian subject of Her Majesty, after having been engaged by any person (whether acting as principal or agent) to serve in any ship belonging to any foreign Prince or State or to the subject of any foreign Prince or State, becomes distressed and is relieved as aforesaid; or

(*c*) if any seaman or apprentice belonging to any British ship registered in British India, and not being a Native Indian subject of Her Majesty, is discharged or left behind at any place in British India without full compliance as aforesaid, and becomes distressed and is relieved as aforesaid,

the wages (if any) due to such seaman or apprentice, and all expenses incurred for his subsistence, necessary clothing, conveyance home, and, in case he should die before reaching home, for his burial, shall be a charge upon the ship, whether British or foreign, to which he so belonged as aforesaid.

[Act VII of 1880, ss. 63, 64, 65; Bill of 1882, ss. 101, 102, 103.] Cf. *1894, s. 193.*

155. (*1*) All such wages and expenses shall be recoverable with costs either from the master of such ship or from the person who is owner thereof for the time being, or, in the case of an engagement for service in a foreign ship, from such master or owner or from the person by whom such engagement was so made, in the same manner as other debts due to the Secretary of State for India in Council, or in the manner provided by Chapter IX or any other law for the time being in force for the recovery of a seaman's wages.

Mode of recovering such wages and expenses.

(*2*) The Local Government may, by notification in the official Gazette, authorise, either generally or specially, such persons as it may think fit to sue for any such wages and expenses and recover the same.

(*3*) Every person so authorised shall be entitled to sue and recover accordingly, and shall be deemed to be a person filling a public office within the meaning of the Indian Evidence Act, 1872, section 57, clause (7):

I of 1872.

Provided that when any such wages or expenses are due to or in respect of a seaman or apprentice referred to in section 154, clause (*c*), they may, instead of being recovered by a person authorised under sub-section (*2*), be recovered by the Board of Trade in manner provided by the Merchant Shipping Act, 1894, section *193*, and when so recovered shall be paid by the said Board to the Secretary of State for India in Council.

57 & 58 Vict., c. 60.

156. In all proceedings under the foregoing provisions of this Chapter, whether in British India or elsewhere, the production of a certificate signed by the local authority by which any seaman or apprentice named therein was relieved, or any expenses were incurred, under the said provisions, to the effect that such seaman or apprentice was in distress, and that such expenses were incurred in respect of such seaman or apprentice, shall be conclusive proof that such seaman or apprentice was relieved, conveyed home or buried (as the case may be) at the expense of the revenues of India.

Evidence of distress and expenses incurred.

[Act VII of 1880, s. 66; Bill of 1882, s. 104.] Cf. *1894, s. 193.*

157. The Governor-General in Council may make rules to determine under what circumstances and subject to what conditions seamen or apprentices may be relieved and provided with passages under the foregoing provisions of this Chapter, and generally to carry out the said provisions.

Power to make rules.

[Act VII of 1880, s. 67; Bill of 1882, s. 105.] Cf. *1894, s. 190.*

158. (*1*) Nothing in the foregoing provisions of this Chapter shall apply to seamen or apprentices to whom the provisions of section *191* of the Merchant Shipping Act, 1894, apply.

Relief of distressed seamen to whom the English Merchant Shipping Act applies.

[Act XIII of 1876, s. 3; Act VII of 1880, s. 54; Bill of 1882, ss. 92, 157.] Cf. *1894, ss. 192, 193.* 57 & 58 Vict., c. 60.

(*2*) A certificate signed by a Secretary to the Local Government, or by such other officer as the Local Government may appoint in this behalf, to the effect that any seaman named therein is distressed, shall, in all proceedings under sections *191, 192 and 193* of the Merchant Shipping Act, 1894, be conclusive proof that such seaman is distressed within the meaning of those sections.

57 & 58 Vict., c. 60.

(*3*) If any master of a British ship refuses without reasonable cause to accept such seaman as a distressed seaman under the provisions of the said sections, he shall, for each seaman with respect to whom he so refuses, be *liable to* fine which may extend to one thousand rupees.

159. (*1*) Where any wages or expenses recoverable under section *193* of the Merchant Shipping Act, 1894, are, under *that* section, a charge upon any ship, or recoverable from any master, owner or other person, within the jurisdiction of any Court in British India, the Governor-General in Council may, by notification in the Gazette of India, authorise, either generally or specially, such persons as he may think fit to sue for and recover those wages or expenses in the manner provided in *that* section.

Recovery in British India, under the Merchant Shipping Act, 1894, of wages and expenses of distressed seamen and apprentices.

[Act V of 1883, ss. 32, 33; Bill of 1882, s. 71.] 57 & 58 Vict., c. 60.

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

I of 1872.

(*3*) All suits and proceedings under this section shall be instituted and carried on in the name of the Secretary of State for India in Council.

CHAPTER XIX.

THE OFFICIAL LOG.

160. (*1*) An official log, in the appropriate form for that ship sanctioned by the Governor-General in Council, shall be kept for every British ship registered in British India which is required by section 32 to have a certificated master.

Official log to be kept for certain ships.

[Act I of 1859, s. 103; Bill of 1867, s. 219; Bill of 1882, s. 128.] Cf. *1894, s. 239 (1), (2), (3).*

(2) The Governor-General in Council shall prescribe forms of official log books, which may be different for different classes of ships, so that each such form shall contain proper spaces for the entries required by this Act.

[Act I of 1859, s. 105; Bill of 1867, s. 221; Bill of 1882, s. 130.] Cf. *1894, ss. 240, 423.*

(*3*) The official log may, at the discretion of the master or owner, either be kept distinct from the ordinary ship's log or *be* united therewith: Provided that in the latter case all the entries required by this Act or any other law to be made in the official log be duly made.

161. Every master of a ship for which an official log is required by section 160 shall make or cause to be made in such log entries of the following matters (in addition to all other entries which he is required by this Act or any other law to make therein), that is to say:—

Entries required in official log.

(*a*) every conviction by a legal tribunal of a member of his crew, and the punishment inflicted:

Convictions.

(*b*) every offence committed by any member of the crew for which it is intended to prosecute, or to enforce a forfeiture, or to exact a fine, together with such statement concerning the furnishing of a copy of, or the reading over of, such entry, and concerning the reply (if any) made to the charge, as *is* required by section 127, sub-sections (*2*) and (*3*):

Offences for which it is intended to take proceedings.

(*c*) every offence for which punishment is inflicted on board, and the punishment inflicted:

Punishments inflicted on board.

(*d*) a statement of the conduct, character and qualifications of each member of the crew, or a statement that the master declines to give an opinion on such particulars:

Conduct, &c., of crew.

(*e*) every case of illness or injury happening to any member of the crew, with the nature thereof, and the medical treatment adopted (if any):

Illness and injuries.

(*f*) every birth taking place on board, with the sex of the child and the names and description of the parents:

Births.

(*g*) every marriage taking place on board, with the names and ages of the parties:

Marriages.

(*h*) every death taking place on board, with the name, sex, age and description of the deceased and the cause of death:

Deaths.

(*i*) the name of every seaman or apprentice who ceases to be a member of the crew otherwise than by death, with the place, time, manner and cause thereof:

Quitting ship.

(*j*) the wages due to any seaman who enters Her Majesty's *naval* service during the voyage:

Wages of men entering Navy.

(*k*) the wages due to any seaman or apprentice who dies during the voyage, and the gross amount of all deductions to be made therefrom:

Wages of deceased seamen or apprentices.

(*l*) the sale of the effects of any seaman or apprentice who dies during the voyage, including a statement of each article sold and of the sum received for it; and

Sale of deceased men's effects.

(*m*) every collision with any other ship, and the circumstances under which the same occurred.

Collisions.

162. (*1*) Every entry in such official log shall be made as soon as possible after the event to which it relates, and no entry in respect of an event occurring previously to the arrival of the ship at her final port of discharge shall be made more than twenty-four hours after such arrival.

Entries in official log when to be made.

[Act I of 1859, s. 104; Bill of 1867, s. 220; Bill of 1882, s. 129.] Cf. *1894, s. 239 (4).*

(*2*) If any entry is made after the day on which the event to which it relates occurred, the dates both of the event and of making the entry shall be shown therein.

163. Every entry in such official log shall be signed by the master and by the mate or some other member of the crew, and also

Entries in official log how to be signed.

[Act I of 1859, s. 106; Bill of 1867, s. 22; Bill of 1882, s. 131.] Cf. *1894, ss. 166 (4) 2228, 239 (5).*

(*a*) every entry of illness, injury, birth or death, by the medical officer of the ship or, if there is no such medical officer, by some other surgeon or medical practitioner (if any) on board;

(*b*) every entry of wages due to, or of the sale of the effects of, any seaman or apprentice who dies, by the mate and by some other member of the crew;

(*c*) every entry of wages due to any seaman who enters Her Majesty's naval service, by the seaman or the officer authorised to receive the seaman into such service.

164. (*1*) If in any case an official log is not kept as required by this chapter, or if any entry required by this Act to be made by the master or by his direction in such log is not made as required by this Act, or if any entry is not signed by the master as required by this Act, the master shall, if no other penalty is provided by this Act, be *liable to* fine which may extend to fifty rupees.

Penalties in respect of official logs.

[Act I of 1859, s. 107; Bill of 1867, s. 223; Bill of 1882, s. 132.] Cf. *1894 s. 241.*

(*2*) Every person who makes or procures to be made or assists in making any entry in an official log kept under this chapter, in respect of any event occurring previously to the arrival of the ship at her final port of discharge, more than twenty-four hours after such arrival, shall be *liable to* fine which may extend to three hundred rupees.

(*3*) Every person who wilfully destroys, mutilates or renders illegible any entry in, or wilfully makes or procures to be made or assists in making any false or fraudulent entry or omission in, any such official log shall be *liable to* imprisonment for a term which may extend to one year.

165. All entries made in any such official log in pursuance of this Act or any other law shall, if signed as thereby required, be admissible in evidence.

Entries in official log to be admissible in evidence.

[Act I of 1859, s. 108; Bill of 1867, s. 224; Bill of 1882, s. 133.] Cf. *1894, s. 239 (6).*

166. (*1*) The master of every foreign-going British ship, whether registered in British India or not, shall, within forty-eight hours after the ship's arrival at her final port of destination if in British India, or upon the discharge of the crew, whichever first happens, deliver to the Superintendent of a Mercantile Marine Office before whom the crew is discharged the official log of the voyage.

Delivery of official log to Superintendent periodically.

[Act I of 1859, s. 109; Bill of 1867, s. 225; Bill of 1882, s. 134.] Cf. *1894, s. 242.*

(*2*) The master or owner of every home-trade British ship, whether registered in British India or not, which is required by section 32 to have a

certificated master shall, within twenty-one days after the thirtieth day of June and the thirty-first day of December in every year, transmit or deliver to some Superintendent of a Mercantile Marine Office in British India the official log for the preceding half year.

(3) Every master or owner who *fails without reasonable cause* to deliver or transmit an official log as required by this section shall be *liable to* fine which may extend to one hundred rupees.

[Act I of 1859, s. 110; Bill of 1867, s. 226; Bill of 1882, s. 133.] Cf. *1894, s. 243.*

Official logs to be delivered to Superintendent in case of transfer of ship, and in case of loss.

167. (1) Where, by reason of transfer of ownership or change of employment of a ship, the official log ceases to be required in respect of the ship or to be required at the same date, the master or owner of the ship shall, if the ship is then in British India, within one month, and, if she is elsewhere, within six months, after the cessation, deliver or transmit to the Superintendent at the port to which the ship belonged the official log-book (if any) duly made out to the time of the cessation.

(2) If a ship is lost or abandoned, the master or owner thereof shall, if practicable, and as soon as possible, deliver or transmit to the Superintendent at the port to which the ship belonged the official log-book (if any) duly made out to the time of the loss or abandonment.

(3) If the master or owner of a ship fails without reasonable cause to comply with this section, he shall for each offence be *liable to* fine which may extend to one hundred rupees.

CHAPTER XX.

RECOVERY OF FINES IMPOSED ABROAD.

[Act VII of 1880, s. 60.]

Recovery, in local currency, of fines imposed abroad.

168. Where any person, being the owner or master or a member of the crew of a British ship, is tried under this Part at any place in Her Majesty's dominions beyond British India for an offence for which a fine may be imposed, any fine so imposed shall be recoverable in the currency of such place *at the current rate of exchange.*

PART IV.

SAFETY AND PREVENTION OF ACCIDENTS.

CHAPTER XXI.

LIFE-SAVING APPLIANCES.

Exemption of certain ships.

169. Nothing in this Chapter shall apply to—

57 and 58 Vict., c. 60.

(*a*) any ship which is duly provided with *life-saving* appliances in accordance with rules made by the Board of Trade under the Merchant Shipping Act, 1894, and for the time being in force, or

(*b*) any ship which is duly provided with boats and other appliances for saving life in accordance with rules made by the Governor-General in Council under section 317 and for the time being in force.

Cf. 1894, s. 439.

Duty to carry life-saving appliances.

170. It shall be the duty of the owner and master of every British ship to see that his ship is provided, in accordance with rules made under this chapter, with such *life-saving* appliances as, having regard to the nature of the service on which the ship is employed and the avoidance of undue encumbrance of the ship's deck, are best adapted for securing the safety of her crew and passengers.

Power to make rules.

Cf. 1894, s. 427.

171. The Local Government with reference to native coasting-ships and the Governor-General in Council with reference to all other British ships may make rules with respect to all or any of the following matters, namely:—

(*a*) the arranging of ships into classes, having regard to the build, rig and tonnage of the ships, the services in which they are employed, the nature and duration of the voyage, and the number of persons carried;

(*b*) the number and description of the boats, life-boats, life-rafts, life-jackets and life-buoys to be carried by ships, according to the class in which they are arranged, and the mode of their construction; also the equipments to be carried by the boats and rafts, and the methods (which may include oil for use in stormy weather) to be provided to get the boats and other life-saving appliances into the water;

(*c*) the quantity, quality and description of buoyant apparatus to be carried on board ships carrying passengers, either in addition to or in substitution for boats, life-boats, life-rafts, life-jackets and life-buoys;

(*d*) *the places in which the life-jackets, life-buoys or other buoyant apparatus are to be kept so as to ensure their being immediately available for use when required.*

Penalty for breach of rules.

172. If any ship required by rules made under section 171 to be provided with *life-saving* appliances proceeds on any voyage or excursion without being so provided, in accordance with the rules applicable to the ship; **or if any of the appliances with which the ship is so provided are lost or rendered unfit for service in the course of the voyage through the fault or negligence of the owner or master; or if the master wilfully neglects to replace or repair on the first opportunity any such appliances lost or injured; or if such appliances are not kept so as to be at all times fit and ready for use;** then the owner (if in fault) shall be *liable to* fine which may extend to one thousand rupees, and the master (if in fault) shall for each offence be *liable to* fine which may extend to five hundred rupees.

Appointment and powers of surveyors of ships.

Cf. 1894, s. 431 (1).

173. (1) The Local Government may appoint persons to be surveyors of ships in any port.

(2) Every person so appointed shall, in the port for which he is appointed, have the following powers (that is to say)—

(*a*) he may go on board any ship and may inspect the same or any part thereof, or any of the boats, equipments or articles on board thereof, not unnecessarily detaining or delaying her from proceeding on any voyage;

(*b*) he may, by summons under his hand, require the attendance of all such persons as he may think fit to call before him, may examine such persons, and may, by a like summons, require returns in writing to any enquiries which he may think fit to make; and

(*c*) he may administer oaths, or may, instead of administering an oath, require any person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

Cf. 1894, s. 431 (2).

Notice of deficiency to be given to master or owner by such surveyors.

174. If any person so appointed finds that any ship is not so provided, he shall give to the master or owner notice in writing pointing out the deficiency, and also what is, in his opinion, requisite in order to remedy the same.

Cf. 1894, s. 431 (3).

Port-clearance not to be granted till surveyor certifies that ship is properly provided with life-saving appliances.

175. Every notice so given shall be communicated, in such manner as the Local Government may direct, to the Customs-collector at any port from which such ship may seek to clear; and no officer authorised to grant a port-clearance from such port shall grant the same without a certificate under the hand of some person appointed as aforesaid, to the effect that the said ship is properly provided with life-saving appliances in pursuance of the said rules.

CHAPTER XXII.

INSPECTION OF SHIPS WITH REGARD TO LIGHTS AND FOG-SIGNALS.

[Act VII of 1880, ss. 11, 31.] Cf. 1894, ss. 420 (1), (3), 727, 729.

Appointment and powers of surveyors of lights and fog-signals.

176. (1) The Local Government may appoint persons to be surveyors in any port of ships, whether British or foreign, to which the regulations for *the prevention of* collisions at sea, *made* under

57 & 58 Vict., c. 60.

the Merchant Shipping Act, 1894 section 418, or any other similar law for the time being in force, may apply, for the purpose of seeing that such ships are properly provided with lights and with the means of making fog-signals in pursuance of such regulations or law.

(2) Every person so appointed shall, in the port for which he is appointed, have the following powers (that is to say)—

(*a*) he may go on board any ship and may inspect the same or any part thereof, or any of the equipments or articles on board thereof, not unnecessarily detaining or delaying her from proceeding on any voyage;

(*b*) he may, by summons under his hand, require the attendance of all such persons as he may think fit to call before him, may examine such persons, and may, by a like summons, require returns in writing to any enquiries which he may think fit to make; and

(*c*) he may administer oaths, or may, instead of administering an oath, require any person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

[Act VII of 1880, s. 82.] Cf. 1894, s. 420 (1).

Notice of deficiency to be given to master or owner by such surveyors.

177. If any person so appointed finds that any ship is not so provided, he shall give to the master or owner notice in writing pointing out the deficiency and also what is, in his opinion, requisite in order to remedy the same.

[Act VII of 1880, s. 83.] Cf. 1894, s. 420 (2).

Port-clearance not to be granted till surveyor certifies that ship is properly provided with lights and fog-signals.

178. Every notice so given shall be communicated, in such manner as the Local Government may direct to the Customs-collector at any port from which such ship may seek to clear; and no officer authorised to grant a port-clearance from such port shall grant the same without a certificate under the hand of some person appointed as aforesaid, to the effect that the said ship is properly provided with lights and with the means of making fog-signals in pursuance of the said regulations or law.

Cf. 1894, s. 420 (8).

Fees.

179. *Such fees as the Local Government, with the previous sanction of the Governor-General in Council, may determine shall be paid in respect of an inspection of lights and fog-signals under this Chapter, not exceeding those specified in Schedule IV.*

CHAPTER XXIII.

SURVEY OF STEAM-SHIPS.

[Bill of 1867, ss. 235 to 250.] (Act VII of 1884, s. 4.) Cf. 1894, s. 271 (1).

Certain steam-ships carrying passengers to have certificate of survey.

180. (1) A British or foreign steam-ship shall not carry more than twelve passengers between ports in British India, and

a British steam-ship shall not carry more than twelve passengers to or from any port in British India from or to any place out of British India,

unless she has a certificate of survey under this Chapter in force and applicable to the voyage on which she is about to proceed, or the service on which she is about to be employed.

[Act VII of 1884, s. 5 (*a*), (*b*), (*c*).] Cf. 1894, ss. 278 (2), 284.

(2) Nothing in sub-section (1) shall apply to—

(*a*) any steam-ship having a certificate of survey granted by the Board of Trade or any British Colonial Government, unless it appears from the certificate that it is inapplicable to the voyage on which the steam-ship is about to proceed or the service on which she is about to be employed, or unless there is reason to believe that the steam-ship has, since the grant of the certificate, sustained injury or damage, or been found unseaworthy or otherwise inefficient; or

(*b*) any steam-ship having a certificate of survey granted under *the Inland Steam-vessels Act, 1884*, in force and applicable to the voyage on which the steam-ship is about to proceed or the service on which she is about to be employed; or

VI of 1894.

(*c*) any steam-ship carrying passengers during the interval between the time at which her certificate of survey under this Chapter expires and the time at which it is first practicable to have the certificate renewed.

[Act VII of 1884, s. 25.]

Power for Local Government to except certain steam-ships.

181. The Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the official Gazette, declare that all or any of the provisions of this Chapter shall not apply in the case of any specified class of steam-ships or shall apply to them with such modifications as the Local Government may prescribe.

[Act VII of 1884, s. 6.] Cf. 1894, s. 283.

Penalty for carrying passengers in excess.

182. (1) **The owner or master of a passenger steam-ship shall not receive on board thereof, or on or in any part thereof, any number of passengers which, having regard to the time, occasion and circumstances of the case, is greater than the number allowed by her certificate of survey; and if he does so, he shall for each offence be liable to fine which may extend to two hundred rupees, and also to an additional fine which may extend to three rupees for every passenger above the number so allowed, or, if the fare of any passenger on board exceeds three rupees, to double the amount of the fares of all the passengers above**

the number so allowed, reckoned at the highest rate of fare payable by any passenger on board.

(2) If the master or any other officer of any steam-ship on board of which passengers are received in contravention of sub-section (1) is a licensed pilot, he shall be liable to have his license as a pilot suspended for any period, or cancelled, by the Local Government, as the Local Government may see fit to order.

[Act VII of 1884, s. 7.] Cf. 1894, s. 271 (b).

183. No port-clearance shall be granted, nor shall any pilot be assigned, to any steam-ship for which a certificate of survey is required by section 180, until after the production by the owner or master thereof of a certificate under this Chapter in force and applicable to the voyage on which she is about to proceed and the service on which she is about to be employed.

No port-clearance until certificate of survey produced.

[Act VII of 1884, s. 8.] Cf. 1894, s. 271 (2).

184. If any steam-ship for which a certificate of survey is required by section 180 leaves or attempts to leave any port of survey without a certificate, the ship may *be detained* until she obtains a certificate.

Power to detain steam-ship not having certificate of survey.

[Act VII of 1884, s. 9 (1).] Cf. 1894, s. 724 (1).

185. The Local Government may appoint so many persons as it may think fit to be surveyors for the purposes of this Chapter at such ports within the territories under its administration as it may appoint to be ports of survey.

Appointment of surveyors and ports of survey.

[Act VII of 1884, s. 10.] Cf. 1894, s. 725.

186. (1) For the purposes of a survey under this Chapter, any surveyor appointed under this Chapter may, at any reasonable time, go on board any steam-ship, and may inspect the same or any part thereof, or the machinery, equipments or articles on board thereof.

Powers of surveyors.

Provided that he does not unnecessarily hinder the loading or unloading of the steam-ship, or unnecessarily detain or delay her from proceeding on any voyage.

(2) The owner, master and officers of the steam-ship shall afford to the surveyor all reasonable facilities for a survey, and all such information respecting the steam-ship, and her machinery and equipments, or any part thereof, respectively, as he may reasonably require.

[Act VII of 1884, s. 10A (inserted by Act III of 1890, s. 15).] Cf. 1894, s. 277.

187. Before a survey under this Chapter of hull and equipments or of machinery is commenced, the owner or master of the steam-ship to be surveyed shall pay to such officer as the Local Government may appoint in this behalf—

Fees in respect of surveys.

(a) a fee calculated on the tonnage of the steam-ship according to the rates in Schedule V, or according to any other prescribed rates; and

(b) when the survey is to be made in any port of survey *at which a surveyor has not been appointed under section 185*, such additional fee, in respect of the expense (if any) of the journey of the surveyor to the port as the Local Government may, by notification in the official Gazette, direct.

[Act VII of 1884, s. 11.] Cf. 1894, s. 273 (2), (3), (4).

188. (1) When a survey of hull and equipments under this Chapter is completed, the surveyor making it shall forthwith, if satisfied that he can with propriety do so, give to the owner or master of the steam-ship surveyed a declaration in the prescribed form containing the following particulars, namely:—

Declaration of surveyor.

(a) that the hull of the steam-ship *is* sufficient for the service intended and in good condition;

(b) that the *boats, life-buoys, lights, signals, compasses and shelter for deck passengers* are such, and in such condition, as are required by *this Act*;

(c) the time (if less than one year) for which the hull and equipments will be sufficient;

(d) the limits (if any) beyond which, as regards the hull *and* equipments, the steam-ship is in the surveyor's judgment not fit to ply;

(e) the number of passengers which the steam-ship is in the judgment of the surveyor fit to carry, distinguishing, if necessary, between the respective numbers to be carried on the deck and in the cabins and in different parts of the deck and cabin; *those numbers* to be subject to such conditions and variations, according to the time of year, the nature of the voyage, the cargo carried, or other circumstances as the case requires;

(f) that the certificates of the master *and* mate or mates of the steam-ship are such as are required by *this Act; and*

(g) any other prescribed particulars.

(2) When a survey of machinery under this Chapter is completed the surveyor making it shall forthwith, if satisfied that he can with propriety do so, give to the owner or master a declaration in the prescribed form containnig the following particulars, namely:—

(a) that the machinery of the steam-ship *is* sufficient for the service intended and in good condition;

(b) the time (if less than one year) for which the machinery will be sufficient;

(c) that the *safety-valves and fire-hose* are such and in such condition as are required by *this Act*;

(d) *the limit of the weight to be placed on the safety-valves*;

(e) the limits (if any) beyond which, as regards the machinery, the steam-ship is in the surveyor's judgment not fit to ply;

(f) that the certificates of the *engineers and engine-drivers of the steam-ship are such as are required by this Act; and*

(g) any other prescribed particulars.

[Act VII of 1884, s. 12 (rep. in part by Act III of 1890, s. 16).] Cf. 1894, s. 273.

189. (1) The owner or master to whom a declaration is given under section 188 shall, within fourteen days after the date of the receipt thereof, send the declaration to such officer as the Local Government may appoint in this behalf.

Sending of declarations by owner or master to Local Government.

(2) If he fails to do so **without reasonable excuse**, he shall *be liable to* forfeit a sum not exceeding five rupees for every day during which the sending of the declaration is delayed.

(3) The owner or master shall pay the sum so forfeited on the delivery of the certificate of survey.

[Act VII of 1884, s. 13 (am. by Act III of 1890, s. 17).] Cf. 1894, ss. 274, 276.

190. (1) Upon receipt of a declaration by the officer appointed in that behalf under section 189, the Local Government shall, if satisfied that the provisions of this Chapter have been complied with, cause a certificate in duplicate to be prepared and delivered, through such officer at the port at which the steam-ship was surveyed as the Local Government may appoint in this behalf, to the owner or master of the steam-ship surveyed, on his applying and paying the sum (if

Grant and term of certificate of survey.

any) mentioned in section 189, sub-section (3), as payable on delivery of a certificate.

(2) A certificate granted under this section shall be in the prescribed form; shall contain a statement to the effect that the provisions of this Chapter with respect to the survey of the steam-ship as to hull and equipments or as to machinery, as the case may be, and the transmission of the declaration in respect thereof, have been complied with; and shall set forth—

(a) **in case of a survey of hull and equipments, the particulars which clauses (c), (d) and (e) of section 188, sub-section (1), require the declaration by the surveyor to contain;**

(b) **in the case of a survey of machinery,** the particulars which clauses (b) *and* (e) of section 188, **sub-section (2),** require the declaration by the surveyor to contain; and

(c) any other prescribed particulars.

(3) A certificate granted under this section in respect of hull and equipments shall remain in force only so long as the master or owner is in possession also of a valid certificate as to machinery, and a certificate granted as to machinery shall remain in force only so long as the master or owner is in possession also of a valid certificate as to hull and equipments.

(4) Unless sooner suspended or cancelled under section 19, a certificate granted under this section shall be valid for one year from the date of the declaration on which it is founded or for the time mentioned in such declaration for which the hull and equipments or the machinery, as the case may be, will be sufficient, whichever is less.

(5) When a certificate is ready for delivery under this section, the Local Government shall cause notice thereof to be given by post or otherwise to the owner or master of the steam-ship to which the certificate relates.

(6) The Local Government may delegate,—

(a) with the previous sanction of the Governor-General in Council, to any person, by name or as holding an office, the function, assigned to the Local Government by sub-section (1), of granting a certificate of survey under that sub-section;

(b) of its own authority, to any person, by name or as holding an office, the function, assigned to the Local Government by sub-section (5), 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 a surveyor who gave a declaration of survey under section 188.

[Act VII of 1884, s. 15.] Cf. 1894, s. 281.

191. (1) The owner or master of every steam-ship for which a certificate of survey has been granted under this Chapter shall forthwith, on the receipt of the certificate, cause **one of** the *duplicates* to be affixed, and kept affixed so long as the certificate remains in force and the steam-ship is in use, on some conspicuous part of the steam-ship where it may be easily read by all persons on board thereof.

Duplicate of certificate of survey to be affixed on conspicuous part of steam-ship.

(2) The duplicates of the two certificates required by section 190 to be in force at the same time shall be so affixed under sub-section (1) as to be adjacent to one another.

(3) If the owner or master fails without reasonable cause to comply with sub-section (1) or sub-section (2), he shall for each offence be *liable to* fine which may extend to one hundred rupees.

(4) If a passenger steam-ship plies or goes to sea with passengers on board and sub-section (1) or sub-section (2) is not complied with, then for each offence the owner thereof shall be liable to fine which may extend to one thousand rupees and the master shall also be liable to fine which may extend to two hundred rupees.

[Act VII of 1884, s. 16.] Cf. 1894, ss. 271 (a), 278 (1).

192. (1) **No** certificate of survey granted under this Chapter shall **remain in** force after notice has been given by the Local Government, to the owner or master of the steam-ship to which the certificate relates, that the Local Government has suspended or cancelled it.

Term of certificate of survey.

(2) If a passenger steam-ship is absent from British India at the time when her certificate ceases to be in force, no fine shall be incurred for want of a certificate until she first begins to ply with passengers after her next return to British India.

[Act VII of 1884, s. 17.] Cf. 1894, s. 279 (1).

193. Any certificate of survey granted under this Chapter may be suspended or cancelled by a Local Government if it has reason to believe—

Suspension or cancellation of certificate of survey by Local Government.

(a) that any declaration of survey on which the certificate was founded has been in any particular fraudulently or erroneously made; or

(b) that the certificate has been granted upon false or erroneous information; or

(c) that, since the making of the declaration, the hull or equipments of the steam-ship **or the machinery thereof, as the case may be,** have **or has** sustained any injury, or have **or has** otherwise become insufficient.

[Act VII of 1884, s. 18.] Cf. 1894, s. 280.

194. (1) The Local Government may require any certificate of survey granted under this Chapter which has expired or has been suspended or cancelled to be delivered up to such person as it may direct.

Power to require delivery of expired, suspended or cancelled certificate of survey.

(2) If the owner or master of any steam-ship, without reasonable cause, neglects or refuses to deliver up a certificate when required under sub-section (1) so to do, he shall be *liable to* fine which may extend to one hundred rupees.

[Act VII of 1884, s. 19 (am. by Act III of 1890, s. 19).] Cf. 1894, ss. 271 (a), 278 (1).

195 If the Local Government which suspends or cancels a certificate of survey granted under this Chapter is not the Local Government which or whose delegate granted the certificate, the Local Government suspending or cancelling the certificate shall report the fact of suspension or cancellation, together with the reasons therefor, to the Local Government which or whose delegate granted the certificate.

Report of suspension or cancellation of certain certificates.

[Act VII of 1884, s. 20.] Cf. 1894, s. 272 (1).

196. A survey under this Chapter shall ordinarily be made by one surveyor, but two surveyors may be employed if the Local Government by order in writing, shall so direct, either generally in the case of all steam-ships at any port of survey, or specially in the case of any particular steam-ship or class of steam-ships at any such port.

Power for Local Government to direct that two surveyors be employed.

[Act VII of 1884, s. 21 (am. by Act III of 1890, s. 20).] Cf. 1894, s. 275.

197. (1) If the surveyor or surveyors making a survey under this Chapter refuses or refuse to give a declaration under section 188 with regard to any steam-ship,

Power for Local Government to order a second survey.

or gives or give a declaration with which the owner or master of the steam-ship surveyed is dissatisfied, the Local Government may, on the application of the owner or master and the payment by him of such fee, not exceeding twice the amount of the fee for the previous survey, as the Local Government may require, direct two other surveyors appointed under this Chapter to survey the steam-ship.

(2) The surveyors so directed shall forthwith survey the steam-ship, and may, after the survey, either refuse to give a declaration or give such declaration as may under the circumstances seem to them proper; and their decision shall be final.

(3) If the surveyors mentioned in sub-section (2) consider that the refusal by the surveyor or surveyors mentioned in sub-section (1) to give a declaration under section 188 was unreasonable or capricious, they may recommend the repayment to the owner or master of the fee paid in respect of the previous survey.

[Act VII of 1884, s. 23.] Cf. 1894, s. 363.

Power to dispense with survey of foreign steam-ship surveyed abroad.

198. When a foreign steam-ship requires to be furnished with a certificate of survey under this Chapter, and the Local Government is satisfied, by the production of a certificate of survey attested by a British Consular Officer at the port of survey, that the ship has been officially surveyed at a foreign port, and that the requirements of this Chapter are proved by that survey to have been substantially complied with, the Local Government may, if it thinks fit, dispense with any further survey of the ship in respect of the requirements so complied with, and give a certificate which shall have the same effect as a certificate given after survey under this Chapter:

Provided that this section shall not apply in the case of an official survey at any foreign port with respect to which Her Majesty has by Order in Council directed that section *363* of the Merchant Shipping Act, 1894, shall not apply.

57 & 58 Vict., c. 60.

[Act VII of 1884, s. 24 (am. by Act III of 1890, s. 21).] Cf. 1894, ss. 277, etc.

Power to make rules.

199. (1) The Local Government may make rules to regulate the making of surveys under this Chapter.

(2) Rules under this section may, among other matters,—

(a) declare the times and places at which, and the manner in which, surveys are to be made;

(b) regulate the duties of surveyors;

(c) declare the form in which the declarations of surveyors and certificates of survey under this Chapter are to be framed, and the nature of the particulars which are to be stated therein, respectively; and

(d) fix the rates according to which the fees payable in respect of surveys are to be calculated in the case of all or any of the ports of survey within the territories under its administration.

CHAPTER XXIV.

UNSAFE SHIPS.

Preliminary.

[Act VII of 1880, ss. 3, 43 (am. by Act III of 1891, s. 4).] Cf. 1894, ss. 438 (1), 444.

Exception of certain ships.

200. (1) Nothing in this Chapter shall apply to—

(a) any home-trade *sailing* ship of less than one hundred and fifty tons *registered* tonnage, or

(b) *any home-trade steam-ship of less than eighty tons registered* tonnage, *or*

(c) any ship employed solely in fishing, or

(d) any pleasure-yacht.

(2) *Sections 232 to 241 (both inclusive)* shall not apply to—

(a) ships *registered* in the United Kingdom and having deck and *load*-lines fixed, marked and certified in accordance with the provisions of the law for the time being there in force, or

(b) ships registered in a British Possession and having such lines fixed, marked and certified in accordance with the provisions of an enactment passed by the Legislature of that Possession, with respect to which enactment such a declaration as is mentioned in section *444* of the Merchant Shipping Act 1894, has been made by an Order of Her Majesty in Council and is for the time being in force.

57 & 58 Vict., c. 60.

(3) The Local Government with the previous sanction of the Governor-General in Council, may, by notification in the official Gazette, exclude from, or bring again within, the operation of any of the provisions of *sections 232 to 241 (both inclusive)*, subject to such modifications thereof (if any) as may be specified in the notification, any native coasting-ships.

[Act VII of 1880, s. 2, s. 4 (am. by Act XVII of 1891, s. 3).] Cf. 1894, ss. 437 (4), 439, 459 (1), 742.

Definitions.

201. (1) In any provision of this Chapter, "port" includes also any part of a river or channel leading to a port which for the purposes of such provision the Local Government may, by notification in the official Gazette, declare to be included in such port.

(2) A ship is "unsafe" within the meaning of this Chapter—

(a) when by reason of the defective condition of her hull, equipments or machinery, or by reason of overloading or improper loading, she is unfit to proceed to sea without serious danger to human life, having regard to the nature of the service for which she is intended, or

(b) when so loaded as to submerge in smooth salt water the centre of the disc placed thereon in pursuance of this Chapter or the Merchant Shipping Act, 1894, *or any enactment repealed thereby*, and the rules and regulations made thereunder:

57 & 58 Vict., c. 60.

Provided that, when a maximum load-line has been fixed by any rule under section 238 for any particular circumstances or any specified season, such line shall, for the purpose of determining whether or not the ship is unsafe within the meaning of this sub-section, be substituted for the centre of the disc under such circumstances or for such season.

(3) For the purpose of determining whether any ship is so loaded as to submerge the centre of the disc in smooth salt water, the ship may, if the owner or master so desires, be taken into a wet basin or dock.

(4) If a ship is so loaded as to be unsafe within the meaning of sub-section (2), it shall be deemed that there is *reasonable and probable cause for the detention of the ship.*

(5) In this Chapter, "amidships" means the middle of the length of the load water-line as measured from the fore-side of the stem to the aft-side of the stern-post.

Detention of Unsafe Ships.

[Act VII of 1880, s. 7.] Cf. 1894, s. 459 (a), (b).

Power of Local Government to provisionally detain unsafe ship.

202. (1) The Local Government, if it has reason to believe, on complaint or otherwise, that a British ship in any port to which it may specially extend this section is unsafe, may provisionally order the detention of the ship for the purpose of being surveyed.

(2) A written statement of the grounds of such detention shall be forthwith served on the master of the ship.

[Act VII of 1880, ss. 8, 10.] Cf. 1894, s. 459 (b), (e), (f).

Power of Local Government to release or finally detain ship, or refer the matter to Court of Survey.

203. When the Local Government provisionally orders the detention of a British ship, it shall forthwith appoint some competent person to survey the ship and report thereon; and, on receiving his report, may, subject to the provisions of section 205, either order the ship to be released or, if in its opinion the ship is unsafe, order her to be finally detained:

Provided that the Local Government may, at any time after a ship has been provisionally detained, refer the matter to the Court of Survey (hereinafter mentioned) for the port where the ship is detained.

[Act VII of 1880, s. 8.] Cf. 1894, s. 459 (c), (d).

Terms of order for final detention, and appeal to Court of Survey.

204. An order under section 203 for the final detention of a British ship may be either absolute or until the performance of such conditions with respect to the execution of repairs or alterations or the unloading or reloading of cargo as the Local Government may think necessary for the protection of human life; and the Local Government may vary or add to any such order:

Provided that, before an order for final detention is so made, a copy of the report shall be served upon the master of the ship, and within seven days after such service the owner or master may appeal against the report, in the manner prescribed, to the Court of Survey (hereinafter mentioned) for the port where the ship is detained.

[Act VII of 1880, s. 9.] Cf. 1894, s. 459 (e).

Option to owner or master of appointing assessor to accompany surveyor, and appeal to Court of Survey.

205. Where a British ship has been provisionally detained and a person has been appointed under section 203 to survey the ship, the owner or master of the ship, at any time before such person makes the survey, may require that he shall take with him as assessor such person as the owner or master may select, being a person named in the list of assessors prepared under section 211, sub-section (4), or, if there is no such list, or if it is impracticable to procure the attendance of any person named in such list, a person of nautical, engineering or other special skill and experience; and

in such case, if the surveyor and assessor agree that the ship should be detained or released, the Local Government shall cause the ship to be detained or released accordingly, and the owner or master shall have no appeal;

but, if the surveyor and assessor differ in their report, the Local Government may act as if the requisition had not been made, and the owner or master shall have such appeal touching the report of the surveyor as is provided in section 204.

[Act VII of 1880, s. 24.] Cf. 1894, s. 490 (1).

Power to appoint referee to hear appeal.

206. If the Local Government is of opinion that an appeal under section 204 or section 205 involves a question of construction or design, or of scientific difficulty or important principle, it may refer the matter to such one or more out of a list of scientific referees, to be prepared by the Local Government, as may appear to possess the special qualifications necessary for the particular case and may be selected by agreement between the Port-officer and the appellant, or, in default of any such agreement, by the Local Government; and thereupon the appeal shall be determined by the referee or referees instead of by the Court of Survey.

[Act VII of 1880, s. 25.] Cf. 1894, s. 490 (2).

Option to appellant to require referee to be appointed.

207. The Local Government, if the appellant in any such appeal so requires and gives security to its satisfaction to pay the costs of and incidental to the reference, shall refer such appeal to a referee or referees selected as aforesaid.

[Act VII of 1880, s. 26.] Cf. 1894, s. 490 (3).

Referee to have powers of Court of Survey.

208. The referee or referees to whom an appeal is referred under section 206 or section 207 shall have the same powers as a Judge of the Court of Survey.

[Act VII of 1880, ss. 11, 12.] Cf. 1894, s. 459 (2), (3), (6).

Detaining-officers.

209. (1) The Local Government may appoint a sufficient number of fit persons as its officers for the purposes of this Chapter.

(2) Every officer so appointed (hereinafter referred to as a detaining-officer) shall have, for the purpose of his duties under this Chapter, the following powers (that is to say):—

(a) he may go on board any British ship and may inspect the same or any part thereof, or any of the machinery, equipments and cargo on board thereof, and may require the unloading or removal of any cargo, ballast or tackle, not unnecessarily detaining or delaying the ship from discharging, unloading or proceeding on any voyage;

(b) he may, by summons under his hand, require the attendance of all such persons as he may think fit to call before him, may examine such persons, and may, by a like summons, require returns in writing to any enquiries which he may think fit to make;

(c) he may require and enforce the production of all books, papers or documents which he considers important; and

(d) he may administer oaths, or may, instead of administering an oath, require any person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

(3) Every detaining-officer shall, in addition to the powers conferred by sub-section (2), have the same power as the Local Government has under sections 202 and 203, respectively, of provisionally ordering the detention of a British ship for the purpose of being surveyed and of appointing a person to survey her; and, if he thinks that a ship so detained by him is not unsafe, may order her to be released.

(4) Every detaining-officer shall forthwith report to the Local Government any order made by him for the detention or release of a ship.

[Act VII of 1880, s. 49.] Cf. 1894, s. 488 (4).

Powers of person authorised to survey ship.

210. For the purposes of the survey of a British ship under this Chapter, any person authorised to make the same may go on board the ship and may inspect the same or any part thereof, or the machinery, enquipments or cargo on board thereof, and may require the unloading or removal of any cargo, ballast or tackle.

[Act VII of 1880, ss. 13, 14, 15]. Cf., 1894, s. 487, (1), (2), (3).

Constitution of Court of Survey.

211. (1) A Court of Survey for a port shall consist of a Judge sitting with two assessors.

(2) The Judge shall be a District Judge, Judge of a Court of Small Causes, Presidency Magistrate, Magistrate of the first class or other fit person appointed in this behalf by the Local Government either generally or for any specified case.

(3) The assessors shall be persons of nautical, engineering or other special skill and experience.

(4) One of the assessors shall be appointed by the Local Government either generally or in each case, and the other shall be summoned by the Judge, in the manner prescribed, out of a list of persons prepared for the purpose and published by the Local Government in the official Gazette, or, if there is no such list or if it is impracticable to procure the attendance of any person named in such list, shall be appointed by the Judge.

[Act VII of 1880, s. 16.] Cf. 1894, s. 487 (4).

212. The Judge shall, on receiving notice of an appeal under section 204 or section 205 or a reference under section 208, immediately summon the assessors, in the manner prescribed, to meet forthwith.

Judge to summon assessors.

[Act VII of 1880, s. 17.] Cf. 1894, s. 488 (1).

213. Every such appeal and reference shall be heard in open Court.

Case to be heard in open Court.

[Act VII of 1880, s. 18.] Cf. 1894, s. 488 (2).

214. The Judge and each assessor shall, for the purposes of this Chapter, have the same powers as are by section 209, sub-section (2), conferred on a detaining-officer.

Powers of Judge and assessors.

[Act VII of 1880, s. 19.] Cf. 1894, s. 488 (3).

215. The Judge may appoint any competent person to survey the ship and report thereon to the Court.

Power of Judge to appoint surveyor.

[Act VII of 1880, s. 20.] Cf. 1894, s. 488 (6).

216. The owner and master of the ship and any person appointed by the owner or master, and also any person appointed by the Local Government, may attend at any inspection or survey made in exercise or pursuance of the powers conferred by section 214 or section 215.

Owner or master may attend at inspection or survey.

[Act VII of 1880, s. 21.] Cf. 1894, s. 488 (5).

217. The Judge shall have the same power as the Local Government has to order the ship to be released or finally detained; but, unless one of the assessors concurs in an order for the detention of the ship, the ship shall be released.

Power of Judge to release or finally detain ship.

[Act VII of 1880, s. 22.] Cf. 1894, s. 488 (7).

218. The Judge shall report the proceedings of the Court in each case to the Local Government in the manner prescribed, and each assessor shall either sign such report or report to the Local Government the reasons for his dissent.

Report to Local Government by Court

[Act VII of 1880, s. 23.] Cf. 1894, s. 489.

219. The Local Government may make rules to carry into effect the provisions of this Chapter with respect to a Court of Survey, and in particular with respect to—

Power to make rules with respect to Court of Survey.

(*a*) the procedure before the Court;
(*b*) the requiring, on an appeal, of security for costs and damages;
(*c*) the amount and application of fees; and
(*d*) the ascertainment, in case of dispute, of the proper amount of costs under this Chapter.

[Act VII of 1880, s. 27.] Cf. 1894, s. 460 (1).

220. If it appears that there was not reasonable and probable cause, by reason of the condition of the ship or act or default of the owner, for the provisional detention of a ship, the Government shall be liable to pay to the owner of the ship his costs of and incidental to the detention and survey of the ship, and also compensation for any loss or damage sustained by him by reason of the detention or survey.

Liability of Government for costs and damages when ship wrongly detained.

[Act VII of 1880, s. 28.] Cf. 1894, s. 460 (2).

221. If a British ship is finally detained under this Chapter, or if it appears that a British ship provisionally detained was at the time of such detention unsafe, the owner of the ship shall be liable to pay to the Government its costs of and incidental to the detention and survey of the ship; and such costs shall, without prejudice to any other remedy, be recoverable as salvage is recoverable.

Liability of owner for costs when ship rightly detained.

[Act VII of 1880, s. 29.] Cf. 1894, s. 460 (3).

222. For the purposes of this Chapter, the costs of and incidental to any proceeding before a Court of Survey, and a reasonable amount in respect of the remuneration of the survey or officer of the Local Government, shall be deemed to be part of the costs of the detention and survey of the ship.

What included in costs of detention and survey.

[Act VII of 1880, s. 30.] Cf. 1894, s. 481 (1), (2).

223. When a complaint is made to the Local Government or a detaining-officer that a British ship is unsafe, it shall be in the discretion of such Government or officer (as the case may be) to require the complainant to give security to the satisfaction of such Government or officer for the costs and compensation which such complainant may become liable to pay under the provisions of section 224:

Power to require from complainant security for costs, etc.

Provided that where the complaint is made by one-fourth, being not less than three, of the seamen belonging to the ship, and is not in the opinion of such Government or officer frivolous or vexatious, such security shall not be required; and such Government or officer shall, if the complaint is made in sufficient time before the sailing of the ship, take proper steps to ascertain whether the ship ought to be detained under this Chapter.

[Act VII of 1880, s. 31.] Cf. 1894, s. 461 (3).

224. Where a British ship is detained in consequence of any complaint, and the circumstances are such that the Government is liable under this Chapter to pay to the owner of the ship any costs or compensation, the complainant shall be liable to pay to the Government all such costs and compensation as the Government incurs, or is liable to pay, in respect of the detention and survey of the ship.

Costs, etc., payable by Government recoverable from complainant.

[Act VII of 1880, s. 45.] Cf. 1894, s. 492 (1).

225. When under this Chapter a British ship is authorised or ordered to be detained, any commissioned officer on full pay in the naval or military service of Her Majesty, any commander or *lieutenant* of any of Her Majesty's Indian Government ships, or any Port-officer, harbour-master, conservator of a port or officer of customs may detain the ship.

Who may enforce detention of ship.

[Act VII of 1880, s. 46.] Cf. 1894, s. 492 (1).

226. If any British ship, after such detention, or after service on the master of any notice of or order for such detention, proceeds to sea before she is released by competent authority, the master of the ship shall be *liable to* fine which may extend to one thousand rupees.

Penalty for proceeding to sea after detention.

[Act VII of 1880, s. 47.] Cf. 1894, s. 492 (3).

227. (*1*) If a British ship so proceeding to sea takes to sea, when on board thereof in the execution of his duty, any person authorised under this Chapter to detain or survey the ship, the owner and master of the ship shall each be liable to pay all expenses of, and incidental to, such person being so taken to sea, and shall also each be *liable to* fine which may extend to one thousand rupees.

Penalty for carrying to sea officer in execution of his duty.

(*2*) When any owner or master is convicted of an offence against this section, the convicting Magistrate may enquire into and determine the amount payable on account of expenses by such owner or master under this section, and may direct that the same shall be recovered from him in manner provided by law for the recovery of fines.

[Act VII of 1880, s. 48.] Cf. 1894, s. 469 (5).

228. When a British ship has been detained under this Chapter, she shall not be released by reason of her British or British Indian register being subsequently closed.

Detained ship not to be released because British registry closed.

[Act VII of 1880, s. 44.] Cf. 1894, s. 469 (9).

229. The Local Government may at any time, if satisfied that a British ship detained under this Chapter is not unsafe, order her to be released either upon or without any conditions.

Release of ship at any time by Local Government.

[Act VII of 1880, ss. 51, 52.] Cf. 1894, s. 696 (1).

230. (*1*) Where any order, notice, statement or document is required for the purpose of any provision of this Chapter to be served on the master of a British ship, the same shall be served, where there is no master, on the owner of the ship, if he resides in the port where the ship is detained, or if there is no owner residing there, on some agent of the owner residing there; or, where such owner or agent is unknown or cannot be found, a copy of such order, notice, statement or document shall be affixed to the mast of the ship, and shall thereupon be deemed to be duly served.

Service of order, etc.

(*2*) Any such order, notice, statement or document may be served by delivering a copy thereof personally to the person to be served, or by leaving the same at his last place of abode, or, in the case of a master, by leaving it for him on board the ship with the person being or appearing to be in command or charge of the ship.

[Act VII of 1880, s. 85 (added by Act XVII of 1891, s. 5).] Cf. 1894, ss. 445, 462.

231. Where a foreign ship has taken on board all or any part of her cargo at a port in British India, and is while at that port unsafe by reason of overloading or improper loading, all the foregoing provisions of this Chapter with respect to the detention of British ships shall apply to that foreign ship as if she were a British ship, unless such foreign ship if in a port of the United Kingdom, would be entitled to the benefit of an Order of Her Majesty in Council under section 445 of the Merchant Shipping Act, 1894.

Application to foreign ships of provisions respecting detention.

57 & 58 Vict., c. 60.

Deck and Load-lines.

[Act VII of 1880, s. 33 (am. Act XVII of 1891, s. 4).] Cf. 1894, s. 487.

232. (1) Every British ship shall be permanently and conspicuously marked outside with lines of not less than twelve inches in length and one inch in breadth painted longitudinally on each side amidships, or as near thereto as practicable, and indicating the position of each deck which is above water.

Marking of deck-lines.

(2) The upper edge of each of these lines shall be level with the upper side of the deck-plank next the waterway at the place of marking.

(3) The line shall be white or yellow on a dark ground, or black on a light ground.

[Act VII of 1880, ss. 34, 36 As by Act XVII of 1891, s. 4).] Cf. 1894, ss. 438 (1), (2), 440 (5), 441 (4).

233. (*1*) The master of every British ship shall, before his ship is entered outwards from any port in British India upon any voyage, or, if that is not practicable, as soon after as may be, mark outside upon each of her sides amidships or as near thereto as practicable, in white or yellow on a dark ground or in black on a light ground, a circular disc twelve inches in diameter, with a horizontal line eighteen inches in length drawn through its centre.

Marking of load-lines.

(*2*) The centre of the disc shall be placed at such level below the deck-line marked under the provisions of this chapter or of the Merchant Shipping Act, 1894, as may be approved by the Local Government, and shall indicate the maximum load-line in smooth salt-water to which it shall be lawful to load the ship.

57 & 58 Vict., c. 60.

(*3*) When a ship has been marked as by this section required, she shall be kept so marked until she next returns to a port of discharge in British India or arrives at a port in the United Kingdom.

[Act VII of 1880, s. 35 (am. by Act XVII of 1891, s. 4).] Cf. 1894, s. 440 (2), (3), (4).

234. (*1*) Every person applying for entry of any such ship outwards shall insert, in the form of application made to the Customs-collector, a statement in writing of the distance in feet and inches between the centre of such disc and the upper edge of each of the lines indicating the position of the ship's decks which is above such centre; and, if default be made in delivering such statement, the Customs-collector may refuse to enter the ship outwards.

Statement in application to Customs-collector for entry outwards of such ship as aforesaid.

(*2*) A copy of such statement shall be entered in the agreement with the crew before it is signed by any member of the crew, and no Superintendent of a Mercantile Marine Office shall proceed with the engagement of a crew for any such ship until such entry has been made.

(*3*) The master shall enter, or cause to be entered, a copy of the said statement in the official log (if any).

[Act VII of 1880, s. 37 (am. by Act XVII of 1891, s. 4).] Cf. 1894, s. 441 (1), (2), (3).

235. (*1*) *When a ship is employed in the coasting trade she shall be marked* as aforesaid *before the ship proceeds to sea from any port, and the master* shall also once in every twelve months, immediately before the ship proceeds to sea, send or deliver to the Customs-collector, or other principal officer of Customs of such port as the Local Government may appoint in this behalf, a statement in writing of the distance in feet and inches between the centre of the disc and the upper edge of each of the lines indicating the position of the ship's decks which is above that centre.

Marking of load-lines on coasting-ships, and statements as to such lines.

(*2*) The master, before the ship proceeds to sea after any renewal or alteration of the disc, shall send or deliver to the Customs-collector or other principal officer of Customs aforesaid notice in writing of such renewal or alteration, together with such statement in writing as before mentioned of the distance between the centre of the disc and the upper edge of each of the deck-lines.

(*3*) If the master fails without reasonable excuse to send or deliver any notice or statement required by this section to be sent or delivered, he shall be *liable to* fine which may extend to one thousand rupees.

(*4*) When a ship has been marked as required by this section, she shall be kept so marked until notice has been given of an alteration.

236. (*1*) The Governor-General in Council may, by notification in the Gazette of India, authorise the marking of any ships intended to be employed as home trade ships or to ply between any ports in British India and any ports or places east of the Cape of Good Hope with maximum load-lines other than the disc mentioned in section 233.

Marking of maximum load-line on certain ships.

(*2*) Subject to any rules under this Act for the time being in force in respect thereof, such maximum load-lines when duly marked upon any ship shall for the purposes of this Chapter be respectively substituted for the centre of the disc under the circumstances and for the reasons respectively specified in this behalf by such rules.

[Act VII of 1880, s. 39 (am. by Act XVII of 1891, s. 4).] Cf. 1894, ss. 438 (3), 443 (1) 57 & 58 Vict., c. 60.

237. (*1*) The positions of the disc mentioned in section 233 and of the maximum load-lines mentioned in section 236 shall respectively be fixed in accordance with the tables *used by the Board of Trade at the time of* the passing of the Merchant Shipping Act, 1894, subject to such allowance as may be necessary in consequence of any difference between the position of the deck-line marked under the provisions of this chapter or of the Merchant Shipping Act, 1894, and the position of the line from which free-board is measured under the said tables, and subject also to such modifications, if any, of the tables and the application thereof as

Position of disc and maximum load-lines and approval of and certificate as to position thereof.

may be sanctioned by the Governor-General in Council.

(2) The Local Government shall appoint—

(a) a surveyor employed by Lloyd's or by any other society, corporation or association for the survey or registry of shipping approved by the Board of Trade under section 443 of the Merchant Shipping Act, 1894, and specially authorised in this behalf by Lloyd's or by such society, corporation or association, as the case may be, or

57 & 58 Vict., c. 60.

(b) an officer specially selected by the Local Government for the purpose,

to approve and certify on its behalf from time to time the position of the disc or any maximum *load-line* and any alteration thereof,

and with the previous sanction of the Governor-General in Council, may fix the fees to be taken in respect of any such approval or certificate.

[Act VII of 1880, s. 40 (am. by Act XVII of 1891, s. 4).] Cf. 1894, s. 443 (2).

Power to make rules.

238. (1) The Governor-General in Council may make rules—

(a) determining the lines or marks to be used to indicate the maximum load-line under different circumstances and at different seasons,

(b) directing the mode in which the disc and the maximum load-lines or marks are to be marked or affixed on the ship, whether by painting, cutting or otherwise;

(c) prescribing the mode of application for, and form of, certificates under section 237, sub-section (2); and

(d) requiring the entry of such certificates, and any other prescribed particulars concerning the draught of water and free-board of the ship, in the official log (if any) of the ship, or other publication thereof on board the ship, and the delivery of copies of such entries to any prescribed officer or officers.

(2) Rules under clause (a) of sub-section (1) may, with respect to any class or classes of ships,—

(a) declare what shall be deemed with reference to any specified locality to be seasons of fair weather and seasons of foul weather, respectively, for any of the purposes of the rules,

(b) modify the tables referred to in section 237, sub-section (1), *or the application thereof*, and

(c) distinguish between the cases of passenger ships and ships not carrying passengers, and make different requisitions in such cases respectively.

[Act VII of 1880, s. 41 (am. by Act XVII of 1891, s. 4).] Cf. 1894, s. 442 (1).

Penalty for neglecting to mark, or submerging, load-line.

239. If—

(a) the owner or master of a British ship fails without reasonable cause to cause his ship to be marked as by this Chapter required, or to keep her so marked, or allows the ship to be so loaded that when in smooth salt-water the centre of the disc or other maximum load-line appropriate to the case is submerged, or

(b) any person conceals, removes, alters, defaces or obliterates, or suffers any person under his control to conceal, remove, alter, deface or obliterate, any of the lines or marks prescribed by or under this Chapter, except in the event of the particulars thereby denoted being lawfully altered, or except for the purpose of escaping capture by an enemy,

he shall be *liable* for *each offence* to fine which may extend to one thousand rupees.

[Act VII of 1880, s. 42 (am. by Act XVII of 1891, s. 4).] Cf. 1894, s. 442 (2).

Penalty for having misleading marks.

240. (1) If any line or mark required by this Chapter is in any respect inaccurate so as to be likely to mislead, the owner of the ship shall for each offence be liable to fine which may extend to one thousand rupees.

(2) If the master of any British ship on which any such mark or line is inaccurately placed so as to be likely to mislead does not so soon as reasonably may be after such inaccuracy has been discovered cause the same to be corrected, he shall be *liable to* fine which may extend to one thousand rupees.

Cf. 1894, s. 443 (3).

Penalty for neglecting to comply with rules as to entry or publication of certificates or other particulars or as to delivery of copies of entries.

241. If any person fails without reasonable cause to comply with any rule made under section 238, sub-section (1), clause (*d*), he shall be *liable to* fine which may extend to one thousand rupees.

CHAPTER XXV.

SHIP SURVEYORS.

[Act VII of 1880, s. 68 (am. by Act XII of 1891).]

Power to appoint examiners, and make rules as to qualifications, etc., of ship surveyors.

242. The Local Government may appoint competent persons for the purpose of examining the qualifications of persons desirous of practising the profession of a ship surveyor at any port in the territories administered by such Government, and may make rules—

(a) for the conduct of such examinations and the qualifications to be required,

(b) for the grant of certificates to qualified persons,

(c) for the fees to be paid for such examinations and certificates.

(d) for holding enquiries into charges of incompetency and misconduct on the part of holders of such certificates, and

(e) for the suspension and cancellation of such certificates.

[Act VII of 1880, s. 69.]

No person to practise as ship surveyor unless qualified.

243. No person shall, in any port in which there is a person exercising the profession of a ship surveyor and holding a certificate granted under section 242, exercise such profession unless he holds a certificate granted under that section:

Provided that nothing in this section shall—

(a) prevent any person employed by Lloyd's Register of British and Foreign Shipping or Bureau Veritas or the British Corporation for the Survey and Registry of Shipping from discharging any of the duties of such employment, or

(b) apply to any person specially exempted by the Local Government from the operation of this section.

[Act VII of 1880, s. 70.]

Penalty for practising as ship surveyor without certificate.

244. Any person exercising the profession of a ship surveyor in contravention of the provisions of section 243 shall be *liable to* fine which may extend to one thousand rupees, and shall be incapable of maintaining any suit for any fee or reward for anything done by him in such exercise of such profession.

PART V.

WRECKS, CASUALTIES AND INVESTIGATIONS.

CHAPTER XXVI.

RECEIVERS OF WRECK.

[Act VII of 1880, s. 72 (am. by Act VI of 1891, s. 6, and Act XII of 1891).] Cf. 1894, s. 521 (2).

Savings.

245. Nothing in this Chapter shall—

(a) affect the declaration of the twenty-third day of October, 1889, in Schedule VI, between the Government of the United Kingdom of Great Britain and Ireland and the Government of the French Republic, with reference to the disposal of the proceeds of wrecks on their respective coasts, that declaration having been made applicable to India, or

X of 1889.

(b) affect section 29 of the Indian Ports Act, 1889, or entitle any person to salvage in respect of any property recovered by creaping or sweeping in contravention of that section.

[Act VII of 1880, s. 71.] Cf. 1894, s. 510.

Definition of "wreck."

246. In this Chapter, "wreck" includes the following when found in the sea or any tidal water or on the shores thereof, that is to say:—

articles which have been cast into the sea and then sink and remain under water;

articles which have been cast or fall into the sea and remain floating on the surface;

articles which are sunk in the sea, but are attached to a floating object in order that they may be found again;

articles which are thrown away or abandoned; and

a ship abandoned without hope or intention of recovery.

[Act VII of 1880, s. 73.] Cf. 1894, s.

Appointment of Receivers.

247. (1) The Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the official Gazette, appoint such person as it may think fit to receive and take possession of wreck and to perform such duties connected therewith as are hereinafter mentioned, within such local limits as it may direct.

(2) Persons so appointed shall be called Receivers of Wreck.

[Act VII of 1880, s. 74 (am. by Act VI of 1891, s. 7), s. 79.] Cf. 1894, s. 518.

Procedure to be observed by person finding wreck.

248 (1) Any person finding and taking possession of any wreck within any local limits for which a Receiver of Wreck has been so appointed, or bringing within such limits any wreck which has been found and taken possession of elsewhere, shall, as soon as practicable,—

(a) if he be the owner of such wreck, give the Receiver of Wreck notice in writing stating that he has found or taken possession of the same and describing the marks by which the same may be recognized;

(b) if he be not the owner of such wreck, deliver the same to the Receiver of Wreck.

(2) *If any person fails, without reasonable cause, to comply with sub-section* (1), *he* shall be *liable to* fine which may extend to one thousand rupees, and shall, in addition, *if he be not the owner of the wreck*, forfeit any claim to salvage, and be liable to pay to the owner of *the* wreck, if *it* is claimed, or, if *it* is unclaimed, to the Government, a penalty not exceeding twice the value of such wreck.

[Act VII of 1880, s. 75.] Cf. 1894, s. 546.

Government or person finding wreck entitled to salvage.

249. (1) Whenever any wreck is found by the Receiver of Wreck or has been delivered to him in accordance with the provisions of section 248 by any person, not being the owner thereof, the Government or such other person so delivering such wreck, as the case may be, shall be entitled to receive a reasonable sum for salvage, having regard to all the circumstances of the case.

(2) Any dispute arising concerning the amount due under this section *may* be determined by a Magistrate *of the first class, or a Sub divisional Magistrate*, upon application to him for that purpose by either of the disputing parties.

(3) *In any case in which the amount claimed exceeds one thousand rupees, either party may appeal from the decision of the Magistrate to the Colonial Court of Admiralty.*

[Act VII of 1880, s. 76.] Cf. 1894, s. 520.

Notice to be given by Receiver.

250. The Receiver of Wreck shall, on taking possession of any wreck, publish a *notice* in such manner and at such place as the Local Government may direct in this behalf, containing a description of the same and a statement of the time at which and the place where the same was found.

[Act VII of 1880, ss. 77, 78.] Cf. 1894, ss. 521, 522, 525.

Sale of wreck.

251. (1). If after the publication of such *notice* the wreck is unclaimed, or if the person claiming the same fails to pay the amount due for salvage and for charges incurred by the Receiver of Wreck in respect thereof, the Receiver of Wreck may sell such wreck by public auction, if not of a perishable nature, at any period not less than six months after such *notice* as aforesaid.

(2) On the realisation of the proceeds of any sale under sub-section (1), the amount due for salvage and charges as aforesaid; together with the expenses of the sale, shall be deducted therefrom, and the balance shall be paid to the owner of the wreck, or, if no such person appears and claims the same, shall be held in deposit for payment, without interest, to any person thereafter establishing his right to the same:

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

(3) The Receiver of Wreck may at any time sell any wreck in his custody if in his opinion—

(a) it is under the value of fifty rupees,

(b) it is so much damaged or of so perishable a nature that it cannot with advantage be kept, or

(c) it is not of sufficient value to pay for warehousing,

and the proceeds of such sale shall, after defraying the expenses thereof, be held by the Receiver for the six months next following such sale for the same purposes and subject to the same claims, rights and liabilities as if the wreck had not been sold.

(4) If such proceeds of sale shall not be claimed or otherwise duly disposed of within such period of six months, they shall be dealt with as though they had been proceeds of a sale duly made under sub-section (1).

CHAPTER XXVII.

INVESTIGATIONS INTO CASUALTIES AND CHARGES AGAINST MASTERS, MATES, ENGINEERS AND ENGINE-DRIVERS.

[Act V of 1883, s. 4 (1); Bill of 1867, s. 201; Bill of 1883, s. 136.] 57 & 58 Vict. c. 60.

Saving of powers for removal of master.

252. Nothing in this Chapter shall affect the powers conferred by section 472 of the Merchant Shipping Act, 1894, or by section 122 of this Act on Courts mentioned in those sections, respectively.

[Act V of 1883, s. 6 (am. by Act VI of 1891, s. 9, and Act XII of 1891); Bill of 1867, s. 255; Bill of 1882, s. 137.] Cf. 1894, ss. 425, 426, 464, 465 (2), 729.

253. (*1*) Whenever any Magistrate of the *first class or Sub-divisional Magistrate*, or any officer appointed by the Local Government in this behalf *by name or by virtue of his office*, receives credible information that—

Report of casualties to be made to Local Government.

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

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

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

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

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

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

(*2*) The word "coasts" in sub-section (*1*) includes the banks of creeks and tidal rivers.

(*3*) In the cases mentioned in clauses (*a*), (*b*) and (*c*) of sub-section (*1*), the master, pilot, harbour-master or other person in charge of the ship, or (where two ships are concerned) in charge of each ship, at the time of the loss, abandonment, stranding, damage or casualty; and

in cases under clause (*d*) of sub-section (*1*), where the master of the ship concerned, or (except in the case of a loss) where the ship concerned proceeds to any place in British India from the place where the loss, abandonment, stranding, damage or casualty has occurred, the master of the ship,

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

(*4*) In cases under clause (*e*) of sub-section (*1*), the managing owner of the ship, or, where there is no managing owner, the ship's husband or agent, shall, as soon as conveniently may be, send to some officer appointed by the Local Government as aforesaid notice in writing of the loss.

(*5*) Any person bound to give notice under this section and wilfully failing to give the same shall be *liable to* fine which may extend to five hundred rupees.

(*6*) The Magistrate or other officer whose duty it is under sub-section (*1*) to report to the Local Government such information as is referred to in that sub-section shall have, for the purposes of such report, the following powers (that is to say)—

(*a*) he may go on board any ship to which the provisions of this Chapter apply and may inspect the same or any part thereof or any of the machinery, boats, equipments or articles on board thereof, not unnecessarily detaining or delaying the ship from proceeding on any voyage;

(*b*) he may enter and inspect any premises the entry or inspection of which appears to him to be requisite;

(*c*) he may, by summons under his hand require the attendance of all such persons as he may think fit to call before him, may examine such persons, and may, by a like summons, require returns in writing to any inquiries which he may think fit to make;

(*d*) he may require and enforce the production of all books, papers or documents which he considers important; and

(*e*) he may administer oaths, or may, instead of requiring or administering an oath, require any person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

[Act V of 1883, s. 7 (am. by Act VI of 1891, s. 10); Bill of 1867, s. 255; Bill of 1882, s. 138.] Cf. 1894, s. 466 (*1*), (*3*).

254. (*1*) If the Local Government to which the report required by section 253 has been made or within whose territories any competent witnesses of any such loss, abandonment, stranding, damage or casualty as is described in clauses (*a*), (*b*), (*c*) or (*d*) of sub-section (*1*) of the same section have arrived or are to be found, or any evidence of such supposed loss as is described in clause (*e*) of the same sub-section can be obtained, is of opinion that a formal investigation into the facts referred to in any of the said clauses is requisite or expedient, the Local Government may appoint a special Court, consisting of not less than two nor more than four persons, and direct the Court to make the investigation, and may fix the place for making the same.

Power for Local Government to appoint special Court of Investigation.

(*2*) One of the members of the Court shall be a Magistrate *of the first class or Sub-divisional Magistrate* acting in or near the place where the investigation is made; another shall be some person *of nautical skill and knowledge*, and the other or others (if any) shall be *persons of nautical, engineering or other special skill or knowledge*.

[Act V of 1883, s. 8 (am. by Act VI of 1891, s. 11; Act XVI of 1891; Bill of 1867, s. 10; Bill of 1882, s. 139.]

255. Any Colonial Court of Admiralty in British India, and the principal Court of ordinary criminal jurisdiction at any port in British India where there is no Colonial Court of Admiralty, may, when so directed by the Local Government or by such officer as the Local Government has empowered in this behalf, make the investigation referred to in section 254.

Power for Admiralty and Criminal Courts to hold investigations into casualties when so directed.

[Act V of 1883, s. 9; Bill of 1882, s. 140.] Cf. 1894, s. 471.

256. (*1*) Any Court making an investigation referred to in section 254 may inquire into any charge of incompetency or misconduct arising in the course of the investigation against any master, mate, engineer *or engine-driver*, as well as into any charge of a wrongful act or default on his part causing any loss, abandonment, stranding, damage or casualty referred to in section 253.

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

(*2*) *Every formal investigation into a shipping casualty shall be conducted in such manner that, if a charge is made against any person, that person shall have an opportunity of making a defence.*

(*3*) In every case in which any such charge, whether of incompetency or misconduct, or of a wrongful act or default as aforesaid, arises against any master, mate, engineer or engine-driver in the course of an investigation, the Court shall, at least twenty-four hours before the commencement of the inquiry into the charge, cause to be furnished to him a copy of the report or statement of the case upon which the investigation has been directed.

[Act V of 1883, s. 10; Bill of 1867, s. 197; Bill of 1882, s. 141.] Cf. 1894, s. 471.

257. If the Local Government has reason to believe that there are grounds for charging any master, mate, engineer or engine-driver holding a Board of Trade, Colonial or local certificate with incompetency or misconduct, otherwise than in the course of an investigation referred to in section 254, it may send a statement of the case to—

Power for Local Government to direct independent Investigation into charge of incompetency or misconduct.

(*a*) any Court mentioned in section 255, or

(*b*) the Court of any Presidency Magistrate or Magistrate of the first class,

at or nearest to the place at which it may be convenient for the parties and witnesses to attend, and may direct the Court to make an investigation into the charge, *and shall at the same time* cause the master, mate, engineer or engine-driver so charged to be furnished with a copy of *such* statement.

[Act V of 1883, s. 11; Bill of 1867, s. 198; Bill of 1882, s. 142.] Cf. 1894, ss. 466 (*11*), 471 (*c*).

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

Person accused to be heard.

[Act V of 1883, s. 13; Bill of 1882, s. 143.] Cf. 1894, s. 466 (*4*), (*7*).

259. (*1*) When any investigation under the foregoing provisions of this Chapter involves, or appears likely to involve, any question as to the suspension or cancellation of the certificate of a master, mate, engineer or engine-driver, the Court making the investigation shall constitute as its assessors, for the purposes of the investigation, two persons having experience in the merchant service: and in every other investigation under the said provisions the Court making it may, if it thinks fit, constitute as an assessor, for the purposes of the investigation, any person conversant with maritime affairs and willing to act as assessor.

Assessors.

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

[Act V of 1883, s. 12; Act XVI of 1891; Bill of 1867, ss. 198, 257; Bill of 1882, s. 143.] Cf. 1894, s. 466 (*10*).

260. For the purposes of any investigation under the foregoing provisions of this Chapter, the Court making the investigation, so far as relates to compelling the attendance and examination of witnesses and the production of documents and the regulation of the proceedings, shall have—

Powers of Court as to evidence and regulation of proceedings.

(*a*) if the Court is a special Court—the same powers as are exerciseable by the principal Court of ordinary criminal jurisdiction for the place at which the investigation is made;

(*b*) if the Court is a Colonial Court of Admiralty, or a principal Court of ordinary criminal jurisdiction, or a Court of a Presidency Magistrate or a Magistrate of the first class—the same powers as are exerciseable by that Court in the exercise of its admiralty or criminal jurisdiction (as the case may be).

[Act V of 1883, s. 14; Bill of 1882, s. 144.]

261. (*1*) If any Court making an investigation under the foregoing provisions of this Chapter thinks it necessary for obtaining evidence that any person should be arrested, it may issue a warrant for his arrest, and may, for the purpose of effecting the arrest, authorise any officer (subject, nevertheless, to any general or special instructions from the Local Government) to enter any ship.

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

(*2*) Any officer so authorised may, for the purpose of enforcing the entry, call to his aid any officer of Police or sea-customs, or any other person, and may seize and detain the ship for such time as is reasonably necessary to effect the arrest.

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

[Act V of 1883, s. 15; Bill of 1882, s. 145.]

262. (*1*) Whenever, in the course of any investigation under the foregoing provisions of this Chapter, it appears that any person has committed, within the jurisdiction of any Court in British India, an offence punishable under any law in force in British India, the Court making the investigation may (subject to such rules consistent with this Act as the High Court may, from time to time, make cause him to be arrested, or commit him or hold him to bail to take his trial before the proper Court; and may bind over any person to give evidence at the trial, and may, for the purposes of this section, exercise all the powers of a Magistrate of the first class or of a Presidency Magistrate.

Power to commit for trial and bind over witnesses.

(*2*) For the purposes of this section the Recorder of Rangoon shall, throughout Lower Burma, be deemed to be the High Court.

[Act V of 1883, s. 17; Bill of 1867, s. 258; Bill of 1882, s. 146.] Cf. 1894, ss. 466 (*6*), 470 (*3*). 57 & 58 Vict., c. 60.

263. (*1*) The Court shall, in the case of every investigation under the foregoing provisions of this Chapter, transmit to the Local Government a full report of the conclusions at which it has arrived, together with the evidence.

Report by Court to Local Government.

(*2*) In cases in which, under the Merchant Shipping Act, 1894, the Court is required to send a report to the Board of Trade, the report shall be sent through the Local Government, and the transmission of the report to the Local Government shall be a sufficient compliance with this section.

Cf. 1894, s. 475.

264. (*1*) The Local Government may, in any case where an investigation into a shipping casualty, or into the conduct of a master, mate, engineer or engine-driver has been held under this Chapter, order the case to be re-heard, either generally or as to any part thereof, and shall do so—

Re-hearing.

(*a*) If new and important evidence, which could not be produced at the investigation, has been discovered, or

(*b*) if for any other reason there *is*, in its opinion, ground for suspecting *that* a miscarriage of justice *has occurred*.

(*2*) Where a re-hearing is ordered on the ground that new and important evidence as aforesaid has been discovered, the case shall, *if practicable*, be re-heard by the Court by which it was heard in the first instance; and *in every other event* the case shall be re-heard by the Colonial Court of Admiralty.

(*3*) The provisions of sections 256 to 263 (both inclusive) shall apply in the case of every re-hearing ordered under this section.

Investigations into Explosions on Steam-ships.

[Act VII of 1884, s. 37 (*1*), (*2*).]

265. (*1*) Whenever an explosion causing serious damage occurs on board any steam-ship, whether British or foreign, on or near the coasts of British India, the Local Government may, if it thinks fit, direct that an investigation into the cause of the explosion be made by such surveyor or surveyors of ships as it may think fit.

Power to investigate causes of explosions on board steam-ships.

(*2*) The surveyor or surveyors so directed may enter into and upon the steam-ship, with all neces-

sary workmen and labourers, and **may, if and so far as may be necessary,** remove any portion of the steam-ship or of the machinery thereof, for the purpose of the investigation, and shall report to the Local Government what, in his or their opinion, was the cause of the explosion.

PART VI.

CHAPTER XXVIII.

ASSISTANCE TO PASSENGERS ABROAD.

57 & 58 Vict., c. 60.

Whereas, by section *368 of the Merchant Shipping Act, 1894*, it is enacted that "*The Governor-General of India in Council may, by any Act passed for the purpose, declare that all or any provisions of this Part of this Act shall apply to the carriage of steerage passengers upon any voyage from any specified port in British India to any other specified port whatsoever,*" *and that "the provisions of any such Act while in force shall have effect without as well as within British India as if enacted by this Act: Provided that any such Act shall be of no effect under this section, unless it be reserved for the signification of Her Majesty's pleasure thereon, or contain a suspending clause providing that the Act shall not come into operation until Her Majesty's pleasure thereon has been publicly signified in British India;*"

And whereas it is expedient that the *provisions* hereinafter appearing should be *enacted under the authority aforesaid;*

It is hereby enacted as follows:—

Commencement.

266. *This Chapter shall not come into operation until Her Majesty's pleasure thereon has been publicly signified by notification in the Gazette of India.*

Repeal.

267. (*1*) *On and from the commencement of this Chapter, the Indian Sea Passengers Act, 1885, shall be repealed.*

XII of 1885.

(*2*) *Any enactment or document referring to the said Act shall be construed to refer to this Chapter.*

[Act XII of 1885, s. 3; Bill of 1867, s. 285.] Cf. *1894, s. 368.* *57 & 58 Vict., c. 60*

Certain provisions of the *Merchant Shipping Act, 1894*, made applicable to specified voyages from British India.

268. The provisions in sections 269, 270 and 271 and Schedule VII *of this Act* are declared applicable to the carriage of *steerage* passengers, whether in British or foreign ships, upon any of the following voyages, namely:—

(*a*) voyages from the port of Calcutta, Madras or Bombay to—

(*i*) any of the British colonies of Jamaica, St. Kitts, Nevis, St. Lucia, St. Vincent, Grenada, Trinidad, British Guiana, Natal, Mauritius, *British North Borneo, Labuan* or Fiji,

(*ii*) any of the French colonies of Gaudeloupe or its dependencies, Martinique, French Guiana or Réunion,

(*iii*) any of the Dutch Colonies of Netherlands India or Dutch Guiana, or

(*iv*) the Danish colony of St. Croix;

(*b*) voyages under Part VII from Calcutta, Madras, Bombay, Karachi, Rangoon or any other port in British India to any of the Straits Settlements, to any of the protected Native States adjoining the Straits Settlements, to Australia, to any port in the Red Sea the Gulf of Aden or the Persian Gulf or to any port on the East Coast of Africa.

[Act XII of 1885, s. 4; Bill of 1867, s. 286.] Cf. 1894, s. 332.

Expenses of rescue and conveyance of wrecked steerage passengers.

269. If *any steerage* passenger *is either* taken off *any* ship *which is carrying passengers on* any such voyage as is specified in section 268 *and is damaged, wrecked, sunk or otherwise destroyed, or if any such passenger is* picked up at sea from any boat, raft or otherwise, it shall be lawful—

(*a*) if the port to which *such passenger (in this Act referred to as a "wrecked passenger")* is conveyed is in *a British Possession*, for the Governor of *that Possession*, or any person authorized by him for the purpose; *and*

(*b*) *if the port is* in *a* foreign country, for *the British* Consular Officer *there*,

to defray all or any part of the expenses thereby incurred.

Forwarding of steerage *passengers by* Governors or Consuls.

[Act XII of 1885, s. 5; Bill of 1867, s. 287.] Cf. *1894, s. 333.*

270. (*1*) If any *steerage* passenger *from* any ship *which is carrying passengers on any such voyage as is specified in section 268 finds himself,* without any neglect or default of his own, *at any port outside the British Islands* other than *the port* for which the ship was originally bound, or at which he, or the *Board of Trade*, or any public officer or other person on his behalf, has contracted that he should land, *it shall be lawful*—

(*a*) *if the place is in a British Possession*, for the Governor of *that Possession*, or any person authorised by *the Governor* for the purpose, *and*

(*b*) *if the place is elsewhere, for the British Consular Officer there,*

to forward the passenger to his intended destination, unless the master of the ship, within forty-eight hours of the arrival of *the* passenger, gives to the Governor or Consular Officer, as the case may be, a written undertaking to forward or *convey* within six weeks thereafter the passenger to his original destination, and forwards or *conveys* him accordingly within that period.

(*2*) A passenger *so* forwarded *by or by the authority of a Governor or a British Consular Officer* shall not be entitled to the return of *his* passage-money, or to any compensation for loss of passage.

Recovery of expenses incurred in conveying wrecked passengers and forwarding passengers.

[Act XII of 1885, s. 6; Bill of 1867, s. 288.] Cf. *1894, ss. 334, 360* (1).

271. (*1*) All expenses incurred under section 269 or section 270, by or by the authority of a Governor *of a British Possession* or Consular Officer, *in respect of a wrecked passenger, or forwarding a passenger to his destination*, including the cost of maintaining the passenger until forwarded to *his* destination, and of all necessary bedding, provisions and stores, shall *be a joint and several debt to the Crown* from the owner, charterer and master of the ship *on board of which the passenger had embarked.*

57 & 58 Vict., c. 60

(*2*) *In any proceeding for the recovery of that debt* a certificate in the form *set out* in Schedule VII *to this Act*, or as near thereto as circumstances admit, purporting to be under the hand of *a* Governor or Consular Officer, *and stating the circumstances of the case and* the total amount of the expenses, shall be *admissible* in evidence *in the manner provided by the Merchant Shipping Act, 1894*, and shall be sufficient evidence of the amount of the expenses and *of the fact* that the same were duly incurred; unless the defendant specially pleads and duly proves that the certificate is false *and* fraudulent, or that the expenses were not duly incurred *under this Chapter*:

(*3*) *The sum* recovered on account of the expenses *shall not exceed* twice the total amount of passage-money *which* the owner, charterer or master of the ship *proves to have been received by him or on his account, or to be due to and recoverable by him or on his account in respect of* the whole number of passengers, *whether cabin or steerage*, who embarked in the ship.

Validity of insurance *of passage-money.*

[Act XII of 1885, s. 7.] Cf. *1894, s. 335.*

272. *A* policy of assurance effected in respect of any *steerage* passage, or of any *steerage* passage or compensation money, by any person by this Chapter made liable, in the events aforesaid, to provide *such* passage or to pay *such* money, or in respect of any other risk under this Chapter, shall *not* be invalid by reason of the nature of the risk or interest sought to be covered by the policy of assurance.

PART VII.

NATIVE PASSENGER-SHIPS.

CHAPTER XXIX.

PRELIMINARY.

[Act X of 1887, s. 262.]

Application.

273. (*1*) *This Part extends*—

(*a*) to all subjects of Her Majesty within the dominions of Princes and States in India under the suzerainty of Her Majesty;

(*b*) to all native Indian subjects of Her Majesty without and beyond British India; and,

(*c*) subject to the exceptions mentioned in section 5 and in sub-section (*2*) of this section, to all ships, whether British or foreign, carrying as passengers more than thirty natives of Asia or Africa.

(*2*) But it does not apply—

(*a*) to any steam-ship not carrying as passengers more than sixty natives of Asia or Africa,

(*b*) to any ship not intended to carry natives of Asia or Africa as passengers to or from any port in British India, or

(*c*) *to any ship to which the provisions of the Inland Steam-vessels Act, 1884*, or the Pilgrim Ships Act, 1895, *are applicable.*

VI of 1894. XIV of 1895.

(*3*) Notwithstanding anything in sub-sections (*1*) and (*2*), the Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the official Gazette, declare all are any of the provisions of this Part to apply—

(*a*) to sailing-ships, or any class of sailing-ships, whether British or foreign, carrying as passengers more than fifteen natives of Asia or Africa, or

(*b*) to steam-ships, or any class of steam-ships, whether British or foreign, carrying as passengers more than thirty natives of Asia or Africa.

[Act X of 1887, s. 57.]

Power to exempt ships.

274. (*1*) The Local Government, with the previous sanction of the Governor-General in Council, may, subject to such conditions as it may think fit, exempt any ship or class of ships from all are any of the provisions of this Part.

(*2*) In imposing a condition under this section the Local Government may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

[Act X of 1887, s. 5.]

Definitions.

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

[Bill of 1867, s. 267 (2).]

(*1*) "native passenger" means a passenger by a ship who is a native of Asia or Africa of the age of twelve years or upwards and is not on the *articles of* agreement of the ship as one of the crew;

but does not include *a first or second class passenger*, a passenger in attendance on a person who is not a native of Asia or Africa, or a child under one year of age;

and, in the computation of native passengers for any of the purposes of this Part, two persons of the age of one year or upwards and under the age of twelve years shall be reckoned as one passenger;

(*2*) "long voyage" means,—

(*a*) any voyage to *or from* Aden from *or to* any other port in British India, whether the ship performing it proceeds to *or from* Aden direct or calls at one or more intermediate ports, or

(*b*) any voyage from or to a port in British India to or from a port in the Red Sea, whether the ship performing it proceeds to such port direct or calls at one or more intermediate ports, or

(*c*) any voyage (not being a voyage referred to in clause (*a*) or clause (*b*) of this sub-section) during which the ship performing it will in ordinary circumstances be one hundred and twenty hours or upwards continuously out of port, or

(*d*) any voyage (not being a voyage referred to in clause (*a*) or clause (*b*) of this sub-section) during which the ship performing it will not in ordinary circumstances be one hundred and twenty hours continuously out of port, but during which the ship calls at one or more intermediate ports and has *any* native passenger on board *continuously* for two hundred and forty hours or upwards;

(*3*) "short voyage" means any voyage (not being a voyage referred to in sub-section (*2*), clause (*a*) or clause (*b*), or a shelter-port voyage or an excursion voyage) during which the ship performing it will not in ordinary circumstances be one hundred and twenty hours continuously out of port, and

(*i*) does not call at any intermediate port, or

(*ii*) calls at one or more intermediate ports *but has no* native passenger on board *continuously* for two hundred and forty hours;

(*4*) "shelter-port voyage" means,—

(*a*) in the case of a steam-ship having a certificate of survey, granted under Chapter XXIII or by the Board of Trade or by a British Colonial Government, in force and applicable to the voyage or which the ship is about to proceed or the service on which she is about to be employed—any voyage (not being an excursion voyage) during which the ship is at no time more than eight hours distant from a port of shelter, and

(*b*) in the case of any other ship—any voyage (not being an excursion voyage) during which the ship performing it is at no time more than six hours distant from a port of shelter;

(*5*) "excursion voyage" means any voyage beginning and ending in a season of fair whether, during which the ship performing it is not out of port before sunrise or after sunset, and during which native passengers are not embarked before sunrise or kept on board after sunset;

(*6*) "voyage", when used without the prefix "long", "short", "shelter-port" or "excur-

sion", means the whole distance between the ship's port or place of departure and her final port or place of arrival;

(7) "port" includes any place appointed in that behalf by the Local Government; and

(8) "Chief Customs-officer" means the chief executive officer of sea-customs in any port to which this Part applies.

[Act X of 1887, s. 55; Bill of 1867, s. 276.]

Power to declare what shall be deemed "seasons of fair weather," "seasons of foul weather" and "ports of shelter."

276. (1) The Governor-General in Council may, by notification in the *Gazette of India*, declare what shall be deemed to be, for the purposes of this Part, "seasons of fair weather" and "seasons of foul weather."

(2) The Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the official Gazette, declare what ports shall, for the purposes of this Part, be deemed to be "ports of shelter."

CHAPTER XXX.

GENERAL PROVISIONS AS TO VOYAGES

[Act X of 1887, s. 6; Bill of 1867, s. 263.]

Ports for departure of ships or discharge or receiving of native passengers.

277. (1) A ship carrying native passengers shall not depart or proceed on a voyage from, or discharge such passengers at, any port or place in British India other than a port appointed in this behalf by the Local Government.

(2) After a ship has departed or proceeded on a voyage from a port so appointed, a person shall not be received on board as a native passenger except at some other port so appointed.

[Act X of 1887, s. 7; Bill of 1867, s. 268.]

Notice to be given of destination and time of sailing.

278. (1) The master, owner or agent of any ship so departing or proceeding shall give notice to an officer appointed in this behalf by the Local Government that the ship is to carry native passengers, and of her destination, and of the proposed time of sailing.

(2) The notice shall be given not less than twenty-four hours before that time *in the case of a long voyage and not less than six hours*, exclusive of the time between sunset and sunrise, *in any other case.*

[Act X of 1887, s. 8; Bill of 1867, s. 269.]

Power to enter on and inspect ship.

279. After receiving the notice, the officer aforesaid or any person authorised by him shall be at liberty at all times to enter on the ship and inspect her and her fittings and the provisions and stores in her.

[Act X of 1887, ss. 9 (1), 10, 11; Bill of 1867, ss. 264, 267 (3), (4).]

Ship not to sail without certificate or certificates.

280. (1) A ship intended to carry native passengers shall not commence a voyage from a port appointed under section 277 unless the master holds a certificate (hereinafter called Certificate A) to the effect mentioned in sub-section (2), and, in the case of a ship proceeding on a long voyage *or a short voyage*, a certificate (hereinafter called Certificate B) to the effect mentioned in sub-section (3).

(2) "Certificate A" shall state—

(a) that the ship is seaworthy and properly equipped, fitted and ventilated; and

(b) in the case of a ship proceeding on a long voyage, the number of native passengers which she is capable of carrying; or

(c) in the case of a ship proceeding on a short voyage, a shelter-port voyage or an excursion voyage,—

(i) the full number of native passengers which the ship is capable of carrying during a season of fair weather and a season of foul weather, respectively, and on a short voyage, a shelter-port voyage and an excursion voyage, respectively, when fully equipped and fitted in accordance with this Part and the rules thereunder,

(ii) the number of native passengers which the ship is capable of carrying on each division of a deck during a season of fair weather and a season of foul weather, respectively, and on a short voyage, a shelter-port voyage and an excursion voyage, respectively, a plan of each such division being given on the certificate and the number of native passengers being stated on the plan, and

(iii) if the ship is to carry upper-deck passengers during a season of fair weather, that she is furnished with a double awning or other sufficient protection against the weather *and* also *with substantial bulwarks or* with *rails and netting protected by curtains*; and

(d) in the case of a ship referred to in section 288, that she has on board a medical officer licensed in accordance with the rules under this Part.

(3) "Certificate B" shall state—

(a) the voyage which the ship is to make, and the intermediate ports, if any, at which she is to touch;

(b) that she has the proper complement of officers and seamen;

(c) that food, fuel, pure water and medical stores and appliances, over and above what is necessary for the crew and the other things, if any, prescribed for the ship, have been placed on board, of the quality prescribed, properly packed, and sufficient to supply the native passengers on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the scale for the time being prescribed;

(d) that the master holds Certificate A;

(e) if the ship is to carry native passengers to any port in the Red Sea, that she is propelled principally by steam; and

(f) such other particulars, if any, as may be prescribed.

[Act X of 1887, s. 17.]

Supply by passengers of their own food.

281. (1) If the officer appointed under section 278 is satisfied that a native passenger has brought on board a ship for his own use food of the quality and in the quantity for the time being prescribed, the requirements of this Part respecting the supply of food for native passengers shall not apply so far as regards the supply of food for that passenger.

(2) The Local Government may, by notification in the official Gazette, exempt any specified short voyage from such of the provisions of section 280 as have reference to food.

[Act X of 1887, s. 9 (2); Bill of 1867, s. 264.]

Port-clearance not to be granted without certificate or certificates.

282. No officer authorised to grant a port-clearance shall grant the same for a ship carrying native passengers unless the master holds a certificate or certificates granted in accordance with section 280.

[Act X of 1887, s. 12; Bill of 1867, s. 265.]

Grant of certificates.

283. The person by whom Certificate A and Certificate B are to be granted shall be the officer appointed under section 278.

[Act X of 1887, s. 13.]

Production of certificate of survey containing particulars required for certificate A.

284. Where the master of a ship produces to that officer a certificate of survey granted under Chapter XXIII or by the Board of Trade or by a British Colonial Government, in force and applicable to the voyage on which the ship is about to proceed or the service on which she is about to be employed, and any of the particulars required by section 280, sub-section (2), are certified thereby, the officer may take the certificate as evidence of those particulars, and the same may thereupon be inserted in Certificate A.

[Act X of 1887, s. 14; Bill of 1867, ss. 264, 270.]

Survey of ship.

285. (1) After receiving the notice required by section 278, the officer appointed under that section may, if he thinks fit, cause the ship to be surveyed, at the expense of the master or owner, by competent surveyors, who shall report to him whether the ship is, in their opinion, seaworthy and properly equipped, fitted, ventilated *and lighted* for the voyage which she is to make:

Provided that he shall not cause a ship having a certificate of survey mentioned in section 284 to be surveyed unless, by reason of the ship having met with damage or having undergone alterations, or on other reasonable ground, he considers it likely that she may be found unseaworthy or not properly equipped, fitted, ventilated *or lighted* for the voyage.

(2) If the officer causes a survey to be made of a ship holding a certificate of survey mentioned in section 284, and the surveyors report that the ship is seaworthy and properly equipped, fitted, ventilated *and lighted* for the voyage, and that there was no reasonable ground why the officer should have thought it likely that she would be found unseaworthy, or not properly equipped, fitted, ventilated *or lighted* for the voyage, the expense of the survey shall be paid by the Local Government.

(3) If at the time of making a survey under this section all the prescribed equipments are not on board the ship, the officer granting Certificate A shall note thereon the deficiency and the number of native passengers proportionate to such deficiency; *and the maximum number of passengers to be carried shall be reduced by such number*, until the deficiency has been supplied and the fact endorsed on the certificate by the said officer.

[Act X of 1887, s. 15.]

Discretion as to grant of certificate.

286. (1) The officer authorised to grant a certificate under this Part in respect of a ship shall not grant it unless he is satisfied that she has not on board any cargo likely from its quality, quantity or mode of stowage to prejudice the health or safety of the passengers.

(2) But save as aforesaid, and subject to the provisions of sub-section (3), it shall be in the discretion of the officer to grant or withhold the certificate.

(3) In the exercise of that discretion that officer shall be subject to the control of the Local Government, and of any intermediate authority which that Government may appoint in this behalf.

[Act X of 1887, s. 16.]

Copy of certificate to be exhibited.

287. The master or owner shall post up in a conspicuous part of the ship, so as to be visible to persons on board thereof, a copy of the certificate or each of the certificates granted under this Part in respect of the ship, and shall keep the copy or copies so posted up throughout the voyage.

[Act X of 1887, s. 26; Bill of 1867, s. 207 (5).]

Certain ships to carry medical officer.

288. Every ship carrying more than four hundred native passengers

from or to any port on the Coromandel Coast to or from Rangoon, or

from or to Calcutta to or from Rangoon, or

from or to any port in the territories administered by the Governor of Bombay in Council to or from any port not in those territories, *except ports on the western coast of India, or*

from or to Aden *or Perim* to or from any other port in the territories administered by the Governor of Bombay in Council, and

every ship carrying more than one hundred native passengers from or to any port in British India to or from any port in the Red Sea,

shall have on board a medical officer licensed in accordance with the rules under this Part.

[Act X of 1887, ss. 20, 23.]

Report of deaths.

289. (1) The master of every ship carrying native passengers shall notify the date and supposed cause of death of every native passenger dying on the voyage.

(2) Such notification shall be made at the first port at which the ship calls after the occurrence of any such death, and shall be made,—

(a) in the case of a long voyage, to a British Consular Officer at such port, or to the Chief Customs-officer thereat, or to the officer (if any) appointed there under section 278, and

(b) in the case of a short voyage, a shelter-port voyage or an excursion voyage, to such officer as the Governor-General in Council may appoint in this behalf.

Report as to animals carried.

290. The master of every ship carrying native passengers and calling at any intermediate port in British India between the first port of departure and the final port of arrival shall at each such intermediate port report to the officer appointed under section 278 the number of cattle and other live animals on board which may be occupying space measured for native passengers.

CHAPTER XXXI.

SPECIAL PROVISIONS AS TO LONG VOYAGES.

[Act X of 1887, s. 21; Bill of 1867, s. 267 (2).]

Space to be available for native passengers.

291. (1) Every ship carrying native passengers and performing a long voyage shall, subject to the provisions of section 318, contain in the between-decks the spaces hereinafter respectively mentioned for each such passenger:

in the case of a ship propelled by sails only, twelve superficial and seventy-two cubic feet;

in the case of a steam-ship, nine superficial and fifty-four cubic feet.

(2) *Every ship* referred to in sub-section (1) *shall have reserved for the use of the native passengers the upper-deck (excluding the portion set apart for the first and second class passengers and the airing space for the crew and any space which may be reserved as a hospital for the use of the passengers): Provided that, if any such ship has less than the full number of native passengers which she is authorised to carry, only so much of such upper deck need be reserved for such passengers as is proportionate to the actual number of such passengers carried.*

Illustration.

If a ship can carry twelve hundred native passengers and there are only six hundred on board, half only of the upper deck need be reserved for the use of such passengers.

(3) *In every ship* referred to in sub-section (1) *the height between decks and the height of any permanently covered upper deck shall not be less than six feet.*

[Act X of 1887, s. 22.]

Statements concerning passengers.

292. The master of a ship departing or proceeding on a long voyage from any port in British India shall sign two statements, specifying the total number and the number of each sex of the native passengers, and the number of the crew, and shall deliver them to the officer appointed under section 278, who shall thereupon, after having first satisfied himself that the numbers are correct, countersign and return to the master one of the statements.

[Act X of 1887, s. 24.]

Ship taking additional passengers at intermediate places.

293. (1) In either of the following cases, namely,—

(a) if after the ship has departed or proceeded on a long voyage, any additional native passengers are taken on board at a port in British India appointed under section 277 for the embarkation of such passengers, or,

(b) if the ship upon her voyage touches or arrives at any such port, having previously received on board additional native passengers at any place beyond British India,

the master shall obtain a new certificate to the effect of Certificate B from the officer appointed at that port under section 278, and shall make additional statements specifying the total number and number of each sex of the additional native passengers.

(2) All the foregoing provisions of this Part with respect to Certificate B and statements concerning native passengers shall be applicable to any certificate granted or statement made under this section.

294. *If after Certificate A has been granted to the master of any ship any alteration is made in the ship which has the effect of changing the number of native passengers which she is capable of carrying, as stated in such certificate in pursuance of clause (c), sub-clause (i) or sub-clause (ii), of section 280,*

Alteration of passenger accommodation.

the master shall, before the ship proceeds on any voyage from a port appointed under section 277, report the circumstances to the officer appointed at that port under section 278, and such officer shall alter the certificate accordingly.

CHAPTER XXXII.

SPECIAL PROVISIONS AS TO SHORT, SHELTER-PORT AND EXCURSION VOYAGES.

295. Every ship carrying native passengers and performing a short voyage, a shelter-port voyage or an excursion voyage shall, subject to the provisions of section 318, have for each native passenger the spaces hereinafter respectively mentioned:—

Space to be available for passengers.

[Act X of 1887, s. 18 (1), (2), (3); Bill of 1867, s. 267 (2).]

(1) upon any deck, when performing an excursion voyage, six superficial feet,

(2) upon any deck, during a season of fair weather, when performing—

(a) a shelter-port voyage, seven superficial feet,

(b) a short voyage, nine superficial feet,

(3) during a season of foul weather, in the between-decks or upon an upper deck sheltered by a permanent wooden or iron deck covering and by solid bulwarks—

(a) in the case of a steam-ship performing a short voyage or a shelter-port voyage, seven superficial and forty-two cubic feet,

(b) in the case of a ship propelled by sails only and performing—

(i) a shelter-port voyage, nine superficial and fifty-four cubic feet.

(ii) a short voyage, twelve superficial and seventy-two cubic feet.

Space for passengers in case of short or helter-port voyages during season of foul weather.

296. *In the case of a ship performing a short voyage or a shelter-port voyage during a season of foul weather—*

(a) *if native passengers are carried on more than one deck below the main or tonnage deck, the ship shall have on each such additional deck fourteen superficial and eighty-four cubic feet of space for each such passengers;* and

(b) *there shall be reserved for the use of the native passengers the uppermost deck or decks (excluding the portion set apart for the first and second class passengers and the airing space for the crew, and any space which may be* required for permanent structures):

Provided that the upper deck space available for passengers of the lowest class carried in the ship shall in no case be less than four superficial feet for each passenger carried.

Height of decks.

297. In every ship carrying native passengers in the between decks or on any permanently covered upper deck the height of any deck on which passengers are carried shall in no case be less than six feet.

[Act X of 1887, s. 18 (4).]

Upper-deck passengers.

298. A ship performing a short voyage, a shelter-port voyage or an excursion voyage during a season of fair weather shall not carry upper-deck passengers unless she is furnished with a double awning or other sufficient protection against the weather and also with substantial bulwarks *or* with *rails and netting protected by curtains.*

[Act X of 1887, s. 11 (c), s. 19; Bill of 1867, s. 273.]

Awnings to be spread, and statement and certificate as to passengers to be furnished.

299. (1) The master of every ship proceeding on a short voyage, a shelter-port voyage or an excursion voyage shall be bound—

(a) to keep awnings spread over all exposed decks at sea at all times when the weather permits; and

(b) to furnish to the officer appointed under section 278 at every port in British India at which the ship touches a statement in a form sanctioned by the Local Government, showing the number of native passengers taken on board at the last port at which the ship touched, the number to be landed at the port at which the statement is furnished and the number to be conveyed to the next port.

(2) If a *ship performing a short voyage* takes additional passengers on board at any intermediate port, the master shall certify to the officer appointed at that port under section 278—

(a) the number of passengers so taken on board, and

(b) that food, fuel, pure water and medical stores and appliances, over and above what is necessary for the crew, and the other things, if any, prescribed for the ship, have been placed on board of the quality prescribed, properly packed and sufficient to supply the native passengers on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the scale for the time being prescribed:

Provided that if the Certificate B held by the master shows that the several articles mentioned in section 280, sub-section (3), clause (c), and sufficient to supply the full number of passengers which she is capable of carrying, have been placed on board in accordance with that clause, the master shall not be bound to make any certificate under clause (b) of this sub-section.

CHAPTER XXXIII.

PENALTIES.

[Act X of 1887, s. 31; Bill of 1867, ss. 263, 277.]

Penalty for ship unlawfully departing or receiving native passengers on board.

300. If any ship departs or proceeds on a voyage from, or discharges native passengers at, any port or place in British India in contravention of section 277, sub-section (1), or section 280, or

if any person is received as a native passenger on board a ship in contravention of section 277, sub-section (2) or

if any native passenger is carried on board a ship in contravention of section 285, sub-section (3),

the master or owner shall, for every native passenger carried in the ship, or for every native passenger so discharged, received or carried on board, be *liable to* fine which may extend to one hundred rupees, or *to* imprisonment for a term which may extend to one month, or *to* both, and

the ship, if found within two years in any port or place in British India, may be seized and detained by a Chief Customs-officer until the penalties incurred under this Part by her master or owner have been adjudicated, and the payment of the fine imposed on him under this Part, with all costs, has been enforced, under the provisions of this Part:

Provided that the aggregate term of imprisonment awarded under this section shall not exceed one year.

[Act X of 1887, s. 32; Bill of 1867, s. 278.]

Penalty for opposing entry on or inspection of ship.

301. If any person impedes or refuses to allow any entry or inspection authorised by or under this Part, he shall be *liable to* fine which may extend to five hundred rupees, or to imprisonment for a term which may extend to three months, or *to* both.

[Act X of 1887, s. 33.]

Penalty for not exhibiting copy of certificate.

302. If any master or owner without reasonable excuse, the burden of proving which shall lie upon him, fails to comply with the requirements of section 287, with respect to the posting of copies of certificates, he shall be *liable to* fine which may extend to two hundred rupees, or *to* imprisonment for a term which may extend to one month, or *to* both.

[Act X of 1887, s. 42.]

Penalty for sailing without medical officer.

303. If any ship referred to in section 288 has not on board a medical officer as required by that section, the master shall be *liable to* fine which may extend to five hundred rupees, or *to* imprisonment for a term which may extend to three months, or *to* both.

[Act X of 1887, s. 34.]

Penalty for failing to notify death.

304. If any master without reasonable excuse, the burden of proving which shall lie upon him, fails to notify any death, as required by section 289, he shall be *liable to* fine which may extend to five hundred rupees, or *to* imprisonment for a term which may extend to three months, or *to* both.

Penalty for failing to make a report as to animals carried.

305. If any master fails to make a report, as required by section 290, as to animals carried on board his ship and occupying space measured for native passengers, or wilfully makes any false statement in any such report, he shall be *liable to* fine which may extend to twenty rupees for every animal occupying such space and not duly reported.

[Act X of 1887, s. 34.]

Penalty for not complying with requirements as to statements concerning passengers and certain other matters.

306. If any master fails to comply with any of the requirements of section 292, as to statements concerning native passengers or wilfully makes any false entry or note in or on any such statement, or

without reasonable excuse, the burden of proving which shall lie upon him, fails to obtain any such new certificate, or to make any such statement of the number of additional native passengers, as is mentioned in section 293,

he shall be *liable to* fine which may extend to five hundred rupees, or *to* imprisonment for a term which may extend to three months, or *to* both.

Penalty for contravention of section 299.

307. (1) If any master fails to comply with the requirement of section 299, *sub-section* (1), clause (*a*), as to the spreading of awnings, he shall be *liable to* fine which may extend to *one* hundred rupees.

(2) If any master fails to comply with any of the requirements of section 299, *sub-section* (1), clause (*b*), as to furnishing a statement concerning native passengers or wilfully makes any false entry in any such statement, he shall be *liable to* fine which may extend to two hundred rupees, and no officer authorised to grant a port-clearance for the ship shall grant the same unless and until the master has furnished a statement, or an amended statement, as the case may be, of the nature required by the said clause.

(3) If any master fails to give the certificate required by section 299, *sub-section* (2), or wilfully makes any false entry or note in or on any such certificate, he shall be *liable to* fine which may extend to five hundred rupees, or *to* imprisonment for a term which may extend to three months, or *to* both.

(4) If any master fails to comply with any of the requirements of section 299, *sub-section* (2), clause (*b*), as to the carrying of food, fuel, water, medical stores and appliances and other prescribed things, he shall be *liable to* fine which may extend to two hundred rupees.

[Act X of 1887, s. 35; Bill of 1867, s. 281.]

Penalty for fraudulent alteration in ship after certificate obtained or given.

308. If any master, after having obtained any of the certificates mentioned in section 280 or section 293, or after having given a certificate under section 299, *sub-section* (2), fraudulently does or suffers to be done anything whereby the certificate becomes inapplicable to the altered state of the ship, her passengers or other matters to which the certificate relates, he shall be *liable to* fine which may extend to two thousand rupees, or *to* imprisonment for a term which may extend to six months, or *to* both.

Penalty for not reporting alterations of passenger accommodation.

309. *If any master fails* without reasonable cause *to make a report as required by section 294 he shall be liable to fine which may extend to five hundred rupees.*

[Act X of 1887, s. 36; Bill of 1867 s. 282.]

Penalty for failing to supply native passengers with prescribed provisions.

310. If any master, without reasonable excuse, the burden of proving which shall lie upon him, omits to supply to any native passenger the prescribed allowance of food, fuel and water, he shall be *liable to* fine which may extend to twenty rupees for every passenger who has sustained detriment by the omission.

[Act X of 1887, s. 37; Bill of 1867, ss. 279, 280.]

311. (*1*) If any ship holding a certificate under this Part and carrying native passengers to or from any port in British India has on board a number of native passengers which is greater than the number allowed in such certificate, the owner and master shall, for every native passenger over and above that number, be each *liable to* fine which may extend to twenty rupees, and the master shall further be liable to imprisonment for a term which may extend to one week in respect of each such passenger:

Penalty for having excessive number of native passengers on board.

Provided that the aggregate term of imprisonment awarded under this section shall not exceed six months.

(*2*) Any officer authorised in this behalf by the Local Government may cause all native passengers over and above the number allowed by or under this part to disembark, and may forward them to any port at which they may have contracted to land, and recover the cost of so forwarding them from the master or owner of the ship as if the cost were a fine imposed under this Part; and a certificate under the hand of that officer shall be conclusive proof of the amount of the cost aforesaid.

[Act X of 1887, s. 38.]

312. If any ship carrying native passengers from any port or place beyond British India to any port in British India and not holding a certificate under this Part has on Board a number of native passengers greater than the number allowed by the license or certificate, if any, granted in respect of the ship at her port or place of departure, or, if there be no such license or certificate, greater than the number allowed for the ship by or under this Part, the master and owner shall, for every native passenger in excess of that number, be each *liable to* fine which may extend to twenty rupees.

Penalty for bringing native passengers from foreign port in excess of authorised number.

[Act X of 1887, s. 39; Bill of 1867, s. 283.]

313. If any master lands any native passenger at any port or place other than the port or place at which the passenger may have contracted to land, unless with his previous consent, or unless the landing is made necessary by perils of the sea or other unavoidable cause or accident, the master shall every native passenger so landed be *liable to* fine which may extend to two hundred rupees, or *to* imprisonment for a term which may extend to one month, or *to* both.

Penalty for landing native passenger at a place other than that at which he has contracted to land.

[Act X of 1887, s. 40.]

314. If any ship, otherwise than by reason of perils of the sea or unavoidable *causes or* accident, touches at any port or place in contravention of any express or implied contract or engagement with the native passengers with respect to the voyage which the ship was to make and the time which that voyage was to occupy, whether the contract or engagement was made by public advertisement or otherwise, the master and owner shall each be *liable to* fine which may extend to five hundred rupees, or *to* imprisonment for a term which may extend to three months, or *to* both.

Penalty for making voyage in contravention of contract with passengers.

CHAPTER XXXIV.

SUPPLEMENTAL PROVISIONS.

315. (*1*) The Chief Customs-officer, or other officer, if any, appointed by the Local Government in this behalf, at any port in British India at which a ship carrying native passengers touches or arrives, shall, with advertence to the provisions of this Part, send any particulars which he may deem important respecting the ship, and the native passengers carried therein, to the officer appointed under section 278 at the port from which the ship commenced her voyage, and to the officer appointed under the said section at any other port in British India where the passengers or any of them embarked or are to be discharged.

Information to be sent to ports of embarkation and discharge.

(*2*) The Chief Customs-officer, or other officer, if any, appointed by the Local Government in this behalf, at any port in British India at which a ship to which this Part applies touches or arrives, may enter on the ship and inspect her in order to ascertain whether the provisions of this Part as to the number of native passengers and other matters have been complied with.

[Act X of 1887, s. 52; Bill of 1867, s. 275.]

316. In any proceeding for the adjudication of any penalty incurred under this Part, any document purporting to be a report of such particulars as are referred to in section 315, sub-section (*1*), or a copy of the proceedings of any Court of Justice duly authenticated, and also any like document purporting to be made and signed by any person lawfully exercising Consular authority on behalf of Her Majesty in any foreign port, shall be admissible in evidence, if it appears to have been officially transmitted to any officer at or near the place where the proceeding under this Part is held.

Certain documents to be admissible in evidence.

[Act X of 1887, s. 53 (*1*), (*2*), (*3*); Bill of 1867, s. 265.]

317. (*1*) The Governor-General in Council may make rules to regulate, in the case of any ship or class of ships, all or any of the following matters:—

Power to make rules.

(*a*) the scale on which food, fuel and water are to be supplied to native passengers or to any class or classes of native passengers, and the quality of the food, fuel and water;

(*b*) the medical stores and other appliances and fittings to be provided on board for maintaining health, cleanliness and decency;

(*c*) the licensing and appointment of medical officers in cases where they are required by section 288 to be carried;

(*d*) the anchors and cables to be provided on board;

(*e*) the instruments for purposes of navigation to be supplied;

(*f*) the apparatus for ventilation and lighting and for the purpose of extinguishing fires on board, and the precautions to be taken to prevent such fires;

(*g*) the provision of boats and other appliances for saving life and of means for making signals of distress, and the supply of lights inextinguishable in water and fitted for attachment to life-buoys;

(*h*) the area to be deducted from the space measured for native passengers when live animals are carried in such space;

(*i*) the functions of the master, medical officer (if any) and other officers of the ship during the voyage;

(*j*) the access of between-decks passengers to the upper deck; and

(*k*) generally, to carry out the purposes of this Part.

(*2*) The Local Government may make rules to regulate, in the case of any ship or class of ships,—

(*a*) the local limits within which, and the time and mode at and in which, native passengers are to be embarked or discharged at any port appointed under section 277 in that behalf; and

(*b*) the time within which the ship or any ship of the class is to depart or proceed on her voyage after commencing to take native passengers on board.

(*3*) In making a rule under this section the authority making it may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

[Act X of 1887, s. 56.]

318. The Governor-General in Council may, by notification in the *Gazette of India*, declare in the case of any ship or class of ships and for all or any voyages the number of superficial and cubic feet of space to be available for native passengers; and the order shall be alternative to, or override, as the Governor-General in Council may direct, the provisions of sections 291 and 295 so far as they apply to that ship or class of ships.

Power to declare space to be available for native passengers.

[Act X of 1887, s. 54; Bill of 1867, s. 265.]

319. The Local Government shall appoint such persons as it may think fit to exercise and perform the powers and duties which are conferred and imposed by this Part or may be conferred and imposed thereunder.

Appointment of officers.

[Act X of 1887, s. 48; Bill of 1867, s. 293.]

320. The penalties to which masters and owners of ships are made liable by this Part shall be enforced only on information laid at the instance of officers appointed to grant certificates under this Part, or, at any port or place where there is no such officer, at the instance of the Chief Customs-officer.

Authority to institute proceedings for penalties.

PART VIII.

CHAPTER XXXV.

COAST-LIGHT DUES.

Preliminary.

[Act IX of 1879, s. 3.]

321. In this Chapter, unless there is something repugnant in the subject or context, "voyage" means the whole distance between a ship's place of departure and her final place of arrival; but the return of a ship from any place shall, notwithstanding the terms of any charter-party, be deemed a distinct voyage.

Definition of "voyage."

Levy and Recovery of Dues.

[Act IX of 1879, ss. 4, 6.] Cf. 1894, s. 670.

322. For the purpose of establishing and maintaining coast-lights in the eastern part of the Bay of Bengal, a toll, hereinafter called "coast-light dues," shall be paid in respect of every ship, whether British or foreign, of fifty tons or upwards registered tonnage making any voyage mentioned in Schedule VIII, at the rate of one anna and six pies per ton:

Dues chargeable.

Provided that such ship sails from, or enters during the course of, or at the termination of, such voyage, a port in British India, or takes in, or discharges, cargo off the coast of British India:

Provided further that the Governor-General in Council may, by notification in the *Gazette of India*,—

(*a*) reduce, and again raise to an amount not exceeding one anna and six pies per ton, the rate of coast-light dues payable in respect of all ships or any particular class of ships, or,

(*b*) abolish the coast-light dues payable in respect of all ships or any particular class of ships.

[Act IX of 1879, s. 5.]

323. Coast-light dues chargeable under section 322 shall become due and payable—

Dues when payable.

(*a*) in the case of a ship clearing out of a port in British India upon any such voyage as aforesaid—previous to the grant of any port-clearance;

(*b*) in the case of a ship entering a port in British India in the course, or at the termination, of any such voyage as aforesaid—immediately upon her entering such port:

Provided that the said dues shall not be levied more than once on any ship in the course of the same voyage.

[Act IX of 1879, s. 7.] Cf. 1894, s. 671 (*2*).

324. The Customs-collector shall collect the coast-light dues,

Collection of dues.

and shall grant to the person paying the same a voucher in writing under his hand, setting forth the name of his office, the port at which the coast-light dues are paid, the amount so paid, the name, tonnage and other proper description of the ship in respect of which such payment is made, and the voyage on which she is or has been bound.

[Act IX of 1879, s. 8.]

325. Within twenty-four hours after the arrival within a port of any ship chargeable with coast-light dues, the master of the ship shall give notice of such arrival to the Customs-collector.

Master to report arrival of ship.

[Act IX of 1879, s. 9.]

326. In order to ascertain the tonnage of any ship chargeable with coast-light dues, the following rules shall be observed:—

Ascertainment of tonnage of ship chargeable with dues.

(*1*) (*a*) If the ship is registered in the United Kingdom or in British India or any other British Possession, the Customs-collector may require the owner or master of the ship or any person having possession of her certificate of registry to produce such certificate for inspection.

(*b*) If the owner or master or such person as aforesaid neglects or refuses to produce such certificate, or otherwise to satisfy the Customs-collector as to what is the true tonnage of the ship in respect of which the coast-light dues are payable, he shall be liable to fine which may extend to one hundred rupees, and the Customs-collector may cause the ship to be measured, and the tonnage thereof to be ascertained, according to the mode of measurement for the time being prescribed by or under the Merchant Shipping Act, 1894, for ascertaining the tonnage of British ships; and in such case the owner or master of the ship shall also be liable to pay the expenses of the measurement.

57 & 58 Vict., c. 60.

(*2*) If the ship is not registered in the United Kingdom or in British India or some other British Possession, and the owner or master thereof fails to satisfy the Customs-collector as to what is her true tonnage according to the mode of measurement for the time being prescribed by or under the Merchant Shipping Act, 1894, for ascertaining the tonnage of British ships, the Customs-collector shall cause the ship to be measured, and the tonnage thereof to be ascertained, according to the mode aforesaid; and in such case the owner or master of

57 & 58 Vict., c. 60.

the ship shall be liable to pay the expenses of the measurement.

(3) If the ship is a ship of which the tonnage cannot be ascertained according to the mode of measurement mentioned in clauses (1) and (2), the tonnage of the ship shall be determined by the Customs-collector on such an estimate as may seem to him to be just.

[Act IX of 1879, s. 10.] Cf. 1894, 671 (2).

327. If the master of any ship refuses or neglects to pay to the Customs-collector on demand by him the amount of any dues or expenses payable in respect of the ship under this Chapter, the Customs-collector may distrain or arrest the ship and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount of such dues or expenses is paid; and in case any part of such dues or expenses, or of the costs of the distress or arrest, or of the keeping of the same, remains unpaid for the space of five days next after any such distress or arrest is so made, the Customs-collector may cause the ship or other thing so distrained or arrested to be sold, and with the proceeds of such sale may satisfy such dues, expenses and costs (including the costs of sale) remaining unpaid, and shall render the surplus (if any) to the master of the ship upon demand.

On refusal to pay dues or expenses, the Collector may distrain and sell.

[Act IX of 1879, s. 11.] Cf. 1894, s. 671 (2).

328. No officer authorised to grant a port-clearance shall grant the same for a ship to which this Chapter applies until her master or some other person has paid, or secured to the satisfaction of such officer, the amount of all dues, expenses and costs with which the ship is chargeable under this Chapter, and of any fine to which any person is liable for anything done by him in contravention of this Chapter.

No port-clearance to be granted until dues, etc., are paid.

[Act IX of 1879, s. 12.]

329. The master of any ship departing from or entering any port in British India upon, or in the course of, or at the termination of any voyage, shall, upon the demand of the Customs-collector, specify upon what voyage she is or has been bound.

Master to specify on demand voyage on which ship is bound.

[Act IX of 1879, s. 13.]

330. If the master of any ship evades, or attempts to evade, the payment of any coast-light dues, expenses or costs payable in respect of the ship under this Chapter, he shall be *liable to* fine which may extend to two hundred rupees.

Penalty for evading payment of dues, etc.

[Act IX of 1879, s. 14.]

331. (1) If any dispute arises as to whether any ship is chargeable with any coast-light dues, expenses or costs under this Chapter, or as to the amount of such dues, expenses or costs, such dispute shall, upon application made in that behalf by either of the disputing parties, be heard and determined in the towns of Calcutta, Madras and Bombay by a Presidency Magistrate, and elsewhere by any *Sub-divisional Magistrate or* Magistrate *of the first class*.

Magistrate to decide disputes.

(2) All decisions under this section shall be final.

Statement of Receipts and Expenditure.

[Act IX of 1879, s. 16.]

332. The Governor-General in Council shall publish annually in the *Gazette of India*, as soon after the first day of April as may be, a statement showing the amount received on account of coast-light dues during the year ending on the thirty-first day of March last preceding, and the amount expended during the same period on the establishment and maintenance of coast-lights in the eastern part of the Bay of Bengal.

Statement of receipts and expenditure to be published.

PART IX.

CHAPTER XXXVI.

MISCELLANEOUS.

[Act VII of 1880, s. 50; Act V of 1883, s. 6 (4) (added by Act VI of 1891, s. 9), s. 14 (3); Act VII of 1884, ss. 9 (3), 37 (3).] Cf. 1894, s. 696 (2). XLV of 1860.

333. The following persons shall be deemed to be public servants within the meaning of the Indian Penal Code, namely:—

Certain persons to be deemed "public servants."

(a) every surveyor appointed under section 173, 176 or 185,

(b) every judge, assessor, officer or surveyor acting under Chapter XXIV,

(c) every person appointed under section 253, sub-section (1), to report information as to casualties,

(d) every officer authorized under section 261, sub-section (1), to enter a ship, and all persons whom he calls to his aid, and

(e) every person making an investigation under section 265.

[Act I of 1859, s. 3; Act VII of 1880, s. 11, s. 39 (am. by Act XVII of 1891, s. 4), s. 54, s. 81. Act VII of 1884, s. 9 (2).] [Act VII of 1880, s. 23, s. 40 (am. by Act XVII of 1891, s. 4), s. 67, s. 68; Act VII of 1884, s. 42; Act X of 1887, s. 53 (2), (4), and sec Act I of 1857, s. 6.] Cf. 1894, s. 427 (2).

334. Any officer or surveyor appointed under this Act may be suspended or removed by the authority which appointed him.

Suspension and removal of officers.

335. (1) The power to make rules under this Act is subject (except in the case of rules made under section 31 or section 262) to the condition of the rules being made after previous publication in such manner as the Governor-General in Council may direct; *and in the case of rules made under section 171 or section 199 the draft shall not be taken into consideration* until after the expiration of six *months* nor in the case of rules made under section 105 until after the expiration of three months from *such publication*.

Provisions with respect to rules.

(2) A rule made by a Local Government under this Act shall not take effect until it has been sanctioned by the Governor-General in Council and published in the official Gazette.

(3) A rule made by the Governor-General in Council under this Act shall not take effect until it has been published in the *Gazette of India*.

(4) The publication in the Gazette of a rule purporting to be made under this Act shall be conclusive proof that the rule has been duly made and sanctioned.

(5) Any rule under this Act may be cancelled or varied by the authority by whom it was made.

[Act I of 1859, s. 113, 1st paragraph; Act VII of 1884, s. 38; Act X of 1887, ss. 8 (7), 6 (1).]

336. (1) No Magistrate shall try any offence against this Act or any rule thereunder unless he is a Presidency Magistrate or a Magistrate whose powers are not less than those of a Magistrate of the first class.

Jurisdiction of Magistrates in respect of offences.

(2) Any offence against this Act which is triable in a summary way may be so tried by a Magistrate of the first class although he has not been specially empowered by the Local Government under section 260 of the Code of Criminal Procedure, 1882.

X of 1882

[Act VII of 1880, s. 84; Act VII of 1884, s. 39; Act X of 1887, s. 47; Bill of 1867, s. 292; Bill of 1882, s. 98.] Cf. 1894, s. 684.

337. Any person committing an offence against this Act or any rule thereunder may be tried for the offence in any place in which he may be found or which the Local Government may, by notification in the official Gazette, direct in this behalf, or in any other place in which he might be tried under any other law for the time being in force.

Place of trial of offences.

[Act I of 1859, s. 111; Act V of 1883, s. 16; Act X of 1887, s. 50; Bill of 1867, s. 289; Bill of 1882, ss. 145, 154.] Cf. 1894, s. 691.

338. (1) Whenever, in the course of any legal proceeding under this Act instituted at any place in British India before any Court or Magistrate or before any person authorised by law or by consent of parties to receive evidence, the testimony of any witness is required in relation to the subject-matter,

Deposition of absent witness.

and the defendant or the person accused, as the case may be, after being allowed a reasonable opportunity for so doing, does not produce the witness before the Court or Magistrate,

any deposition previously made by the witness in relation to the same subject-matter before any Court, Justice or Magistrate in Her Majesty's dominions (including all parts of British India other than those subject to the same Local Government as the place where the proceeding is instituted), or before any British Consular officer elsewhere, shall be admissible in evidence—

(a) if the deposition is authenticated by the signature of the presiding officer of the Court, or of the Justice, Magistrate or Consular officer before whom it was made, and

(b) if the defendant or the person accused had an opportunity, by himself or his agent, of cross-examining the witness, and

(c) if the proceeding be criminal, on proof that the deposition was made in the presence of the person accused:

Provided that, when such cross-examination has taken place, it shall be recorded as part of the deposition.

(2) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition; and a certificate by such person that the defendant or the person accused had an opportunity of cross-examining the witness, and that the deposition, if made in a criminal proceeding, was made in the presence of the person accused, shall, unless the contrary be proved, be sufficient evidence that he had that opportunity and that it was so made.

[Act I of 1859, ss. 44, 56; Bill of 1867, ss. 155, 168; Bill of 1882, ss. 55, 68.]

339. When an order for the payment of any wages or other money is made by a Superintendent of a Mercantile Marine Office under section 88 or by a Magistrate under section 90, and the money is not paid at the time or in the manner directed, the sum mentioned in the order, with such further sum as may be thereby awarded for costs, may be levied by distress and sale of the moveable property of the person directed to pay the same, under a warrant to be issued for that purpose by a Magistrate.

Levy of wages, &c., by distress of moveable property.

[Act I of 1859, s. 113: Act VII of 1884, s. 40; Act X of 1887, s. 46 (2); Bill of 1867, s. 291; Bill of 1882, s. 155.] Cf. 1894, s. 693.

340. Where any Court or Magistrate has power to make an order under this Act directing payment to be made of any seaman's wages, fine, or other sum of money, then, if the person so directed to pay the same is the master or owner of a ship, and the same is not paid at the time or in the manner directed by the order,

Levy of wages, fines, &c., by distress of ship.

the Court or Magistrate may, in addition to any other power it or he may have for the purpose of compelling payment, by warrant direct the amount remaining unpaid to be levied by distress and sale of ship, and the tackle, apparel and furniture thereof.

[Act X of 1887, s. 49; Bill of 1867, s. 264.] Cf. 1894, s. 699 (1).

341. A Magistrate imposing a fine under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any detriment which he may have sustained by the act or default in respect of which the fine is imposed, or in or towards payment of the expenses of the prosecution.

Application of fines.

SCHEDULE I.

ENACTMENTS REPEALED.

1	2	3
Number and year.	Subject or title.	Extent of repeal.
PART A.		
(*See Section 2.*)		
Acts of the Governor-General in Council.		
XIII of 1856 ..	Bombay Town Police ..	Section 54.
I of 1859 ..	Merchant Seamen ..	The whole, so far as it has not been repealed.
IX of 1874 ..	European Vagrancy Act, 1874.	In section 31, the words "and whenever a sailor of European extraction not being a British subject is discharged from his ship in any British Indian port," the words "or discharge from his ship," and the words "or, in the case of a sailor, the person who is at the date of the discharge the owner or agent of the ship from which the sailor has been so discharged."

SCHEDULE I—*cont.*

ENACTMENTS REPEALED—*cont.*

1	2	3
Number and year.	Subject or title.	Extent of repeal.
	Acts of the Governor-General in Council—cont.	
XV of 1874 ..	Laws Local Extent Act, 1874.	The first schedule, so far as it relates to Act I of 1859.
XIII of 1876 ..	Indian Merchant Seamen's Act, 1876.	The whole.
IX of 1879 ..	Burma Coast-lights Act, 1879.	The whole, so far as it has not been repealed.
VII of 1880 ..	Indian Merchant Shipping Act, 1880.	The whole, so far as it has not been repealed.
V of 1883 ..	Indian Merchant Shipping Act, 1883.	The whole, except section 38.
VII of 1884 ..	Indian Steam-ships Act, 1884.	The whole, so far as it has not been repealed.
X of 1887 ..	Native Passenger Ships Act, 1887.	The whole.
III of 1890 ..	An Act to amend Acts VI and VII of 1884.	Sections 15 to 22 (both inclusive) so far as they have not been repealed.
VI of 1891 ..	An Act to amend certain Acts respecting Indian Merchant Shipping.	The whole, so far as it has not been repealed.
XII of 1891 ..	Repealing and Amending Act, 1891.	The second schedule, so far as it relates to Acts I of 1859, XIII of 1876, VII of 1880 *and* V of 1883, and *Act* III of 1890, *section* 17.
XVII of 1891 ..	Deck and Load Lines Act, 1891.	The whole.
	Acts of the Governor of Fort St. George in Council.	
III of 1888 ..	Madras City Police Act, 1888.	Section 70.
	Act of the Governor of Bombay in Council.	
II of 1864 ..	An Act to provide for the periodical survey of steam-vessels in the ports, harbours, rivers or waters of the Presidency of Bombay.	Section 15.
	Act of the Lieutenant Governor of Bengal in Council.	
IV of 1866 ..	Calcutta Police Act, 1866.	Section 42.

PART B.

(*See Section* 7.)

Acts of the Governor-General in Council.

X of 1841 ..	Registration of Ships ..	In the title, the words "belonging to ports within the territories under the Government of the East India Company or" and the words "under a proclamation of the Governor-General of India in Council made." In the preamble, the words from "that it shall be lawful" to "the same Statute" (both inclusive), the words "be deemed British ships, or," the words "under such proclamation as aforesaid" and the words and figures from "no ship or vessel shall be deemed a British ship under such proclamation as aforesaid" to the end. Sections 2 to 12 (both inclusive) and 14 to 23 (both inclusive), so far as they have not been repealed. In section 25, the words "certificate or" and the words "registering or." Section 26. In section 27 (inserted by Act VII of 1891, section 9), the words "Local Governments of India" and "Government of the Presidency." The proclamation appended to the Act. The schedule.
XI of 1850 ..	An Act to amend Act X of 1841.	In section 3, the words and figures "owned by British subjects entitled to registry under Act X of 1841, or," the words "be registered and," and the words "and the tonnage may be marked." Section 4.
V of 1883 ..	Indian Merchant Shipping Act, 1883.	Section 38.
VII of 1891 ..	An Act to amend Act X of 1841.	Sections 2 to 7 (both inclusive), so far as they have not been repealed.
XII of 1891 ..	Repealing and Amending Act, 1891.	The second schedule, so far as it relates to Act VII of 1891.

SCHEDULE II.

MAXIMUM FEES FOR PURPOSES CONNECTED WITH THE REGISTRY OF BRITISH SHIPS.

[*Act XI of 1850, s. 4.*] *Cf. 1894, ss. 64 (1), 77 (3), 210 (3), Sch. III, Sch. VI, cls. (6), (7) (8).*

(*See section 13, sub-section* (2).)

1. For measurement of tonnage of British ships.

	Rs.
For a ship *under* 50 *tons register tonnage* ..	15
,, ,, *from* 50 to 100 *tons register tonnage* ..	22
,, ,, ,, 100 to 200 ,,	30
,, ,, ,, 200 to 500 ,,	45
,, ,, ,, 500 to 800 ,,	60
,, ,, ,, 800 to 1,200 ,,	75
,, ,, ,, 1,200 to 2,000 ,,	90
,, ,, ,, 2,000 to 3,000 ,,	105
,, ,, ,, 3,000 to 4,000 ,,	120
,, ,, ,, 4,000 to 5,000 ,,	135
,, ,, ,, 5,000 *tons* and upwards *register tonnage.*	150

2. *For altering the name of the ship in the register book in pursuance of section* 47, *sub-section* (4) *or sub-section* (5), *of the Merchant Shipping Act*, 1894, *as amended by section* 12 *of this Act*—

Half the fee which would be payable under clause 1 *of this Schedule.*

57 & 58 Vict., c. 60.

3. For inspection of places in British ships which are occupied by seamen or apprentices engaged under this Act, and appropriated to their use—

For each visit to the ship .. Rs. 5

Provided as follows:—

(*a*) the aggregate amount of the fees for any such inspection shall not exceed ten rupees, whatever be the number of separate visits;

(*b*) when the accommodation is inspected at the same time with the measurement of the tonnage, no separate fee shall be charged for such inspection.

	Rs. A.
4. For inspection of a register-book	0 8
5. For re-measurement of a British ship *in pursuance of section* 77, *sub-section* (2), *of the Merchant Shipping Act*, 1894—	
For each transverse section ..	5 0

57 & 58 Vict., c. 60.

SCHEDULE III.

(*See section* 21.)

TABLE A.

[Act I of 1859, Table A; Bill of 1867, Sch. II, Table A; Bill of 1882, Sch. II, Table A.]

MAXIMUM FEES PAYABLE UPON ENGAGEMENTS AND DISCHARGES OF SEAMEN EFFECTED BEFORE A SUPERINTENDENT OF A MERCANTILE MARINE OFFICE.

(1) Engagement or discharge of crews—

	Rs. A.
For ships *under* 100 *tons register tonnage* ..	3 0
,, ,, *from* 100 to 200 *tons register tonnage* ..	7 0
,, ,, ,, 200 to 300 ,, ,,	10 0
,, ,, ,, 300 to 400 ,, ,,	12 8
,, ,, ,, 400 to 500 ,, ,,	15 0
,, ,, ,, 500 to 600 ,, ,,	17 8
,, ,, ,, 600 to 700 ,, ,,	20 0
,, ,, ,, 700 to 800 ,, ,,	22 8
,, ,, ,, 800 to 900 ,, ,,	25 0
,, ,, ,, 900 to 1,000 ,, ,,	27 8
,, ,, ,, 1,000 *tons* and upwards *register tonnage*	30 0

and so on for ships of larger tonnage, adding, for every one hundred tons above one thousand, two rupees and eight annas.

(2) Engagement or discharge of seamen separately—

One rupee for each seaman.

TABLE B.

[Act I of 1859, Table B; Bill of 1867, Sch. II, Table B; Bill of 1882, Sch. II, Table B.]

MAXIMUM SUMS WHICH MAY BE DEDUCTED FROM WAGES OF SEAMEN BY WAY OF PARTIAL REPAYMENT OF THE FOREGOING FEES.

(1) In respect of engagements and discharges of crews—

Upon each engagement and each discharge—

	Rs. A.
From wages of any mate, purser, engineer, surgeon, carpenter or steward	0 12
From wages of any other seaman	0 8

(2) In respect of engagements and discharges of seamen separately—

Upon each engagement and each discharge ..	0 8

SCHEDULE IV.

MAXIMUM FEES FOR INSPECTION OF LIGHTS AND FOG SIGNALS.

(*See section* 179.)

For each visit made to a ship on the application of the owner, and for each visit made where the lights or fittings are found defective .. .. Rs. 5

Provided that the aggregate amount of fees for any such inspection shall not exceed ten rupees, whatever may be the number of separate visits.

SCHEDULE V.

(*See section* 187.)

[Act VII of 1884, Sch. (am. by Act III of 1890, s. 22).] Cf. 1894, Sch. 9.

RATES OF FEES PAYABLE IN RESPECT OF SURVEY OF STEAM-SHIPS.

	Registered tonnage.	For a survey of hull and equipments only, or of machinery only.	For a survey of both.
	Tons.	Rs.	Rs.
Steam-ships not exceeding ..	25	20	40
exceeding 25 and not exceeding	50	25	50
,, 50 ,,	75	30	60
,, 75 ,,	100	35	70
,, 100 ,,	300	40	80
,, 300 ,,	600	45	90
,, 600 ,,	900	50	100
,, 900 ,,	1,200	60	120
,, 1,200 ,,	1,500	72½	145
exceeding 1,500 tons, for every additional 300 tons or fraction thereof.		12½	25

SCHEDULE VI.

[Act VII of 1880, Sch. (added by Act VI of 1891, s. 8).]

DECLARATION BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND IRELAND AND THE GOVERNMENT OF THE FRENCH REPUBLIC, WITH REFERENCE TO THE DISPOSAL OF THE PROCEEDS OF WRECKS ON THEIR RESPECTIVE COASTS.

(See section 245.)

The Government of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and the Government of the French Republic, desiring to regulate by a new Agreement questions relative to the disposal of the proceeds of wrecks on the coasts of the two States, have agreed to replace the Declaration signed at London on the 16th June 1879, by the following arrangements:—

ARTICLE I.

When any ship belonging to the subjects of one of the two Contracting States is wrecked or stranded on the coast of the other, the competent local authorities shall, with as little delay as possible, bring the fact to the knowledge of the Consul General, Consul, Vice-Consul or Consular Agent nearest to the spot where the wreck or stranding has taken place.

ARTICLE II.

All operations relative to the salvage of British ships which may be wrecked or stranded on the coasts of France shall be directed by the Consuls General, Consuls, Vice-Consuls or Consular Agents of Great Britain, and reciprocally the French Consuls General, Consuls, Vice-Consuls and Consular Agents shall direct all operations relative to the salvage of ships of their nation wrecked or stranded on the coasts of Great Britain.

ARTICLE III.

If the owners of the ship and cargo, or their duly authorised representatives, shall be present and shall claim it, the Consuls General, Consuls, Vice-Consuls and Consular Agents shall hand over to them the conduct of the salvage operations after requiring the deposit of the ship's papers, as well as the reimbursement of the expenses already defrayed, and a sufficient guarantee for those incurred before the operations were handed over, and which may not have been already settled.

ARTICLE IV.

The intervention of the local authorities shall only take place in the two countries for the purpose of assisting the Consular authority, of maintaining order, of securing the interests of the salvors if they are strangers to the ship-wrecked crews, and of assuring the due execution of the arrangements to be carried out for the entry and departure of the merchandise saved.

In the absence, and until the arrival, of the Consuls General, Consuls, Vice-Consuls or Consular Agents, the local authorities shall, moreover, take all necessary measures for the protection of the persons and for the preservation of the articles which shall have been saved from the wreck.

This intervention shall not give rise to any charges, with the exception of those which the salvage operations and the protection of the articles saved shall have rendered necessary, and those to which national ships would, under similar circumstances, be liable. These charges shall be paid according to the circumstances of the case, either by the Agents of the Consular service, or by their owners or their proxies.

In case absence, sickness or any other cause should prevent the Agents of the Consular service from seeing to the operations and the management of the salvage, the local authorities who may be charged with the operations and management in question shall be bound to remit to the aforesaid Agents the ship's papers and the net proceeds of the ship and the cargo.

ARTICLE V.

The merchandise and articles saved shall not be liable to any customs-duties, unless they are intended for home consumption, in which case they shall pay the same duties as they would have had to pay if they had been imported in national vessels.

ARTICLE VI.

The stipulations of the present Declaration shall be applicable to all the Colonies and foreign possessions of Her Britannic Majesty, excepting to those hereinafter named, that is to say, except to—

India.	New South Wales.
The Dominion of Canada.	Victoria.
Newfoundland.	Queensland.
The Cape.	Tasmania.
Natal.	South Australia.
	Western Australia.

New Zealand.

Provided always that the stipulations of the present Declaration shall be made applicable to any of the above-named Colonies or foreign possessions on whose behalf notice to that effect shall have been given by Her Britannic Majesty's Representative to the French Republic within one year from the date of the signature of the present Declaration.

The stipulations of the present Declaration shall be applicable to all the Colonies and foreign possessions of France.

ARTICLE VII.

The present Declaration shall come into operation three months after the date of its signature, and shall remain in force until the expiration of one year from the day on which either party may give notice of its intention to terminate it.

In witness whereof, the undersigned plenipotentiaries, His Excellency the Earl of Lytton, Ambassador of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and His Excellency M. Eugene Spuller, Minister for Foreign Affairs, have signed the present Declaration, and have affixed thereto their seals.

Done at Paris, this twenty-third day of October, 1889.

(L.S.) LYTTON.
(L.S.) E. SPULLER.

SCHEDULE VII.

[Act XII of 1885, Sch.] Of. 1894, Sch. 14, Form III.

FORM OF GOVERNOR'S OR CONSULAR *Officer's* CERTIFICATE OF EXPENDITURE IN THE CASE OF STEERAGE PASSENGERS WRECKED *OR FORWARDED*,

(See section 271.)

I hereby certify that, acting under and in conformity with the provisions of Part VI of the Indian Merchant Shipping Act, 189 , I have defrayed the expenses incurred in rescuing, maintaining, supplying with necessary bedding, provisions and stores (1), and in forwarding to their destination *steerage* passengers who were proceeding from to

in the ship , which was

wrecked at sea, &c. (2)

And I further certify, for the purposes of *Part VI* of the said Act, that the total amount of such expenses is , and that such expenses were duly incurred by me under Part VI of the said Act.

Given under my hand this day of 189 .

{ *Governor of, &c.* (or as the case may be)
{ *British Consul or Officer at* .

(1) If more passengers were rescued than forwarded, or if bedding, &c., was not supplied, after the certificate to suit the facts of the case.

(2) State generally the nature of the disaster and where it occurred. But if the passengers were only left behind, without any default of their own, state the fact accordingly.

SCHEDULE VIII.

VOYAGES IN RESPECT OF WHICH COAST-LIGHT DUES ARE PAYABLE.

(See section 322.)

[Act IX of 1879, Sch.]

1. A voyage to or from Chittagong or any place west of the longitude of Chittagong—
   (*a*) from or to any port in Burma; or
   (*b*) from or to any port in the Andaman and Nicobar Islands or any place east of the longitude of Mergui, by a course passing between the northern extremity of the Andaman Islands and the coast of Burma.
2. A voyage to or from any port in Burma—
   from or to any other port in Burma,
   except voyages between Maulmain and Tavoy, between Maulmain and Mergui, or between Tavoy and Mergui.
3. A voyage to or from Rangoon or any port in Burma west of the longitude of Rangoon—
   from or to any place east of the longitude of Mergui.
4. A voyage to or from any port in Burma, other than Tavoy and Mergui,—
   from or to any port in the Andaman and Nicobar Islands.

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

(Republished by order of the Right Honourable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 22.

The following Report of the Select Committee on the Bill to amend the Indian Penal Code was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 20th February 1896 :—

We, the undersigned, Members of the Select Committee to which the Bill to amend the Indian Penal Code 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 High Court, Calcutta, No. 1610, dated 8th August 1895 [Paper No. 1].
From Agent to Governor-General in Baluchistan, No. 4994, dated 10th August 1895 [Paper No. 2].
From Chief Commissioner, Central Provinces, No. 6239, dated 15th August 1895 [Paper No. 3].
From Chief Commissioner, Ajmere-Merwara, No. 1019, dated 30th August 1895 [Paper No. 4].
From Chief Commissioner, Coorg, No. 1472, dated 29th August 1895 [Paper No. 5].
From Government, Bengal, No. 229-J.D., dated 3rd September 1895, and enclosures [Papers No. 6].
From Government, Punjab, No. 1078, dated 10th September 1895, and enclosures [Papers No. 7].
From Government, Bombay, No. 6561, dated 13th September 1895 [Paper No. 8].
From Chief Commissioner, Assam, No. 132 L. and L.-4324-J., dated 5th September 1895 [Paper No. 9].
From Government, Madras, No. 1773, dated 26th August 1895, and enclosures [Papers No. 10].
From Resident, Hyderabad, No. 309, dated 6th September 1895, and enclosures [Papers No. 11].
From Government, North-Western Provinces and Oudh, No. 2603, dated 18th September 1895, and enclosures [Papers No. 12].
From Chief Commissioner, Burma, No. 393-L.-17, dated 18th September 1895, and enclosures [Papers No. 13].

2. We have altered the first half of the Bill so as to get rid of an objection taken by several of the authorities consulted. It has been argued that, under the Bill as originally drawn, there would be an apparent contradiction in the terms of the definition of "Queen's coin" inasmuch as the second, read with the first, paragraph of section 230 of the Indian Penal Code requires "Queen's coin" to be "metal for the time being used as money," while the additional paragraph proposed would declare that a piece of metal might be "Queen's coin" although no longer used as money. By amending the whole definition as in the Bill now submitted we think that the inconsistency noticed will be removed.

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

In English.

Gazette.	Date.
Gazette of India	13th July 1895.
Fort St. George Gazette	23rd do.
Bombay Government Gazette	18th do.
Calcutta Gazette	24th do.
North-Western Provinces and Oudh Government Gazette	20th do.
Punjab Government Gazette	18th do.
Central Provinces Gazette	20th do.
Burma Gazette	3rd August 1895.
Assam Gazette	3rd do.
Coorg District Gazette	1st do.
Sind Official Gazette	8th do.

In the Vernaculars.

Province.	Language.	Date.
Madras	Telugu	6th August 1895.
	Hindustani ..	6th do.
	Kanarese	6th do.
	Malayalam	6th do.
	Tamil	13th do.
Bombay	Marathi	29th do.
	Gujarathi	29th do.
	Kanarese	29th do.
Bengal	Bengali	6th do.
	Hindi	6th do.
	Uriya	8th do.
North-Western Provinces and Oudh ..	Urdu	27th July 1895.
Punjab	Urdu	18th August 1895.
Burma	Burmese	10th do.
Assam	Bengali	17th do.
Coorg	Kanarese	1st September 1895.
Sindh	Sindhi	22nd August 1895.

4. 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. WESTLAND.
ALEX. EDW. MILLER.
J. WOODBURN.
MOHINY MOHUN ROY.
P. ANANDA CHARLU.

The 19th February 1896.

No. II.

A Bill to amend the Indian Penal Code.

XLV of 1860. WHEREAS it is expedient to amend the Indian Penal Code; It is hereby enacted as follows:—

Addition to section 230 of Code.

1. (*1*) *For the second paragraph of* section 230 of the said Code the following shall be *substituted*, namely:—

"*Queen's coin is metal stamped and issued by the authority of the Queen, or by the authority of the Government of India, or of the Government of any Presidency, or of any Government in the Queen's dominions, in order to be used as money; and metal which has been so stamped and issued, shall continue* to be the Queen's coin for the purposes of this Chapter, notwithstanding that it may have ceased to be used as money."

(*2*) To the illustrations appended to the said section the following shall be added, namely:—

"(*e*) The 'Farukhabad rupee', which was formerly used as money under the authority of the Government of India, is Queen's coin, although it is no longer so used."

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

(Republished by order of the Right Honourable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 22.

The following Report of the Select Committee on the Bill to amend the Foreign Jurisdiction and Extradition Act, 1879, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 20th February 1896:—

From Officiating Resident, Hyderabad, No. 232, dated 31st July 1895 [Paper No. 1].
From High Court, Calcutta, No. 1614, dated 8th August 1895 [Paper No. 2].
From Agent to Governor-General in Baluchistan, No. 4995, dated 18th August 1895 [Paper No. 3].
From Commissioner, Ajmere-Merwara, No. 967-690-VI., dated 19th August 1895 [Paper No. 4].
From Chief Commissioner, Coorg, No. 1465, dated 28th August 1895 [Paper No. 5].
From Chief Commissioner, Burma, No. 627-L.-16, dated 26th August 1895 [Paper No. 6].
From Chief Commissioner, Central Provinces, No. 6697, dated 4th September 1895 [Paper No. 7].
From Government, Bombay, No. 552-P., dated 13th September 1895, and enclosure [Papers No. 8].
From Government, Punjab, No. 515, dated 13th September 1895, and enclosures [Papers No. 9].
From Chief Commissioner, Assam, No. 137-L. & L.-4357-J., dated 7th September 1895 [Paper No. 10].
From Government, Bengal, No. 262-J.D., dated 12th September 1895 [Paper No. 11].
From Government, Madras, No. 1953, dated 17th September 1895 and enclosures [Papers No. 12].
From Government, North-Western Provinces and Oudh, No. 2668, dated 25th September 1895, and enclosures [Papers No. 13].

We, the undersigned, Members of the Select Committee to which the Bill to amend the Foreign Jurisdiction and Extradition Act, 1879, 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. We have altered the second clause of the definition of "Political Agent" because there are British officers out of as well as in British India who may conveniently be appointed to exercise all or some of the powers referred to in that clause.

3. We have provided in section 13 of the Act for the giving over of deserters from Imperial Service Troops for trial by duly constituted military tribunals in the States to which they belong, instead of by the ordinary Courts of those States.

4. The other alterations are verbal and do not call for remark.

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

In English.

Gazette.	Date.
Gazette of India	13th July 1895.
Fort St. George Gazette	23rd do.
Bombay Government Gazette	18th do.
Calcutta Gazette	24th do.
North-Western Provinces and Oudh Government Gazette ..	20th do.
Punjab Government Gazette	18th do.
Central Provinces Gazette	20th do.
Burma Gazette	3rd August 1895.
Assam Gazette	3rd do.
Coorg District Gazette	1st do.

In the Vernaculars.

Province.	Language.	Date.
Bombay	Marathi	1st August 1895.
	Gujarathi	1st do.
	Kanarese	1st do.

In the Vernaculars—cont.

Province.	Language.	Date.
Bengal	Bengali	13th August 1895.
	Hindi	13th do.
	Uriya	18th do.
North-Western Provinces and Oudh ..	Urdu	27th July 1895.
Punjab	Urdu	8th August 1895.
Burma	Burmese	10th do.
Assam	Bengali	24th do.
Sindh	Sindhi	15th do.

6. 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.

ALEX. EDW. MILLER.
H. BRACKENBURY.
JAHAN KADER MEERZA MD. WAHED ALI.
A. S. LETHBRIDGE.
G. H. P. EVANS.
J. D. REES.
AMIRUDDEEN.

The 19th February 1896.

No. II.

A Bill to amend the Foreign Jurisdiction and Extradition Act, 1879.

XXI of 1879. WHEREAS it is expedient to amend the Foreign Jurisdiction and Extradition Act, 1879; It is hereby enacted as follows:—

Amendment of section 3, Act XXI, 1879

1. *In section 3 of the said Act, for the words "officer in British India" the words "officer of the Government of India or of any Local Government," and for the words "the Governor in Council of the Presidency of Fort St. George or Bombay," the words "the Local Government," shall be substituted.*

Addition to section 11, Act XXI, 1879.

2. To section 11 of the said Act the following shall be added, namely:—

"The act of desertion from any body of Imperial Service Troops shall be deemed to be an offence in respect of which the Political Agent for the State to which such troops belong may issue a warrant under this section."

Amendment of section 12, Act XXI, 1879.

3. In section 12 of the said Act, after the words "and the accused person, when arrested, shall," the words "unless released on bail in accordance with the provisions of the next following section," shall be inserted.

Insertion of new sections after section 12, Act XXI, 1879.

4. After section 12 of the said Act the following sections shall be inserted, namely:—

Power to Political Agent to direct security to be taken and procedure thereon.

"12A. A Political Agent issuing a warrant for the arrest of any person under section 11 may in his discretion direct by endorsement thereon that, if such person executes a bond with sufficient sureties for his attendance before the officer mentioned in the warrant at a specified time, the Magistrate to whom the warrant is directed shall take such security and release such person from custody.

"The endorsement shall state (*a*) the number of sureties (if any), (*b*) the amount in which they and the person for whose arrest the warrant is issued are to be respectively bound, and (*c*) the time and place at which he is to attend before the officer mentioned in the warrant.

"Whenever security is taken under this section, the Magistrate shall certify the fact to the Political Agent by whom the warrant was issued, and shall retain the bond.

Arrest on breach of bond to appear.

"12B. If the person bound by any bond executed under the last foregoing section to appear before the officer mentioned therein does not so appear, the Magistrate may, on being satisfied as to his default, issue a warrant directing that he be re-arrested and delivered over to such officer.

Application of sections 513 and 514, Act X, 1882.

"12C. *In* the case of every bond required to be executed or which may have been executed in accordance with the foregoing provisions, *the powers conferred by sections 513 and 514 of the Code of Criminal Procedure, 1882,* X of 1882. *on the Court which has required the execution of or has taken a bond may be exercised by the Magistrate.*"

Addition to section 13, Act XXI, 1879.

5. *At the end of section 13 of the said Act the following shall be added, namely:—*

"or, in the case of a deserter, by a duly constituted Military Court."

Addition of new section after section 17, Act XXI, 1879.

6. *After section 17 of the said Act the following section* X of 1882. *shall be added, namely:—*

Detention of persons arrested under section 54, clause *seventhly*, Act X, 1882

"17A. Notwithstanding anything in the Code of Criminal Procedure, 1882, any person arrested without an order from a Magistrate and without a warrant, in pursuance of the provisions of section 54, clause seventhly, of the said Code, may, under the orders of a Magistrate within the local limits of whose jurisdiction such arrest was made, be detained in the same manner and subject to the same restrictions as a person arrested on a warrant issued by such Magistrate under section 15 of this Act."

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

(Republished by order of the Right Honourable he Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

FORT ST. GEORGE GAZETTE SUPPLEMENT.

TUESDAY EVENING, MARCH 10, 1896.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 22.

The following Report of the Select Committee on the Bill to amend the Indian Volunteers Act, 1869, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 27th February, 1896:—

WE, the undersigned, Members of the Select Committee to which the Bill to amend the Indian Volunteers Act, 1869, 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 High Court, Calcutta, No. 862, dated 26th April 1895 [Paper No. 1].
From Agent to Governor-General in Baluchistan, No. 3666, dated 10th June 1895 [Paper No. 2].
From Officiating Resident at Hyderabad, No. 162, dated 11th June 1895, and enclosures [Papers No. 3].
From Chief Commissioner, Ajmere-Merwara, No. 734-690-II., dated 1st July 1895 [Paper No. 4].
From Chief Commissioner, Assam, No. 79-L.L.—3148-J., dated 26th June 1895, and enclosures [Papers No. 5].
From Chief Commissioner, Burma, No. 982—1-V.-11 dated 28th June 1895, and enclosures [Papers No. 6].
From Government, Bengal, No. 2166, dated 3rd July 1895, and enclosures [Paper No. 7].
From Government, Madras, No. 515, dated 22nd June 1895, and enclosures [Papers No. 8].
From Chief Commissioner, Central Provinces, No. C.—38, dated 9th July 1895, and enclosures [Papers No. 9].
From Chief Commissioner, Coorg, No. 1104, dated 6th July 1895 [Paper No. 10].
From Government, Bombay, No. 2886, dated 12th July 1895 [Paper No. 11].
From Officiating Superintendent, Port Blair, No. 838, dated 5th August 1895 [Paper No. 12].
From Government, North-Western Provinces and Oudh, No. 812, dated 14th August 1895, and enclosures [Papers No. 13].
From Government, Punjab, No. 802-S., dated 7th September 1895, and enclosures [Papers No. 14].

2. The criticisms and suggestions by General Officers, Officers Commanding volunteer corps and others, forming enclosures to the above-named papers, have all been carefully considered, and we have thought it desirable to make certain alterations in the Bill to meet the most important of the recommendations received.

3. We have removed from section 1 of the Bill as introduced, the explanation of the term "actual duty," and have inserted it as an addition to section 4 of the Act of 1869, which contains the definition of the word "Magistrate" for the purposes of that Act. We have struck out from this explanation clause (*c*) of the Bill as introduced, as we deem it desirable for the purpose of sections 18, 19 and 20 of the existing Act to make clear the distinction between "actual duty" and "actual military service," and, in consequence of this distinction, in section 1 of the Bill, as introduced, which proposed the substitution of a new section for section 8 of Act No. XX of 1869, we have (section 3 of the amended Bill) added the words "or actual military service" after the words "or actual duty," and have also (section 5 of the amended Bill) made an amendment in section 13 of the Act, limiting a volunteer's right to quit his corps on seven days' notice not only to the time when he is not on "actual duty" but also to the time when he is not on "actual military service."

4. In section 3 of the Bill as introduced, in order to meet certain objections by Local Governments and others, that it might involve hardship on volunteers who belong to a corps consisting of more than one battalion that they should be bound without their consent to serve in civil districts outside the limits of their own battalion, we have (section 6 of the amended Bill) made the limit applicable to the corps or battalion. And, in order to meet the still further objection that in the cases of some corps and battalions even the limits of the civil district were too extended, we have inserted a proviso giving power to the Local Government or the Commissioner of the Division, or other authority to whom power in this behalf may be delegated by the Local Government, to exempt from service any particular corps or portion of a corps, or any individual member or members of a corps by name, such exemption to be either whole or partial in respect either of time or of area, or of both, as the empowered authority may see fit to prescribe. We have also, in deference to opinions expressed, inserted in the Bill as amended (section 2) a definition of "civil district" corresponding with the definition in the Civil Procedure Code.

5. Section 4 of the Bill as introduced gave power to commanding officers under certain restrictions to sentence volunteers to simple dismissal from their corps for such acts as they now can only punish by fine. Several objections have been taken to this clause, and we have decided to recommend its removal from the Bill.

6. Section 5 of the Bill as introduced was consequent upon section 4, which we have struck out of the Bill. Section 5 has therefore also been struck out of the Bill.

7. Section 6 of the Bill as introduced proposed the enactment of certain provisions to give power to the Governor-General in Council to call out volunteers for actual military service in case of actual or apprehended emergency, and to authorise him to make rules for making payments, issuing supplies, and granting pay, pensions, gratuities, allowances and rewards to them.

In this section (section 7 of the Bill as amended) we have made four alterations. The first of these alterations makes the section applicable to any portion of a corps as well as to a whole corps; this is in accordance with an Act passed in the Imperial Parliament in 1895, to the same effect. The second authorises the Governor-General in Council to make provision for transport as well as for supplies for volunteers. The third changes the words "for the preservation of the peace," to "in aid of the civil power," to correspond with the definition of "actual duty" in the Bill. The fourth, which is the most important alteration, gives power to the Local Governments to exempt any corps or any portion of a corps, or any individual volunteer in respect either of time or area, in the same way as in the proviso which we have inserted in section 3 of the Bill as introduced (section 6 of the amended Bill).

8. We have also inserted in the Bill a new section 8 as follows:—

> "Whenever military operations are about to be undertaken or are in progress, any member of a volunteer corps may offer himself for actual military service, and, if the services of such a number of members of any corps as in the opinion of the Governor-General in Council is sufficient to enable them to be separately organized are accepted, then those members may be called out either as a corps or as part of a corps, and this Act shall apply to them."

This section is, *mutatis mutandis*, taken from the English Volunteer Act of 1895. In that Act this power is given to the Secretary of State whenever an order for the embodiment of the militia is in force. We propose that it should apply whenever military operations are about to be undertaken or are in progress.

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

In English.

Gazette.	Date.
Gazette of India	16th March 1895.
Fort Saint George Gazette	26th March 1895.
Bombay Government Gazette	21st March 1895.
Calcutta Gazette	20th March 1895.
North-Western Provinces and Oudh Government Gazette	23rd March 1895.
Punjab Government Gazette	28th March 1895.
Central Provinces Gazette	30th March 1895.
Burma Gazette	30th March 1895.
Assam Gazette	30th March 1895.
Coorg District Gazette	1st April 1895.

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

H. BRACKENBURY.
GEO. S. WHITE.
ALEX. EDW. MILLER.
J. WOODBURN.
G. H. P. EVANS.
J. D. REES.
G. P. GLENDINNING.

The 25th February 1896.

No. II.

A Bill to amend the Indian Volunteers Act, 1869.

WHEREAS it is expedient to amend the Indian Volunteers Act, 1869 (*hereinafter referred to as the said Act*); It is hereby enacted as follows:—

XX of 1869.

1 (*1*) *This Act may be called the Indian Volunteers Act Amendment Act, 1896.*

Title, extent and commencement.

XX of 1869.

(*2*) *It shall have the same extent as the Indian Volunteers Act, 1869; and*

(*3*) *It shall come into force at once.*

Substitution of new section for section 4, Act XX, 1869.

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

"(*1*) '*Magistrate*' *means, within the limits of the Presidency towns, the Chief Presidency Magistrate, and, without those limits, a Magistrate of the first class who is a Justice of the Peace:*

(*2*) *Volunteers shall be deemed to be on 'actual duty'—*

(*a*) *when being trained or exercised either alone or with any portion of the regular forces, or*

(*b*) *when attached to or otherwise acting as part of or with any regular forces, or*

(*c*) *when serving in aid of the civil power; and*

(*3*) '*civil district*' *means a district as defined in the Code of Civil Procedure.*"

XIV of 1882.

Substitution of new section for section 8.

3. For section 8 of the said Act the following shall be substituted, namely:—

Application of Army Act.

Volunteers subjected to Army Act, 1881, so far as it applies to officers.

"8. Every member of a corps of volunteers shall, for all military offences of which he shall be guilty whilst on actual duty *or actual military service*, be subject to the Army Act, so far as the same is applicable to officers, *and* consistent with the provisions of this Act."

44 & 45 Vict., c. 58.

Amendment of section 12, Act XX of 1869.

4. In section 12 of the said Act, for the words "Articles of War" the words "Army Act" shall be substituted.

Amendment of section 13, Act XX, 1869.

5. *In section 13 of the said Act, after the words "actual duty" the words "or actual military service" shall be inserted.*

Substitution of new section for section 16, Act XX, 1869.

6. Subject to section *9* of this Act, for section 16 of the said Act the following section shall be substituted, namely:—

Local limits of service.

"16. No member of a corps *or battalion* of volunteers, other than naval volunteers, shall be bound, without his consent, to serve or proceed on duty beyond the limits of the civil district in which he was enrolled, or, where a corps *or battalion* consists of volunteers enrolled in more civil districts than one beyond the limits of the territory comprised in those districts: and

no member of a corps of naval volunteers, shall be bound, without his consent, to serve or proceed on duty beyond the limits of the port to which the corps belongs, such port being construed to include the city or town after which the corps is named, and its suburbs, and the navigable rivers, channels and fairways leading thereto:

Provided that the Local Government or the Commissioner of the Division, or other authority to whom power in this behalf may be delegated by the Local Government, may exempt from service any particular corps or portion of a corps, or any individual member or members of a corps by name. Such exemption may be whole or partial in respect either of time or of area, or of both, as the empowered authority may see fit to prescribe."

Addition of new sections after section 26, Act XX, 1869.

7. Subject to section *9* of this Act, after section 26 of the said Act the following sections shall be added, namely:—

"*Supplemental.*

Calling out of volunteer corps for actual military service.

"27. (*1*) In case of actual or apprehended emergency (the occasion being first declared by the Governor-General in Council and notified in the Gazette of India) the Governor-General in Council may call out any *corps or any portion of any* corps of volunteers for actual military service.

(*2*) All *members of* any corps *or portion of a corps* so called out shall be bound, unless incapacitated by infirmity for military service, to assemble as the Governor-General in Council may direct, and to proceed according to orders within the limits hereinbefore specified; and, from the time of their corps *or portion thereof* being so called out, shall be deemed to be on actual military service:

Provided that the Local Government or the Commissioner of the Division, or other authority to whom power in this behalf may be delegated by the Local Government, may exempt from service any particular corps or portion of a corps, or any individual member or members of a corps by name. Such exemption may be whole or partial in respect either of time or of area, or of both, as the empowered authority may see fit to prescribe.

(*3*) After a corps *or portion of a corps* of volunteers has been called out for actual military service, the corps *or portion of a corps* shall be deemed to be released from actual military service only after a notification in the Gazette of India declaring the occasion to have passed, and not sooner or otherwise:

Provided that the Governor-General in Council may at any time discharge any such corps *or portion of a corps* from actual military service.

(*4*) Before a corps *or portion of a corps* of volunteers is released from actual military service, provision shall be made by the Government for the return of the volunteers present therewith to their homes.

Power to make rules as to allowances to volunteers.

"28. (*1*) The Governor-General in Council may make rules for—

(*a*) the making of payments to, and the provision of *transport and* supplies for, volunteers called out on actual military service; and

(*b*) the grant of pay, pensions, gratuities, allowances and rewards to them.

(*2*) The Governor-General in Council may apply such rules or any part of them to any volunteers who may have been called out by any Magistrate or other authority *in aid of the civil power*;

and may in such case direct, any enactment notwithstanding, by whom the cost of the payments to be made and supplies to be provided under the rules shall be borne.

Appointment of Local Government to act with respect to corps having members enrolled in more provinces than one.

"29. Where a corps consists of volunteers enrolled in territories subject to more Local Governments than one, the Governor-General in Council may, by notification in the Gazette of India, declare what Local Government shall for all or any of the purposes of this Act be deemed to be the Local Government with respect to the corps."

Case of volunteers desiring to join in military operations.

8. *Whenever military operations are about to be undertaken or are in progress, any member of a volunteer corps may offer himself for actual military service; and if the services of such number of members of any corps as in the opinion of the Governor-General in Council is sufficient to enable them to be separately organized are accepted, then those members may be called out either as a corps or as part of a corps, and this Act shall apply to them.*

Saving from new sections 16 and 27 in case of volunteers enrolled before commencement of this Act.

9. Nothing in the new section 16 substituted by section *6* of this Act or in the new section 27 added by section 7 of this Act shall apply to any volunteer who was enrolled before the commencement of this Act, unless he consents in writing to be bound by such new section 16 instead of by the section for which it is substituted, or by such new section 27, as the case may be.

APPENDIX.

REVISED DRAFT OF THE RULES APPENDED TO THE STATEMENT OF OBJECTS AND REASONS OF THE INDIAN VOLUNTEERS ACT AMENDMENT BILL, 1896, WHICH IT IS INTENDED TO ISSUE UNDER THE PROPOSED NEW SECTION 28 OF THE INDIAN VOLUNTEERS ACT, 1869.

Grant of pay, gratuities, pensions, etc., to volunteers called out for military service.

When a volunteer corps is called out for actual military service, the following rules shall take effect, namely:—

(*a*) There shall be issued to the commanding officer a sum of Rs. 32 for the use of every officer, non-commissioned officer and volunteer belonging to, and assembling with, the corps (except such of them as do not desire to receive the benefit thereof); and each such sum, or so much thereof as the commanding officer of the corps thinks fit, shall be laid out, under the direction of the commanding officer, in providing necessaries for such officer, non-commissioned officer and volunteer; and, within one month after issue thereof, an account shall be settled with each such officer, non-commissioned officer and volunteer respecting the application thereof, and any unapplied residue thereof shall be paid to him.

(*b*) Such officers, non-commissioned officers and volunteers shall, while on, or proceeding to, or returning from, actual military service, be entitled to receive pay, allowances and rations as under:—

pay and allowances admissible to the different ranks in the British Army corresponding with those held by them in the volunteers, and

rations in the same manner and on the same scale as authorised for British troops serving in the military district in which the volunteers are serving.

(*c*) On the release of the corps from actual military service, each officer, non-commissioned officer and volunteer present with the corps at the time of such release shall be paid Rs. 16 (except such of them as do not desire to receive the same) in addition to his pay and allowances.

(*d*) A commissioned officer of the volunteers, who, when on actual military service, shall be wounded in action, or shall have received an injury when in the execution of military duty otherwise than in action, shall be entitled to the same pension or gratuity as an officer of similar rank in the British Army would be entitled to under the Royal Warrant in force at the time being.

(*e*) A commissioned officer of volunteers, who, when on actual military service, shall be so wounded in action or injured when in the execution of military duty otherwise than in action as to be rendered permanently incapable of resuming similar employment to that in which he was engaged at the time when called out for actual military service, shall have the option of being placed for life upon the half pay of an officer of corresponding rank in the British service, as laid down in the Royal Warrant in force at the time being, instead of receiving any pension or gratuity to which he might be entitled under rule (*d*).

(*f*) The widow, children, mother or sisters of a commissioned volunteer officer, who, when on actual military service, has been killed in action or has died of wounds received in action within twelve months after having been wounded, or has died from illness which can be directly traced to fatigue, privation or exposure, incident to active operations in the field, within twelve months after being first removed from duty on account of such illness, provided that the illness be certified to have commenced during such active operations, shall be entitled to such pension or gratuity or compassionate allowances as the widow, children, mother or sisters of an officer of like rank in the British Army would be entitled to under the Royal Warrant in force at the time being.

(*g*) A volunteer non-commissioned officer or man who, by reason of wounds or injuries received in action or in the actual discharge of any military duty when on actual military service, shall be rendered partially or totally incapable of earning a livelihood, or in the same manner shall be rendered temporarily incapable of earning a livelihood, shall be entitled to such pension or gratuity as a non-commissioned officer or man of similar rank in the British Army would be entitled to under the Royal Warrant in force at the time being.

(*h*) If a married volunteer non-commissioned officer or man, when on actual military service, be killed in action or die of his wounds within twelve months after having been wounded, and leave a widow, she shall be entitled to a gratuity of one year's pay of his military rank at the rate which the volunteer was in receipt of at the time of his death or of his being discharged from actual military service. A gratuity of one-third of a year's pay of the military rank of the father at the time of his death shall be issued under similar conditions to each orphan child under sixteen years of age, whose mother is dead.

(*i*) Nothing in these rules shall be held to interfere with any rights or privileges as to pensions or gratuities to which members of the volunteer force or their families may be already entitled under the regulations now in force.

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

(Republished by order of the Right Honourable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 22.

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 20th February 1896:—

No. 11 OF 1896.

A Bill to amend the Indian Contract Act, 1872.

WHEREAS it is expedient to amend the Indian Contract Act, 1872; It is hereby enacted as follows:— IX of 1872.

1. After section 69 of the said Act the following sections shall be added, namely:— Addition of new sections after section 69, Act IX, 1872.

"69A. If any such payment as is mentioned in the last foregoing section is made by a person possessing an interest in any immoveable property and is, by reason of the default of the person bound by law to make it, necessary for the purpose of preserving such property from alienation and has the effect of so preserving it, the person making the payment shall be entitled to a charge upon the property so preserved for reimbursement of the sum so paid, with interest at such rate as the Court may direct. Charge on immoveable property preserved from alienation by payment made by person interested.

"Such charge shall have priority over all charges on, and rights in, such property, which would have been defeated if such alienation had taken effect, and shall be subject to all such charges and rights as would have remained unaffected notwithstanding such alienation.

"69B. When two or more persons are jointly interested in any immoveable property, and one of such persons, in order to its preservation, makes any payment in respect thereof to which they are jointly and severally liable, or to which they ought by law or in equity to contribute either equally or in any definite proportions, the person making such payment shall be entitled to a charge upon the interest or respective interests of the other or others of them for reimbursement to him of the proportion or respective proportions of the sum so paid to the payment of which he or they respectively was or were so liable as aforesaid, together with interest thereon at such rate as the Court may direct. Charge on immoveable property preserved by payment made by one of two or more persons jointly interested.

"69C. If any person, at the request made in writing and signed by a person having an interest in any immoveable property, and in order to preserve such property from alienation, pays any charge or demand affecting such property which such last-mentioned person was bound by law to pay, the person making such payment shall be entitled to a charge on the property so preserved for reimbursement to him of the sum so paid, with interest thereon at such rate as the Court may direct. Charge on immoveable property preserved by payment made at the request of person interested.

"The person entitled to such charge shall have the same priority in respect thereof as between himself and the other persons interested in such property, as the person whose charge or demand was so paid as aforesaid was entitled to at the time of such payment.

"69D. Any person claiming to be entitled to a charge on any property under any of the three last foregoing sections may maintain a suit against the owner of the property for a declaration of the existence and extent of such charge. Suit to declare existence and extent of charge under three last foregoing sections.

"69E. Nothing in sections 69A, 69B and 69C shall affect the right of the Government to sell an estate free from all encumbrances and charges under the law for the time being in force for the recovery of arrears of land-revenue and other public demands, and, notwithstanding anything contained in the sections aforesaid, no charge of the nature therein described shall enure as against a *bonâ fide* transferee for value of immoveable property unless prior to the transfer to such transferee there has been registered in British India, under the law for the time being in force for the registration of documents, either an agreement by the predecessor in title of such transferee acknowledging, or a certified copy of the decree of a Court of competent jurisdiction declaring, the existence and extent of such charge: Saving of right of Government to sell free of encumbrances.

"Provided that, notwithstanding such registration, no such charge shall be valid as against a *bonâ fide* transferee for value of the property who shall prove to the satisfaction of the Court that at the time when he parted with his purchase-money

he was in fact ignorant of the existence of the charge and could not by reasonable diligence have discovered its existence.

"*Explanation.*—In the construction of this section 'purchase-money' shall include any valuable consideration given for the transfer of the property in question."

STATEMENT OF OBJECTS AND REASONS.

This Bill aims at the incorporation into the law of British India of provisions, founded upon the old rule of equity adopted by the English and Irish Courts, which will enable persons making payments with the object and effect of preserving immoveable property from alienation to acquire in certain circumstances a lien or charge on such property in respect of the payments so made.

2. Section 69 of the Indian Contract Act, 1872, provides that a person interested in the payment of money which another is bound by law to pay, and making payment in the default of such other, is entitled to be reimbursed by him. Thus the person making the payment is given, under the circumstances indicated by the section, a right of recovery against the person on whose behalf the payment has been made, but no right as against the property preserved by the payment is here conferred. The question of the expediency of undertaking legislation in order to give such a right of recovery has come before the Government of India in connection with the divergent rulings of the several High Courts in cases in which the nature and extent of liens created by payments of this kind came under consideration. Full Benches of the Calcutta and Allahabad Courts have held that there is no general rule of equity to the effect that, whoever, having an interest in an estate, makes a payment in order to save it, obtains a charge thereon, and that, therefore, in the absence of a statutory declaration to the contrary, a co-sharer who has paid the whole revenue and thus saved the estate from sale, does not by reason of such payment acquire a charge on the shares of his defaulting co-sharers. Neither of these rulings was, however, unanimous, and the opposite view taken by the dissentient minorities in Calcutta and Allahabad have commended themselves to Divisional Benches of the Bombay and Madras High Courts. In these circumstances it has been decided to propose legislation on the subject. The provisions of the Bill appear to need no further explanation beyond this that it has been deemed necessary to save the right of Government to sell estates free of all encumbrances to recover arrears of the land-revenue or of any other public demand.

ALEX. EDW. MILLER.

The 20th February 1896.

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

(Republished by order of the Right Honourable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

FORT ST. GEORGE GAZETTE SUPPLEMENT.

TUESDAY EVENING, MARCH 10, 1896.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 22.

The following Report of the Select Committee on the Bill for the establishment of bonded warehouses at places other than customs-ports, and to facilitate the bonding of salt in such warehouses, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 27th February 1896 :—

WE, the undersigned, Members of the Select Committee to which the Bill to provide for the establishment of bonded warehouses at places other than customs-ports, and to afford facilities for the bonding of salt in such warehouses, 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 Agent to Governor-General in Baluchistan, No. 2076, dated 29th March 1895 [Paper No. 1].
From Chief Commissioner, Central Provinces, No. 2430, dated 3rd April 1895 [Paper No. 2].
From Chief Commissioner, Coorg, No. 543-22-95, dated 15th April 1895 [Paper No. 3].
From High Court, Calcutta, No. 863, dated 26th April 1895 [Paper No. 4].
From Chief Commissioner, Ajmere-Merwara, No. 559-690-V., dated 21st May 1895 [Paper No. 5].
From Resident, Hyderabad, No. 145, dated 27th May 1895 [Paper No. 6].
From Government, Bengal, No. 113 T.—F., dated 30th May 1895, and enclosure [Papers No. 7].
From Chief Commissioner, Burma, No. 540—1-C.-8, dated 28th May 1895, and enclosures [Papers No. 8].
From Government, Bombay, No. 4133, dated 13th June 1895 [Paper No. 9].
From Government, Madras, No. 2377, dated 13th June 1895 [Paper No. 10].
From Government, North-Western Provinces and Oudh, No. 128—XIII-387-A., dated 19th June 1895, and enclosure [Papers No. 11].
From Chief Commissioner, Assam, No. 66 L. L.—3135-J., dated 25th June 1895 [Paper No. 12].
From Government, Punjab, No. 324-S., dated 6th July 1895, and enclosure [Papers No. 13].
From Government, Bengal, No. 3940-S. R., dated 22nd July 1895, and enclosures [Papers No. 14].
To Government, Bengal, No. 1349, dated 16th July 1895; from ditto, No. 4596-S. R., dated 20th August 1895 [Papers No. 15].

2. The only material alterations in the Bill, the title of which we have taken the opportunity of shortening, have been made with the object of rendering it perfectly clear that the measure proposed is a permissive one, and that the public will have the option of continuing to carry on operations in the same way as under Act XXI of 1887, the provisions of which it is proposed to re-enact by clause 4 of the Bill, or availing themselves of the system of time-bonds introduced by clauses 5 and 6. By an addition to clause 4 we have maintained existing rules and applied them to warehouses appointed or licensed under section 4 of the proposed Act until superseded or altered by new rules duly made, and we have drawn a new clause 8 expressly to show that the two methods of removal provided for are alternative.

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

In English.

Gazette.	Date.
Gazette of India	16th March 1895.
Fort Saint George Gazette	26th March 1895.
Bombay Government Gazette	21st March 1895.
Calcutta Gazette	20th March 1895.
North-Western Provinces and Oudh Government Gazette ..	23rd March 1895.
Punjab Government Gazette	28th March 1895.
Central Provinces Gazette	30th March 1895.
Burma Gazette	30th March 1895.
Assam Gazette	30th March 1895.
Coorg District Gazette	1st April 1895.
Sind Official Gazette	18th April 1895.

In the Vernaculars.

Province.	Language.	Date.
Madras	Telugu	9th April 1895.
	Kanarese	9th April 1895.
	Malayalam	9th April 1895.
Bombay	Marathi	30th March 1895.
	Gujarathi	30th March 1895.
	Kanarese	30th March 1895.
Bengal	Bengali	9th April 1895.
	Uriya	11th April 1895.
	Hindi	16th April 1895.
North-Western Provinces and Oudh	Urdu	4th May 1895.
Punjab	Urdu	9th May 1895.
Assam	Bengali	27th April 1895.
Sindh	Sindhi	18th April 1895.

4. 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. WESTLAND.
ALEX. EDW. MILLER.
C. C. STEVENS.
P. PLAYFAIR.

The 25th February 1896.

No. II.

A Bill to provide for the establishment of bonded warehouses at places other than customs-ports, and to afford facilities for the bonding of salt in such warehouses.

WHEREAS it is expedient to provide for the establishment of bonded warehouses at places other than customs-ports, and to afford facilities for the bonding of salt in such warehouses; It is hereby enacted as follows:—

Title, construction and commencement.

1. (*1*) This Act may be called the Inland Bonded Warehouses Act, 1896:

(*2*) It shall be read with, and taken as part of, the Sea Customs Act, 1878: and VIII of 1878.

(*3*) It shall come into force at once.

Extent.

2. Sections *5* to 7, both inclusive, of this Act shall extend only to such parts of British India as the Governor-General in Council may from time to time, by notification in the Gazette of India, direct in this behalf.

Inland Bonded Warehouses.

Repeal.

3. (*1*) The Inland Bonded Warehouses Act, 1887, is hereby repealed. XXI of 1887.

(*2*) The reference to that Act in section *3*, clause (7), of the Cotton Duties Act, 1896, shall be read as if it were made to this Act. II of 1896.

Inland bonded warehouses and law applicable thereto.

4. (*1*) Notwithstanding anything contained in the Sea Customs Act, 1878, the Chief Customs-authority may from time to time, with the previous sanction of the Local Government, appoint a public or license a private warehouse at any place which is not a warehousing port, and may with the like sanction cancel such appointment or license. VIII of 1878.

(*2*) In reference to such a place and a warehouse appointed or licensed thereat the provisions of the said Act with respect to the levy of customs-duties on goods brought in bond from one customs-port to another, and with respect to warehousing, shall be construed as if the place were a customs-port and a warehousing port, and the warehouse a public or a private warehouse, as the case may be, appointed or licensed thereat under that Act.

(*3*) *All rules applicable to such warehouses, and to the weighment and removal thereto of salt, and in force at the commencement of this Act, shall remain so applicable until they shall be duly superseded or altered.*

(*4*) *Every warehouse appointed or licensed under the provisions of the Inland Bonded Warehouses Act, 1887, shall be deemed to have been appointed or licensed under this Act.* XXI of 1887.

Salt Time-Bonds.

Conveyance of salt to inland bonded warehouses under bonds.

5. *Notwithstanding anything contained in the Sea Customs Act, 1878, or in section 4 of this Act*, the Chief Customs-authority may permit salt removed from ship board or from a warehouse appointed or licensed under the Sea Customs Act, 1878, to be conveyed, under a bond securing the subsequent payment of the duty leviable in respect of the salt so removed *and in accordance with such rules as may be prescribed in this behalf by the Local Government, to a warehouse appointed or licensed for that purpose by the Chief Customs-authority.* VIII of 1878.

Form of bond.

6. Every bond executed in accordance with the provisions of the last preceding section shall be in the form hereto annexed, or, when such form is inapplicable or insufficient, in such other form as is from time to time prescribed by the Chief Customs-authority:

Provided that the time allowed by such bond for the payment of the duty leviable on the salt included therein shall not exceed the time within which it may reasonably be expected that the whole of such salt shall have passed into consumption, and shall in no case exceed six months:

Provided, also, that the Chief Customs-authority may at any time require the duty to be paid to the extent to which the salt may have been delivered from the warehouse.

Power to make rules.

7. The Local Government may, with the previous sanction of the Governor-General in Council, make rules, consistent with the provisions of this Act, *to regulate*—

(*1*) *the appointment or licensing of warehouses under section 5;*

(*2*) the inspection by Government officers of such warehouses;

(*3*) the safe custody of salt in transit under the provisions of *the said section;*

(*4*) the removal of salt from a warehouse appointed or licensed under *the said section;*

(*5*) the nature of the security to be required from a person executing a bond in accordance with the provisions of *the said section* and the *time and* place of payment of the sum recoverable under such bond; and

(*6*) generally such other matters as may be deemed necessary to secure the safety of the public revenue.

Saving.

8. *Nothing in section 5 or section 6 shall prevent the removal of salt in any manner in which it may for the time being be lawfully removable under section 4.*

FORM OF BOND.

(*See section 6.*)

No. 189 .

We, A. B.,
now of
; and C. D.,
of the same place, are jointly and severally bound to Her Majesty's Secretary of State for India in Council in the sum of Government rupees to be paid to the said Secretary of State in Council, for which payment we jointly and severally bind ourselves and our legal representatives.

(Date)

(Signed)

The above bounden , having applied to the officer in charge of the Custom-house at for and obtained permission to lodge in a warehouse appointed or licensed under the Inland Bonded Warehouses Act, 1896, and situated at , for a period of months the following goods, that is to say, maunds of salt imported by sea from on board of the ship and entered in the Custom house books as No. of the Register of goods imported by sea;

The condition of this bond is that

If the or their legal representatives shall observe all the rules prescribed under the said Inland Bonded Warehouses Act, 1896, to be observed by the owners of goods warehoused and persons obtaining permission to warehouse goods under the provisions thereof;

And if the said , or their legal representatives, shall pay to the officer in charge of the Custom-house at the port of , or to the Collector of , all dues, including customs-duties or other lawful charges, which shall be demandable on the said salt or on account of penalties incurred in respect thereto, within from the date of this bond, together with interest on every such sum at the rate of six per cent. per annum from the date of demand thereof being made in writing by the said officer in charge of the Custom-house;

And if, within the term so fixed or such further period (if any) as may be granted by the Chief Customs-authority for the payment thereof, the full amount of all customs-duties and other lawful charges, penalties and interest demandable as aforesaid shall have been first paid on the whole of the said salt;

This obligation shall be void.

Otherwise, and on breach or failure in the performance of any part of this condition, the same shall be in force.

(Date)

(Signed) ( ).

S. HARVEY JAMES,
Secretary to the Govt. of India,
Legislative Dept.

(Republished by order of the Right Honourable the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

FORT ST. GEORGE GAZETTE
SUPPLEMENT.

TUESDAY EVENING,
MARCH 17, 1896.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 22.

The following Report of the Select Committee on the Bill to amend the Legal Practitioners Act, 1879, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 5th March 1896 :—

We, the undersigned, Members of the Select Committee to which the Bill to amend the Legal Practitioners Act, 1879, 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. The opinion, at which we have unanimously arrived, is that the only person who ought to be punished under the Legal Practitioners Act, 1879, with a view to the suppression of the unprofessional practices aimed at by the Bill, is the legal practitioner who, out of the fees received from the client, remunerates, or promises to remunerate, the intermediary for introducing that client's business to him. Any private arrangement between the client and the tout, with which the legal practitioner has nothing whatever to do, ought not, *primâ facie*, to be interfered or dealt with by the law relating to legal practitioners. Acting on the principle thus enunciated we have subjected the Bill to considerable revision.

3. We have in the first place (clause 1 of the amended Bill) proposed to insert in the Act a definition of the expression "tout," bringing within that category only persons who procure the employment in any legal business of any legal practitioner in consideration of any remuneration moving from

From Mr. Rustam M. Mehr Vaid, Vakil, High Court, Bombay, dated 6th September 1895, and enclosure [Papers No. 1].
Memorandum by Mr. P. R. Desai, Pleader, District Court, Ratnagiri, dated 9th October 1895 [Paper No. 2].
From Chief Commissioner, Ajmere-Merwara, No. 1405-690-VI., dated 22nd November 1895 [Paper No. 3].
From Government, Bombay, No. 8241, dated 26th September 1895, and enclosures [Papers No. 4].
Petition of certain Revenue-agents [Paper No. 5].
Telegram from Agent to Governor-General in Baluchistan, No. 405, dated 4th December 1895 [Paper No. 6].
From Government, Madras, No. 2331, dated 19th November 1895, and enclosures [Papers No. 7].
From Chief Commissioner, Burma, No. 57-L.-20, dated 3rd December 1895, and enclosures [Papers No. 8].
From Chief Commissioner, Assam, No. 196-L. & L.-5615-J., dated 7th December 1895, and enclosures [Papers No. 9].
From Resident, Hyderabad, No. 428, dated 27th November 1895, and enclosures [Papers No. 10].
From Government, Madras, No. 2501, dated 3rd December 1895, and enclosures [Papers No. 11].
From Chief Commissioner, Central Provinces, No. 9221, dated 14th December 1895, and enclosures [Papers No. 12].
From Government, North-Western Provinces and Oudh, No. 1036-VII-706-B., dated 21st December 1895, and enclosure [Papers No. 13].
From British Indian Association, Calcutta, dated 11th December 1895 [Paper No. 14].
From Chief Commissioner, Coorg, No 2123, dated 30th December 1895 [Paper No. 15].
From Government, North-Western Provinces and Oudh, No. 26-VII-760-B., dated 8th January 1896, and enclosure [Papers No. 16].
From ditto, No. 55-VII-760-B., dated 13th January 1896, and enclosure [Papers No. 17].
From ditto, No. 25-VII-760-B., dated 8th January 1896, and enclosure [Papers No. 18].
From Government, Madras, No. 75, dated 11th January 1896, and enclosures [Papers No. 19].
From Members of the Bar of the Kistna District, dated 18th January 1896 [Paper No. 20].
From Government, Madras, No. 61, dated 8th January 1896, and enclosures [Papers No. 21].
From High Court, Calcutta, No. 163, dated 24th January 1896, and enclosures [Papers No. 22].
From Chairman, Town Hall Meeting, Calcutta, dated 23rd January 1896 [Paper No. 23].
From Home Department, No. 127, dated 23rd January 1896, and enclosures [Papers No. 24].
From Government, North-Western Provinces and Oudh, No. 135-VII-760-B., dated 31st January 1896, and enclosures [Papers No. 25].
From Government, Bengal, No. 595-J., dated 1st February 1896, and enclosures [Papers No. 26].
From Government, North-Western Provinces and Oudh, No. 171, dated 14th February 1896, and enclosures [Papers No. 27].
From Government, Madras, No. 265, dated 8th February 1896, and enclosure [Papers No. 28].
From District Association, Cuddapah, No. 271, dated 9th February 1896 [Paper No. 29].
From Babu Upendranath Mukhopadhya, Vakil, Judge's Court, 24-Parganas, dated 17th February 1896, and enclosure [Papers No. 30].
From Government, Punjab, No. 267, dated 25th February 1896, and enclosures [Papers No. 31].

such practitioner, and we have altered the new section drawn in the original Bill to take the place of section 13 of the Act so as to render a pleader or mukhtar liable to suspension or dismissal by the High Court if he accepts any employment in any legal business through such a person. We have also, accepting a suggestion recently made by the Calcutta High Court, proposed an additional clause in section 13 of the Act expressly declaring that any pleader or mukhtar who, directly or indirectly, procures or attempts to procure the employment of himself as such pleader or mukhtar through, or by the intervention of, any person to whom any remuneration for obtaining such employment has been given by him, or agreed or promised to be so given, shall be liable to the like penalties.

4. The opportunity has next been taken to suggest the amendment of that part of section 13 of the Act which admits of the taking of instructions from the "private servants" of a party. If by the expression "private servants" is meant menial servants, it seems to us that these are the very persons by whom professional men ought not to be instructed, and we think that the Legislature should not expressly recognize the practice, if, indeed, it exists, of receiving instructions from such a source. On the other hand we can see no objection to the receipt of instructions from a respectable servant authorised by his employer to give them; nor do we appreciate the reason for debarring relatives and friends from affording assistance in this way except in the case of parties who are pardanashin women or unable themselves to take action. We have proposed, therefore, to omit the proviso to the section in question and to recast clause (*a*) so as to allow pleaders and mukhtars to be instructed by any "servant, relative or friend authorised by the party" to act for him in this behalf.

5. We have at the same time been impressed by the necessity, represented from several quarters, of providing for the exercise, in the interests of the public, of some measure of direct control over persons who are notoriously touts; and we think that the practice, which has in some cases actually been adopted, of publishing lists of persons who are touts and to be avoided as such, and of excluding them from the precincts of the Courts, should be legalised. With this object we have drafted a new section (see clause 4 of the Bill as amended) to take power for the superior Courts to proceed on these lines, subject to suitable safeguards.

6. In the case of revenue-agents, the Bill has been similarly recast, and we have determined to recommend that, if these proposals be accepted, section 36 of the Act may be removed from the Statute-book, and the scheme of extending the powers of District and Sessions Judges and District Magistrates and Collectors in the direction of the summary suspension and dismissal of legal practitioners may with safety be abandoned.

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

In English.

Gazette.	Date.
Gazette of India	24th August 1895.
Fort St. George Gazette	10th September 1895.
Bombay Government Gazette	29th August 1895.
Calcutta Gazette	4th September 1895.
North-Western Provinces and Oudh Government Gazette ..	31st August 1895.
Punjab Government Gazette	29th do.
Central Provinces Gazette	31st do.
Burma Gazette	7th September 1895.
Assam Gazette	14th do.
Coorg District Gazette	1st October 1895.
Sindh Official Gazette	19th September 1895.

In the Vernaculars.

Province.	Language.	Date.
Madras	Telugu	15th October 1895.
	Hindustani	15th do.
	Kanarese	15th do.
	Malayalam	15th do.
	Tamil	22nd do.
Bombay	Marathi	21st November 1895.
	Gujarathi	21st do.
	Kanarese	21st do.
Bengal	Bengali	1st October 1895.
	Hindi	15th do.
	Uriya	17th do.
North-Western Provinces and Oudh ..	Urdu	14th September 1895.
Punjab	Urdu	26th do.
Central Provinces	Marathi	2nd October 1895.
Burma	Burmese	28th September 1895.
Assam	Bengali	12th October 1895.
Coorg	Kanarese	1st November 1895.
Sindh	Sindhi	19th September 1895.

8. The alterations, great as they are, which we have made, are all intended to remove the objections to the Bill elicited since its circulation and to be in consonance with the spirit of the criticisms which it has called forth. It would, we think, be a misfortune longer to delay the amendment of an Act, the serious defects of which are admitted on all sides; and under the circumstances we consider that the Bill need not be republished, and recommend that it be passed as now amended.

ALEX. EDW. MILLER
J. WOODBURN.
MOHINY MOHUN ROY.
P. ANANDA CHARLU.
G. H. P. EVANS.

The 4th March 1896.

No. II.

A Bill to amend the Legal Practitioners Act, 1879.

WHEREAS it is expedient to amend the Legal Practitioners Act, 1879; It is hereby enacted as follows:—

XVIII of 1879.

Addition to section 3, Act XVIII, 1879.

1. *To section 3 of the said Act the following shall be added, namely:—*

"'Tout' means a person who procures the employment in any legal business of any legal practitioner in consideration of any remuneration moving from such practitioner."

"Tout."

Substitution of new section for section 13, Act XVIII, 1879.

2. For section 13 of the said Act the following shall be substituted, namely:—

Suspension and dismissal of Pleaders and Mukhtars guilty of unprofessional conduct.

"13. The High Court may also, after such inquiry as it thinks fit, suspend or dismiss any Pleader or Mukhtar holding a certificate as aforesaid—

(*a*) who takes instructions in any case except from the party on whose behalf he is retained, or some person who is the recognized agent of such party within the meaning of the Code of Civil Procedure, or some servant, relative or friend authorized by the party to give such instructions, or

XIV of 1882.

(*b*) who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or

(*c*) who tenders, gives or consents to the retention, out of any fee paid or payable to him for his services, of any gratification for procuring or having procured the employment in any legal business of himself or any other Pleader or Mukhtar, or

(*d*) who, directly or indirectly, procures or attempts to procure the employment of himself as such Pleader or Mukhtar through, or by the intervention of, any person to whom any remuneration for obtaining such employment has been given by him, or agreed or promised to be so given, or

(*e*) who accepts any employment in any legal business through a person who has been proclaimed as a tout under section 36, or

(*f*) for any other reasonable cause.

Substitution of new section for section 22, Act XVIII, 1879.

3. For section 22 of the said Act the following shall be substituted, namely:—

"22. The Chief Controlling Revenue-Authority may also, after such inquiry as it thinks fit, suspend or dismiss any Revenue-Agent holding a certificate as aforesaid—

Suspension and dismissal of Revenue-Agents guilty of unprofessional conduct.

(*a*) who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or

(*b*) who tenders, gives or consents to the retention, out of any fee paid or payable to him for his services, of any gratification for procuring or having procured the employment in any legal business of himself or any other Revenue-Agent, or

(*c*) who, directly or indirectly, procures or attempts to procure the employment of himself as such Revenue-Agent through, or by the intervention of, any person to whom any remuneration for obtaining such employment has been given by him, or agreed or promised to be so given, or

(*d*) who accepts any employment in any legal business through a person who has been proclaimed as a tout under section 36, or

(*e*) for any other reasonable cause.

Substitution of new section for section 36, Act XVIII, 1879.

4. *For section 36 of the said Act the following shall be substituted, namely:—*

"36. (1) Every High Court, District Judge, Sessions Judge, District Magistrate and Presidency Magistrate, every Revenue-officer, not being below the rank of a Collector of a District, and the Chief Judge of every Presidency Small Cause Court (such as regards their or his own Court and the Courts, if any, subordinate thereto) may frame and publish lists of persons proved to their or his satisfaction by evidence of general repute or otherwise, habitually to act as touts, and may, from time to time, alter and amend such lists.

Power to frame and publish lists of touts.

"(2) No person's name shall be included in any such list until he shall have had an opportunity of showing cause against such inclusion.

"(3) A copy of every such list shall be kept hung up in every Court to which the same relates.

"(4) The Court or Judge may, by general or special order, exclude from the precincts of the Court any person whose name is included in any such list.

"(5) Every person whose name is included in any such list shall be deemed to be proclaimed as a tout within the meaning of section 13, clause (*e*), and section 22, clause (*d*)."

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

(Republished by order of the Right Honourable the Governor in Council.)

E. GIBSON,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 22.

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 12th March 1896:—

No. 12 OF 1896.

A Bill to provide for the recognition in British India of Probates and Letters of Administration granted by Courts in the United Kingdom.

WHEREAS it is expedient to provide for the recognition in British India of probates and letters of administration granted by the Courts in the United Kingdom; It is hereby enacted as follows:—

Title, extent and commencement.

1. (*1*) This Act may be called the United Kingdom Probates Act, 1896.

(*2*) It extends to the whole of British India (inclusive of Upper Burma, except the Shan States), and

(*3*) It shall come into force at once.

Definition.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) the expression "Court of Probate" means any Court or authority, by whatever name designated, having jurisdiction in matters of probate, and in Scotland means the Sheriff Court of the County of Edinburgh:

(*b*) the expressions "probate" and "letters of administration" include confirmation in Scotland and any instrument having in the United Kingdom the same effect as under the law of British India is given to probate and letters of administration respectively:

(*c*) the expression "probate duty" includes any duty payable on the value of the estate and effects for which probate or letters of administration is or are granted:

(*d*) the expression "High Court" has the same meaning as it has in the Indian Succession Act, 1865.

X of 1865.

Sealing in British India of probates and letters of administration granted in the United Kingdom.

3. (*1*) Where a Court of Probate in the United Kingdom has granted probate of the will or letters of administration of the estate of a deceased person, the probate or letters so granted may, on being produced, and a copy thereof deposited, in a High Court, be sealed with the seal of such High Court, and thereupon shall be of the like force and effect and have the same operation in British India as if granted by such High Court:

(*2*) Provided that, before any such probate or letters of administration is or are sealed under the section, the High Court—

(*a*) shall be satisfied that the court-fees payable under article 11, Schedule I of the Court-fees Act, 1870, or otherwise, and all other probate duty (if any) payable in respect of so much (if any) of the estate as is liable to probate duty in British India in the case of probates and letters of administration granted by such High Court, have been duly paid, and VII of 1870.

(*b*) may, in the case of probates, and shall, in the case of letters of administration, require that an administration-bond, with one or more sureties and in such form as may from time to time be prescribed by it, be given for the due collection, getting in and administering so much of the estate as is in British India.

(*3*) The High Court may also, if it shall think fit, on the application of any creditor of the deceased, require, before such probate or letters of administration is or are sealed as aforesaid, that adequate security be given for the payment of debts due from the estate to creditors residing in British India.

(*4*) For the purposes of this section a duplicate of any probate or letters of administration sealed with the seal of the Court granting the same, or a copy thereof certified as true by, or under the authority of, the Court granting the same, shall have the same effect as the original.

(*5*) The power to make rules as to procedure given to a High Court by any enactment for the time being in force shall extend to the making of rules for regulating the procedure and practice, including fees and costs on, or incidental to, an application for the sealing under this section of a probate or letters of administration granted in the United Kingdom. Such rules may also provide for the hearing of all or any of such applications by the Registrars of such Courts.

(*6*) The provisions of the Court-fees Act, 1870, and of every other enactment for the time VII of 1870.

being in force relating to probate duty (including the penal provisions thereof) shall apply as if the person applying for sealing under this section were a person applying for probate or letters of administration under the law for the time being in force in British India.

Address for service of notices, etc.

4. Every person applying to a High Court to have a probate or letters of administration sealed under the last preceding section shall, on making such application, file in the Court an address at a place not more than five miles from the Court house where notices and other documents relating to the estate of the deceased person may be left, and every such notice or other document left at such address shall be deemed to have been duly served upon the executor or administrator, as the case may be, by or on behalf of whom such application is made.

Application of Act to probates, etc., already granted.

5. This Act shall apply to probates and letters of administration granted in the United Kingdom either before or after the passing thereof.

STATEMENT OF OBJECTS AND REASONS.

The Statute 55 Vict., c. 6, provides for the recognition in the United Kingdom of probates and letters of administration granted in any British possession in which the Legislature has made adequate provision for the recognition of probates and letters of administration granted by the Courts of England and Ireland and of confirmation granted by the Courts of Scotland. The object of this Bill is to make such provision in British India and so to pave the way for the reciprocity contemplated by the English Statute.

ALEX. EDW. MILLER.

The 9th March 1896.

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

(Republished by order of His Excellency the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 22.

The following Report of the Select Committee on the Bill to amend the Indian Contract Act, 1872, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 12th March 1896:—

We, the undersigned, Members of the Select Committee to which the Bill to amend the Indian Contract Act, 1872, was referred, have considered the Bill, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

2. We have suggested certain verbal amendments in the second of the new sections (69B) which it is proposed to insert in the Act, with the object of assimilating the wording with that of the first (69A) and making it clear that the scope of the provision is intended to be confined to cases of preservation from alienation. The paragraph in new section 69A which defines the priority of the charge contemplated, has at the same time been reproduced as an addition to new section 69B.

3. Section 69C proposed by the Bill as introduced in Council has been omitted, it being in our opinion a provision possibly calculated to give rise to practical difficulties and to lead to transactions of a covinous character.

4. We have thought it desirable to safeguard the measure by limiting in the proposed new section 69D (now 69C) the period within which a declaratory suit of the kind there provided for may be instituted, and we have extended the right of suit against all parties, as well as the owner, interested in the immoveable property charged.

5. New section 69E (now 69D) has been amended so as to make it clear that the intention is to cover transfers, not only of immoveable property but also of any interest therein, made subsequently to the payment in respect of which the charge is claimed and without notice of such payment.

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

In English.

Gazette.	Date.
Gazette of India	22nd February 1896.
Fort St. George Gazette	10th March 1896.
Bombay Government Gazette	27th February 1896.
Calcutta Gazette	26th do.
North-Western Provinces and Oudh Government Gazette ..	29th do.
Punjab Government Gazette	5th March 1896.
Central Provinces Gazette	27th February 1896.
Burma Gazette	7th March 1896.
Assam Gazette	7th do.
Coorg District Gazette	Not reported.
Sind Official Gazette	Do.

7. We are not prepared to recommend that the Bill as amended be at once taken into consideration with a view to its being passed without further delay, but think that it should be circulated in its present form for opinion and criticism before it is further proceeded with in Council.

ALEX. EDW. MILLER.
J. WOODBURN.
A. CADELL.
MOHINY MOHUN ROY.
P. ANANDA CHARLU.
G. H. P. EVANS.
G. P. GLENDINNING.

The 11th March 1896.

No. II.

A Bill to amend the Indian Contract Act, 1872.

IX of 1872.

WHEREAS it is expedient to amend the Indian Contract Act, 1872; It is hereby enacted as follows:—

Addition of new sections after section 69, Act IX, 1872.

"1. After section 69 of the said Act the following sections shall be added, namely:—

Charge on immoveable property preserved from alienation by payment made by person interested.

"69A. If any such payment as is mentioned in the last foregoing section is made by a person possessing an interest in any immoveable property and is, by reason of the default of the person bound by law to make it, necessary for the purpose of preserving such property from alienation and has the effect of so preserving it, the person making the payment shall be entitled to a charge upon the property so preserved for reimbursement of the sum so paid, with interest at such rate as the Court may direct.

"Such charge shall have priority over all charges on, and rights in, such property, which would have been defeated if such alienation had taken effect, and shall be subject to all such charges and rights as would have remained unaffected notwithstanding such alienation.

Charge on immoveable property preserved *from alienation* by payment made by one of two or more persons jointly interested.

"69B. When two or more persons are jointly interested in any immoveable property, and one of such persons, in order to *preserve it from alienation and with the effect of so preserving it*, makes any payment in respect thereof to which they are jointly and severally liable, or to which they *are bound* by law to contribute either equally or in any definite proportions, the person making such payment shall be entitled to a charge upon the interest or respective interests of the other or others of them for reimbursement to him of the proportion or respective proportions of the sum so paid to the payment of which he or they respectively was or were so liable as aforesaid, together with interest thereon at such rate as the Court may direct.

"*Such charge shall have priority over all charges on, and rights in, such property, which would have been defeated if such alienation had taken effect, and shall be subject to all such charges and rights as would have remained unaffected notwithstanding such alienation.*

Suit to declare existence and extent of charge under *two* last foregoing sections.

"69C. Any person claiming to be entitled to a charge on any property under *either* of the *two* last foregoing sections may, *at any time within twelve months after the payment in respect of which the charge is claimed, but not afterwards*, maintain a suit against the owner of the property *and all other parties interested* for a declaration of the existence and extent of such charge.

Saving of right of Government to sell free of encumbrances.

"69D. (*1*) Nothing in section 69A *or section* 69B shall affect the right of the Government to sell an estate free from all encumbrances and charges under the law for the time being in force for the recovery of arrears of land-revenue and other public demands.

(*2*) Notwithstanding anything contained in the sections aforesaid, no charge of the nature therein described shall enure as against a *bond fide* transferee for value of immoveable property *or any interest therein transferred subsequently to the payment in respect of which the charge is claimed*, unless prior to the transfer to such transferee there has been registered in British India, under the law for the time being in force for the registration of documents, either an agreement by the predecessor in title of such transferee acknowledging, or a certified copy of the decree of a Court of competent jurisdiction declaring, the existence and extent of such charge:

Provided that, notwithstanding such registration, no such charge shall be valid as against *any such bond fide* transferee for value who shall prove to the satisfaction of the Court that at the time when he parted with his purchase-money he was in fact ignorant of the existence of the charge and could not by reasonable diligence have discovered its existence.

Explanation.—In the construction of this section 'purchase-money' shall include any valuable consideration given for the transfer of the property in question."

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

(Republished by order of His Excellency the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

FORT ST. GEORGE GAZETTE SUPPLEMENT.

TUESDAY EVENING, APRIL 7, 1896.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 22.

The following Report of the Select Committee on the Bill to amend the Code of Criminal Procedure, 1882, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 19th March 1896:—

We, the undersigned, Members of the Select Committee to which the Bill to amend the Code of Criminal Procedure, 1882, 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 Agent to Governor-General in Baluchistan, No. 7366, dated 13th November 1895 [Paper No. 1].
From Resident, Hyderabad, No. 425, dated 25th November 1895, and enclosures [Papers No. 2].
From Chief Commissioner, Assam, No. 180-L. & L.-5500-J., dated 2nd December 1895, and enclosures [Papers No. 3].
From Chief Commissioner, Central Provinces, No. 9177, dated 13th December 1895, and enclosures [Papers No. 4].
From Government, Bombay, No. 8899, dated 19th December 1895, and enclosures [Papers No. 5].
From Government, Punjab, No. 1496, dated 24th December 1895, and enclosures [Papers No. 6].
From Chief Commissioner, Burma, No. 661-L.-19, dated 23rd December 1895, and enclosure [Papers No. 7].
From Chief Commissioner, Coorg, No. 2122, dated 30th December 1895 [Paper No. 8].
From Chief Commissioner, Ajmere-Merwara, No. 22-C.-690-VI., dated 29th December 1895, and enclosures [Papers No. 9].
From Government, Bengal, No. 6038-J., dated 31st December 1895, and enclosures [Papers No. 10].
From European and Anglo-Indian Defence Association, No. 602, dated 7th January 1896 [Paper No. 11].
From High Court, Calcutta, No. 330, dated 24th January 1896, and enclosure [Papers No. 12].
From Government, Madras, No. 52, dated 8th January 1896, and enclosures [Papers No. 13].
From Government, North-Western Provinces and Oudh, No. 384, dated 14th February 1896, and enclosures [Papers No. 14].
From Government, Bengal, No. 854-J., dated 14th February 1896, and enclosure [Papers No. 15].

2. In view of the generally and very strongly expressed opinions against the proposal to provide for the requiring of special verdicts on issues of fact, we have decided to recommend that clause 3 of the Bill as introduced be eliminated. We do so with the less hesitation because we believe that the provisions referred to would have had less effect than seems to have been generally anticipated on the practical working of the system of trial by jury in this country.

3. We have, in clause 4 of the Bill (3 of our revise), endeavoured to place it beyond dispute that it is not necessary that a verdict should be actually perverse in order to justify its being made the subject of a reference to the High Court, and further that it is the bounden duty of the High Court on receiving such a reference to take fully into account the opinion of the Sessions Judge as well as that of the jury and the evidence on which both should be based. This is the view of the existing law in this connection which has been accepted by the best authorities, but there has been considerable divergence of opinion upon the subject, and that it should be authoritatively settled by the Legislature in this way is, we think, of considerable importance.

4. It seems to us that jurors should not be rendered liable to serve as such in respect of any area larger than that of an ordinary district, and we have, therefore, suggested the substitution of the word "smaller" for the word "other" in the addition to section 319 of the Code contemplated by clause 5 of the Bill as referred to us (clause 4 of the amended Bill).

5. We are of opinion that it is very desirable that the introduction of the system of special juries in the mufassal should not be allowed to result in the incidence of undue hardship on the comparatively limited class of persons who will be selected to sit, if required, on special juries. It was strongly urged upon us that, in accordance with the practice in England and also, we understand, in the presidency-towns in India, special jurors be exempted from service on common juries; but we are unable to accept the suggestion, convinced as we are that any such exemption would involve the emasculation of the common jury-lists. At the same time it should be borne in mind that service in a special jury

case will, almost of necessity, be much more irksome and protracted than service in a trial by common jury; for, *ex concessis*, the object of the particular amendment of the law under consideration is to enable Sessions Judges to call in the aid of "persons possessing superior qualifications in respect of property, character or education" in the trial of cases of an intricate character requiring a superior degree of intelligence and responsibility to be brought to bear on their consideration. We think, then, that some special privilege should be allowed the special juror, and with this intention we have added a clause to the Bill (clause 7 of the amended Bill) which will give the Sessions Judge power, at the conclusion of any lengthy or laborious trial by special jury, to direct that the jurors who have been engaged in it, shall not again be summoned to serve on any jury within a period of twelve months, six months only being the interval contemplated by section 326, paragraph 2, of the Code as it stands.

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

In English.

Gazette.	Date.
Gazette of India	24th August 1895.
Fort St. George Gazette	10th September 1895.
Bombay Government Gazette	29th August 1895.
Calcutta Gazette	4th September 1895.
North-Western Provinces and Oudh Government Gazette	31st August 1895.
Punjab Government Gazette	29th do.
Central Provinces Gazette	31st do.
Burma Gazette	7th September 1895.
Assam Gazette	14th do.
Coorg District Gazette	1st October 1895.
Sindh Official Gazette	19th September 1895.

In the Vernaculars.

Province.	Language.	Date.
Madras	Telugu	24th September 1895.
	Hindustani	24th do.
	Malayalam	24th do.
	Tamil	1st October 1895.
	Kanarese	1st do.
Bombay	Marathi	7th November 1895.
	Gujarathi	7th do.
	Kanarese	7th do.
Bengal	Bengali	1st October 1895.
	Uriya	10th do.
	Hindi	15th do.
North-Western Provinces and Oudh	Urdu	14th September 1895.
Punjab	Urdu	26th do.
Burma	Burmese	14th do.
Assam	Bengali	12th October 1895.
Coorg	Kanarese	1st November 1895.
Sindh	Sindhi	19th September 1895.

7. We consider that the Bill has not undergone such revision as to render its republication necessary, and we recommend that it be now taken into consideration in Council and passed.

ALEX. EDW. MILLER.
J. WOODBURN.
A. CADELL.
MOHINY MOHUN ROY.
P. ANANDA CHARLU.
G. H. P. EVANS.
J. D. REES.

The 17th March 1896.

No. II.

A Bill to amend the Code of Criminal Procedure, 1882.

X of 1882.

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1882; It is hereby enacted as follows:—

Amendment of section 269, Act X, 1882.

1. (*1*) In the first sentence of section 269 of the said Code, after the word "may", where it first occurs, the words "with the previous sanction of the Governor-General in Council," and after the word "may", where it next occurs, the words "with the like sanction," shall respectively be inserted.

(*2*) After the first sentence of the same section the following shall be inserted, namely:—

"The Local Government, by like order, may also declare that, in the case of any district in which the trial of any offence is to be by jury, the trial of such offence shall, if the Judge, on application made to him or of his own motion so directs, be by jurors summoned from a special jury list, and may revoke or alter such order."

Amendment of section 276, Act X, 1882.

2. In section 276 of the said Code, before the word "*thirdly*" the word "and" shall be repealed, and to the same section the following shall be added, namely:—

"and

fourthly in any district for which the Local Government has declared that the trial of certain offences may be by special jury, the jurors shall, in any case in which the Judge so directs, be chosen from the special jury list prescribed in section 325A."

Amendment of section 307, Act X, 1882.

3. (*1*) In section 307 of the said Code, for the words "so completely that he considers it" the words "and is clearly of opinion that it is" shall be substituted.

(*2*) In the same section, for the words "but it may" the words "and subject thereto it shall, after considering the entire evidence and after giving due weight to the opinions of the Sessions Judge and the jury," shall be substituted.

Amendment of section 319, Act X, 1882.

4. To section 319 of the said Code the following words shall be added, namely:—

"or, if the Local Government, on consideration of local circumstances, has fixed any *smaller* area in this behalf, within the area so fixed."

Addition of new section after section 325, Act X, 1882.

5. After section 325 of the said Code the following section shall be *added*, namely:—

Preparation of list of special jurors.

"325A. In the case of any district for which the Local Government has declared that the trial of certain offences shall, if the Judge so direct, be by special jury, the Sessions Judge and the Collector of such district or other officer as aforesaid, shall prepare, in addition to the revised list hereinbefore prescribed, a special list containing the names of such jurors as are borne on the revised list and are, in the opinion of such Sessions Judge and Collector or other officer as aforesaid, by reason of their possessing superior qualifications in respect of property, character or education, fit persons to serve as special jurors: Provided always that the inclusion of the name of any person in such special list shall not involve the removal of his name from the revised list nor relieve him of his liability to serve as an ordinary juror in cases not tried by special jury."

Amendment of section 326, Act X, 1882.

6. In section 326 of the said Code, after the words "the said revised list" the words "or the said special list" shall be inserted, and the words "on the revised list" shall be omitted.

Addition of new section after section 330, Act X, 1882.

7. *After section 330 of the said Code the following section shall be added, namely:—*

Court may relieve special jurors from liability to serve again as jurors for twelve months.

"330A. The Court of Session may, if it shall think fit, at the conclusion of any trial by special jury direct that the jurors who have served on such jury shall not be summoned to serve again as jurors for a period of twelve months.

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

(Republished by order of His Excellency the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 22.

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 19th March 1896 :—

No. 13 OF 1896.

A Bill to render it permissive to the members of the Memon Community to declare themselves subject to Muhammadan Law.

WHEREAS there is in the Presidency of Bombay and elsewhere a class of persons known as Memons, and questions have from time to time arisen as to the law by which such persons are in certain particulars governed;

And whereas some of such persons consider that they are, or desire that they should be, governed in those particulars by the Muhammadan law as established in the Hanafi School;

And whereas it is expedient to provide a procedure whereby the applicability of that law to such persons in those particulars may be placed beyond dispute;

It is hereby enacted as follows :—

Title, extent and commencement.

1. (*1*) This Act may be called the Memons Act, 1896; and

(*2*) It shall come into force at once.

Muhammadan law to apply to Memons on declaration made by them.

2. (*1*) When any Memon who has attained his majority has declared, in manner next hereinafter provided, that he desires to be governed by the Muhammadan law as established in the Hanafi School, that law shall thereupon, any custom to the contrary notwithstanding, apply to him, and to his children (if any), being minors at the time of such declaration or born thereafter, and to all property of which he or they shall then be or thereafter become absolutely entitled, in each part of British India, in the same particulars and to the same extent as it applies in the same part of British India to other Muhammadans and their property.

(*2*) No declaration made as aforesaid shall be capable of being revoked.

Form of declaration.

3. A declaration to take effect under section 2 shall be made by a written instrument signed by the declarant and in the form set forth in the schedule or in a like form, and shall,—

(*a*) if made in any part of British India in which the Indian Registration Act, 1877, is for the time being in force, be registered under that Act during the lifetime of the declarant; and, III of 1877.

(*b*) if made elsewhere, be executed before, and authenticated by, a notary public or a Court, Judge, Magistrate, British Consul or Vice-Consul or representative of Her Majesty or of the Government of India.

Declarations made by two successive generations of Memons to bind future generations.

4. When declarations under the foregoing provisions have been made by a Memon and by any one of his sons, the Muhammadan law as established in the Hanafi School shall thereupon, any custom to the contrary notwithstanding, apply to all the lineal descendants of such son in the same manner and to the same extent as to other Muhammadans governed by it in the same part of British India.

Saving.

5. Nothing in this Act shall be construed—

(1) to prevent any person being or becoming subject to any form of the Muhammadan law in any manner other than that herein provided, or

(2) to affect the rights of any member of a declarant's family other than such children and lineal descendants as are referred to in sections 2 and 4.

SCHEDULE.

FORM OF DECLARATION.

I, A. B., son of C. D., being a Memon and of the age of not less than years, hereby declare that I desire to be governed, to the extent provided by the Memons Act, 1896, by the Muhammadan law as established in the Hanafi School.

Given under my hand this day of 18 .

A. B.

STATEMENT OF OBJECTS AND REASONS.

The persons belonging to what is known as the Memon community are persons of Hindu extraction whose ancestors embraced Muhammadanism, but, although they are now generally regarded as Mussulmans, it has been held by the Courts that certain sections of them are in some particulars still governed by Hindu custom instead of by Muhammadan law. It has on more than one occasion been represented to the Government of India that this position is unsatisfactory, and that it should be declared by legislation that Memons are governed by the Muhammadan law of the Hanafi School. The Government of India do not think it would be right to take this course unless it were shown to be in accordance with the wishes of the entire Memon community, and they are not satisfied that that community is unanimous on the subject. At the same time it seems perfectly reasonable and open to no objection that individual Memons, who are so minded, should be enabled to secure to themselves, by means of a declaration, the application of the Muhammadan law on the footing of ordinary Muhammadans, and so to avoid the risk of being held to be governed by a customary law which they repudiate. With this object a Bill was prepared in 1885, and was actually introduced in Council; but a difference of opinion arose as to whether the onus of making a declaration should be made to rest upon the innovators or upon the conservative party, *i.e.*, upon those Memons who desired to be governed by the Muhammadan law, or upon those who preferred to be regarded as Hindus like their remoter ancestors; and in consequence the measure was not further proceeded with. The proposal has lately been revived on the submission through the Government of Bombay of another petition on the subject, and it is proposed to re-introduce the Bill of 1885 with four amendments and additions, providing (1) that a declaration made by a father shall bind his children (if any) who are minors at the time of such declaration or are born thereafter, (2) that a declaration once made shall be irrevocable, (3) that, after similar declarations have been made by the father and also by the son, all the lineal descendants of the latter shall be bound thereby, and (4) that nothing in the proposed enactment shall affect the rights of any member of a declarant's family other than the children and lineal descendants just referred to.

J. WOODBURN.

The 19th March 1896.

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

(Republished by order of His Excellency the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 22.

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 26th March 1896:—

No. 15 OF 1896.

A Bill to amend the Glanders and Farcy Act, 1879.

XX of 1879.

WHEREAS it is expedient further to amend the Glanders and Farcy Act, 1879; It is hereby enacted as follows:—

Amendment of section 1, Act XX, 1879.

1. In section 1 of the said Act, as amended by Act XXIV of 1886, the words "except the territories respectively administered by the Governor of Fort St. George in Council and the Lieutenant-Governor of Bengal" are repealed.

Amendment of sections 7 and 8, Act XX, 1879.

2. In sections 7 and 8 of the said Act for the word "Surgeon," wherever it occurs, the word "Practitioner" shall be substituted.

STATEMENT OF OBJECTS AND REASONS.

It has been decided that the Glanders and Farcy Act, 1879, should extend to the whole of British India, and clause 1 of this Bill accordingly repeals that part of section 1 of the Act, as amended by Act XXIV of 1886, which exempts from its operation the Provinces of Bengal and Madras. This will not, *per se*, cause the Act to come into operation in these Provinces, inasmuch as a further notification under section 3 by the Local Government concerned is necessary to bring its provisions into force in any part of the territories administered by such Local Government.

2. Objection has been taken on behalf of members and fellows of the Royal College of Veterinary Surgeons, who alone under the 44th and 45th Victoria, Chapter 62, would seem to be intended to be known as "Veterinary Surgeons," to the use of that style in sections 7 and 8 of the Glanders and Farcy Act, 1879, in pursuance of the provisions of which persons other than those covered by the English Statute may be appointed "Veterinary Surgeons." The opportunity has, therefore, been taken to substitute the word "Practitioner" for the word "Surgeon" in the Indian Act.

J. WOODBURN.

The 23rd March 1896.

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

(Republished by order of His Excellency the Governor in Council.)

J. F. PRICE,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 22.

THE REFORMATORY SCHOOLS BILL.

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A Bill to amend the law relating to Reformatory Schools and to make further provision for dealing with youthful offenders.

WHEREAS it is expedient to *amend the law relating to Reformatory Schools and to make further provision for dealing with youthful offenders;* It is hereby enacted as follows:—

I.—Preliminary.

[Sec. 1.] 1. (*1*) This Act may be called the Reformatory Schools Act, 1896.

Title, extent and commencement.

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

(*3*) It shall come into force in each Province of British India *in which the Reformatory Schools Act, 1876, is now in force, at once, and in each other Province* on such day as the Local Government *may*, by notification in the local official Gazette, *direct* in *this* behalf.

V of 1876.

[New.] V of 1876. 2. (*1*) *The Reformatory Schools Act, 1876, is hereby repealed.*

Repeal of Act V of 1876.

(*2*) *But all proceedings taken, orders passed, officers appointed or authorised and rules made under the said Act shall, as far as may be, be deemed to have been respectively passed, appointed or authorised and made under this Act.*

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

[Sec. 2.] X of 1882. 3. *Section 399 of the Code of Criminal Procedure, 1882, is hereby repealed with effect, as regards any Province of British India in which it is now in force, from the date of the issue of a notification under section 1, sub-section (3), bringing this Act into force therein.*

Section 399 of the Code of Criminal Procedure, 1882, repealed on issue of a notification under section 1, sub-section (3).

[Sec. 3.] 4. In this Act, *unless there is anything repugnant in the subject or context,*—

Definitions.

(*a*) "youthful offender" means any boy *who has been convicted of any offence punishable with imprisonment or transportation and who, at the time of such conviction, was under the age of sixteen years; and*

(*b*) "Inspector-General" includes any officer appointed by the Local Government to perform all or any of the duties imposed by this Act on the Inspector-*General* of *Prisons*.

II.—Reformatory Schools.

[Sec. 4.] 5. With the previous sanction of the Governor-General in Council, the Local Government may—

Power to establish and discontinue Reformatory Schools.

(*a*) establish Reformatory Schools at such places as it *may* think fit;

(*b*) use as Reformatory Schools schools kept by persons willing to act in conformity with such rules, consistent with this Act, as the Local Government may prescribe in this behalf;

(*c*) direct that any school so established or used shall cease to exist as a Reformatory School or to be used as such.

[Sec. 5.] 6. Every school so established or used must provide—

Requisities of schools.

(*a*) sufficient means of separating the inmates at night;

(*b*) proper sanitary arrangements, water-supply, food, clothing and bedding for the youthful offenders detained therein;

(*c*) the means of giving such *youthful* offenders industrial training;

(*d*) an infirmary or proper place for the reception of such *youthful* offenders when sick.

[Sec. 6.] 7. (*1*) Every *school intended to be established or used as a* Reformatory School shall, before being used as such, be inspected by the Inspector-General, and if he *finds* that the requirements of section 6 have been complied with, and that, in his opinion, such school is fitted for the reception of such youthful offenders as may be sent there under this Act, he shall certify to that effect, and such certificate shall be published in the local official Gazette, *together with an order of the Local Government establishing the school as a Reformatory School or directing that it shall be used as such*, and the school shall thereupon be deemed *to be* a Reformatory School.

Inspection of Reformatory Schools.

(*2*) Every such school shall from time to time, and at least once in every year, be visited by the said Inspector-General, who shall send to the Local Government a report on the condition of the school in such form as the Local Government may prescribe.

[Sec. 7.] 8. (*1*) Whenever any youthful offender is sentenced to transportation or imprisonment, and is, in the judgment of the Court by which he is sentenced, a proper person to be an inmate of a Reformatory School, the Court may direct that, instead of undergoing his sentence, he shall be sent to such a school, and be there detained for a period which shall be,—

Power of Courts to direct youthful offenders to be sent to Reformatory Schools.

(*a*) *in no case, less than two or more than seven years;*

(*b*) *if the offender is at the date of his conviction under the age of ten years, seven years;*

(*c*) *if he has then attained the age of ten years, not less than five years, unless he would, in the opinion of the Court, sooner attain the age of eighteen years; and,*

(*d*) *in such last-mentioned case, until he shall attain the age of eighteen years.*

(*2*) The powers so conferred on the Court *by this section* shall be exercised only by (*a*) the High Court, (*b*) a Court of Session, (*c*) *a District or Sub-divisional Magistrate*, (*d*) a Magistrate of the first class *specially empowered by the Local Government in this behalf*, and (*e*) a Presidency Magistrate in the towns of Calcutta, Madras and Bombay.

[Now.] 9. (*1*) *When any Magistrate not empowered to pass an order under the last foregoing section is of opinion that a youthful offender sentenced to imprisonment by him is a proper person to be an inmate of a Reformatory School, he may record such opinion and submit his proceedings and forward the youthful offender to the District or Sub-divisional Magistrate to whom he is subordinate.*

Procedure where Magistrate is not empowered to pass an order under section 8.

(*2*) *The Magistrate to whom the proceedings are so submitted, may make such further inquiry (if any) as he may think fit and pass such order for the detention in a Reformatory School of the youthful offender, or otherwise, as he might have made if such youthful offender had been originally tried and sentenced by him.*

10. (*1*) Whenever any youthful offender under the age of sixteen years has been, or shall be, sentenced to imprisonment, the officer in charge of the *prison* in which such *youthful* offender is confined, may bring him before the *District or Sub-divisional* Magistrate within whose jurisdiction such prison is situate; and such Magistrate *may*, if *such youthful* offender appears to be a proper person to be an inmate of a Reformatory School, direct him to be sent to a Reformatory School, and to be there detained for a period which shall be *subject to the same limitations as are mentioned in section 8, sub-section (1), with reference to the period of detention thereby authorised.*

Power of Magistrates to direct boys under sixteen sentenced to imprisonment to be sent to Reformatory Schools.

(*2*) In the towns of Calcutta, Madras and Bombay a Presidency Magistrate *shall be deemed to be a District or Sub-divisional Magistrate within whose jurisdiction the prison is situate for the purposes of this section.*

"Magistrate" defined.

[New.] 11. (*1*) *Before directing any youthful offender to be sent to a Reformatory School under section 8, section 9 or section 10, the Court or Magistrate shall inquire into the question of his age and, after taking such evidence (if any) as may be deemed necessary, shall record a finding thereon.*

Preliminary enquiry and finding as to age of youthful offender.

(*2*) *In passing an order under section 8 or section 10, the Court shall, in determining the period for which the youthful offender is to be detained, have regard to the finding as to his age recorded under sub-section (1) of this section, and shall frame such order accordingly.*

9.] 12. Every youthful offender directed by a Court or Magistrate to be sent to a Reformatory School shall be sent to such Reformatory School as the Local Government may appoint for the reception of youthful offenders so dealt with by such Court or Magistrate:

Government to determine Reformatory School to which such offenders shall be sent.

Provided that, if accommodation in a Reformatory School is not immediately available for such youthful offender, he may be confined in the juvenile ward or such other suitable part of a prison as the Local Government may direct pending his removal to a Reformatory School, and the period of imprisonment so undergone shall be treated as detention in a Reformatory School.

[Sec. 10.] 13. Nothing contained in section 8, *section* 10 or *section* 12 shall be deemed to authorize the detention in a Reformatory School *of any person after he is found to be above the age of eighteen years.*

Persons other than youthful offenders not to be detained in Reformatory Schools.

[Sec. 11.] 14. The Local Government may at any time order any youthful offender—

Discharge or removal by order of Government.

(*a*) to be discharged from a Reformatory School;

(*b*) if so discharged before the expiration of *his original sentence, to be confined in such place as the Local Government may appoint until such sentence would have expired by effluxion of time, or for such shorter period as the Local Government may direct;* or

(*c*) to be removed from one Reformatory School to another such school situate within the territories subject to such Government: *Provided* that the whole period of his detention in a Reformatory School shall not be increased by such removal.

[New.] X of 1882. 15. *Nothing contained in the Code of Criminal Procedure, 1882, shall be construed to authorize any Court or Magistrate to alter or reverse any order passed under section 8, section 9 or section 10 for the detention of a youthful offender in a Reformatory School: Provided that, if the sentence of imprisonment in substitution for which detention in a Reformatory School was directed by any such order, is set aside on appeal or revision, such order for detention shall forthwith become inoperative and cease to have effect.*

Orders under sections 8, 9 or 10 not subject to appeal or revision.

[New.] 16. *When a boy under the age of sixteen years is liable to be committed to prison under section 123 of the Code of Criminal Procedure, 1882, on failure to give security for his good behaviour, the provisions of this Act shall be applicable to him as if he were a youthful offender within the meaning of section 4, clause (a),*

Provisions of Act to be applicable in case of boy under sixteen years of age liable to imprisonment on failure to give security for good behaviour.

X of 1882.

III.—Management of Reformatory Schools.

[Sec. 12.] 17. (*1*) For the control and management of every Reformatory School, the Local Government shall appoint either (*a*) a Superintendent and a Committee of Visitors, or (*b*) a Board of Management.

Appointment of Superintendent and Committee of Visitors or Board of Management.

(*2*) Every Committee and every Board so appointed must consist of not less than five persons, of whom two at least shall be Natives of India.

(*3*) The Local Government may suspend or remove any Superintendent or any Member of a Committee or Board so appointed.

[Sec. 13.] 18. (*1*) Every Superintendent so appointed may *by license under his hand* permit any youthful offender sent to a Reformatory School who has attained the age of fourteen years, to live under the charge of any trustworthy and respectable person named in the license, or any officer of Government or of a Municipality, being an employer of labour and willing to receive and take charge of him, on the condition that the employer shall keep such *youthful* offender employed at some trade, occupation or calling.

Superintendent may license youthful offenders to employers of labour.

(*2*) The license shall be in force for three months and no longer, but may, at any time *and from time to time until* the expiration of the period for which the *youthful* offender has been directed to be detained, be renewed for three months *at a time.*

[Sec. 14.] 19. The license shall be cancelled at the desire of the employer named in the license;

Cancellation of license.

and, *should it be cancelled in consequence of* any complaint made by the employer of misconduct on the part of the youthful offender, *and should the Superintendent be of opinion that such complaint was well-founded and afforded just grounds for such cancellation,* no other license in respect of the same *youthful* offender shall be given until twelve months after the expiration of the former license.

If complaint of employers just, no fresh license until expiry of twelve months.

[Sec. 15.] 20. If during the term of the license the employer named therein dies, or ceases from business, or the period for which the youthful offender has been directed to be detained in the Reformatory School expires, the license shall thereupon cease and determine.

Determination of license.

[Sec. 16.] 21. If it appears to the Superintendent that the employer has ill-treated the *youthful* offender, or has not adequately provided for his lodging and maintenance, the Superintendent may cancel the license.

Cancellation of license in case of ill-treatment.

[Sec. 17.] 22. (*1*) The Superintendent of a Reformatory School shall be deemed to be the guardian of every youthful offender detained in such school, within the meaning of Act No. XIX of 1850 (*concerning the binding of apprentices*).

Superintendent to be deemed guardian of youthful offenders.

[Here the words in italics are not new.]

(2) If it appears to the Superintendent that any *youthful* offender licensed under section 18 has behaved well during one or more periods of his license, the Superintendent may apprentice him under the provisions of the said Act, and on such apprenticement the right to detain such *youthful* offender in *a Reformatory School* shall cease and the unexpired term (if any) of his sentence shall be cancelled.

Power to apprentice youthful offender.

[Sec. 18.]

23. (1) Every Committee of Visitors appointed under section 17 for a Reformatory School shall, at least once in every month,—

Duties of Committee of Visitors.

(a) visit the school, to hear complaints and see that the requirements of section 6 have been complied with, and that the management of the school is proper in all respects;
(b) examine the punishment-book;
(c) bring any special cases to the notice of the Inspector-General; and
(d) see that no person is illegally detained in the school.

(2) If any member of a Committee of Visitors so appointed fails or neglects, during a period of six consecutive months, to visit the school and assist in the discharge of the duties aforesaid, he shall cease to be a member of such Committee.

[Sec. 19.]

24. If, in exercise of the power conferred by section 17, the Local Government appoints a Board of Management for any Reformatory School, such Board shall have the powers and perform the functions of the Superintendent under sections 18 to 22, both inclusive; and the license mentioned in section 18 may be under the hand of their chairman; and they shall be deemed to be the guardians of the youthful offenders detained in such school.

Powers of Board of Management.

[Sec. 20.]

25. The Local Government may declare any body of Trustees or Managers of a school, who are willing to act in conformity with the rules referred to in section 5, clause (*b*), to be a Board of Management under this Act, and thereupon such body or Managers shall have all the powers and perform all the functions of such Board of Management.

Power to appoint Trustees or other Managers of a school to be a Board of Management.

[Sec. 21.]

26. (1) With the previous sanction of the Local Government, every Board of Management of a Reformatory School may from time time make rules consistent with this Act—

Power of Board to make rules.

(i) to prescribe the articles which are to be deemed to be "prohibited articles"; and
(ii) to regulate—
(a) the conduct of business of the Board;
(b) the management of the school;
(c) the education and industrial training of youthful offenders;
(d) visits to, and communication with youthful offenders;
(e) the terms and conditions under which any articles declared by the Board to be "prohibited articles" may be introduced into the school;
(f) the manner in which such articles are to be removed when introduced without due authority;
(g) the conditions and limitations under which such articles may be supplied outside the school to any youthful offender under order of detention therein;
(h) the conditions on which the possession by any such youthful offender of such articles may be sanctioned;
(i) the penalties to be imposed for the supply or possession of such articles when supplied or possessed without due authority;
(j) *the* punishment *of* offences committed by youthful offenders; *and*
(k) the granting of licenses for the employment of youthful offenders.

(2) In the absence of a Board of Management, the Local Government may make rules consistent with this Act to regulate for any Reformatory School the matters mentioned in *any* clause of subsection (*1*), *other than clause* (*ii*) (*a*), and also the mode in which the Committee of Visitors shall conduct their business.

IV.—Offences in relation to Reformatory Schools.

[New.]

27. *Whoever, contrary to any rule made under section 26, introduces or attempts by any means whatever to introduce into any Reformatory School, or supplies or attempts to supply outside the limits of any Reformatory School to any youthful offender under order of detention therein, any prohibited article,*

and every officer or person in charge of a Reformatory School who, contrary to any such rule, knowingly suffers any such article to be introduced into any Reformatory School, to be possessed by any youthful offender detained therein, or to be supplied to any such youthful offender outside its limits,

and whoever abets any offence made punishable under this section,

shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding six months, or to fine not exceeding two hundred rupees, or to both.

Penalty for introduction or removal or supply of prohibited articles.

[Sec. 23.]

28. Whoever abets an escape, or an attempt to escape, on the part of a youthful offender from a Reformatory School, or from the employer of such *youthful* offender, shall be punishable with imprisonment for a term which may extend to six months, or with fine not exceeding one hundred rupees, or with both.

Penalty for abetting escape of youthful offender.

[Sec. 24.]

29. A Police-officer may, without orders from a Magistrate and without a warrant, arrest any youthful offender sent to a Reformatory School under this Act, who has escaped from such school or from his employer, and take him back to such school or to his employer.

Arrest of escaped youthful offender.

V.—Miscellaneous.

[New.]

30. *The provisions of the Prisoners Testimony Act, 1869, shall be applied, so far as they can be made applicable, to youthful offenders detained in Reformatory Schools as if they were persons confined in jail within the meaning of that Act.*

XV of 1869.

Application of Act XV of 1869 to youthful offenders detained in Reformatory Schools.

[New.]

31. *Notwithstanding anything contained in this Act or in any other enactment for the time being in force, any Court may, if it shall think fit, instead of sentencing any youthful offender to transportation or imprisonment or directing him to be detained in a Reformatory School, order him to be—*

(a) discharged after due admonition, or
(b) delivered to his parent or to his guardian or nearest adult relative, on such parent, guardian or relative executing a bond, with or without sureties, as the Court may require, to be responsible for the good behaviour of the youthful offender for any period not exceeding twelve months.

How youthful offenders may be otherwise dealt with.

FORT ST. GEORGE GAZETTE SUPPLEMENT.

TUESDAY EVENING, APRIL 28, 1896.

ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 30th March 1896, and is hereby promulgated for general information:—

ACT No. XIII OF 1896.

An Act to amend the Code of Criminal Procedure, 1882.

X of 1882.

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1882; It is hereby enacted as follows:

Amendment of section 269, Act X, 1882.

1. (1) In the first sentence of section 269 of the said Code, after the word "may," where it first occurs, the words "with the previous sanction of the Governor-General in Council," and after the word "may," where it next occurs, the words "with the like sanction," shall respectively be inserted.

(2) After the first sentence of the same section the following shall be inserted, namely:

"The Local Government, by like order, may also declare that, in the case of any district in which the trial of any offence is to be by jury, the trial of such offence shall, if the Judge, on application made to him or of his own motion, so directs, be by jurors summoned from a special jury list, and may revoke or alter such order."

Amendment of section 276, Act X, 1882.

2. In section 276 of the said Code, before the word "*thirdly*" the word "and" shall be repealed, and to the same section the following shall be added, namely:

"and

fourthly, in any district for which the Local Government has declared that the trial of certain offences may be by special jury, the jurors shall, in any case in which the Judge so directs, be chosen from the special jury list prescribed in section 325A."

3. (1) In

[Price, 6 *pies.*]

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 22.

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 10th September 1896:—

No. 20 of 1856.

A Bill to amend Act XXXVII of 1850 (for regulating Inquiries into the behaviour of Public Servants).

WHEREAS it is expedient to amend Act XXXVII of 1850 (*for regulating Inquiries into the behaviour of Public Servants*); It is hereby enacted as follows:

Title for Act XXXVII, 1850.

1. The said Act XXXVII of 1850 may be called the Public Servants (Inquiries) Act, 1850.

Amendment of preamble to Act XXXVII, 1850.

2. In the preamble to the said Act, for the words "the East India Company" the word "India" shall be substituted.

Amendment of section 2, Act XXXVII, 1850.

3. In section 2 of the said Act, for the words "the East India Company, not removable from his office without the sanction of the same Government," the word "Government" shall be substituted.

Substitution of new section for section 23, Act XXXVII, 1850.

4. For section 23 of the said Act the following section shall be substituted, namely:

Powers of Government under this Act by whom exerciseable.

"23. The powers of Government under this Act may in all cases be exercised by the Governor-General in Council, and, when the person accused can be removed by the Local Government, those powers may also be exercised by the Local Government."

STATEMENT OF OBJECTS AND REASONS.

SECTION 23 of Act XXXVII of 1850 (*for regulating Inquiries into the behaviour of Public Servants*) defines the expression "Government" as used in that enactment so as to mean "the Governor-General in Council, the Governor or Deputy Governor of the Presidency of Fort William in Bengal, the Governor in Council of the Presidencies of Fort St. George and Bombay, respectively, and the Lieutenant-Governor of the North-Western Provinces of Bengal, whose sanction is necessary for the removal of the person accused". The language of this section is obscure, and refers to an obsolete state of facts. The object of this Bill is to remove doubts which may arise on the construction of this section, and to declare by whom the powers of "Government" may be exercised.

2. The opportunity has been taken to furnish Act XXXVII of 1850 with an appropriate title.

M. D. CHALMERS.

The 8th September 1896.

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

(Republished by order of His Excellency the Governor in Council).

A. T. ARUNDEL,
Ag. Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

THE CANTONMENTS (HOUSE-ACCOMMODATION) BILL.

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[The "Rules" referred to on the margin are the draft Cantonment Rules published for criticism in the Supplement to the *Gazette of India* of the 26th September 1896.]

A Bill to make better provision for securing house-accommodation for officers in Cantonments.

WHEREAS various conditions, rules, regulations and orders have from time to time been laid down by, or by the authority of, the Government, in regard to the grant of land and the occupation of land and houses in cantonments, with the object of securing, among other things, that houses built on such land should be made available when required for the accommodation of officers of the army;

And whereas, notwithstanding the said conditions, rules, regulations and orders, difficulties have frequently been experienced in obtaining house-accommodation in cantonments for officers of the army, and it is expedient to make better provision for that purpose;

And whereas it has from time to time been found necessary in certain cases to admit civil officers of the Government to the benefit of certain of the conditions, rules, regulations and orders aforesaid, and it is expedient to make better provision for obtaining house-accommodation in cantonments for such civil officers;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (*1*) This Act may be called the Cantonments (House-Accommodation) Act, 1899.

Short title, extent and commencement.

(*2*) It extends to the whole of British India (inclusive of British Baluchistan), except Aden; and

(*3*) It shall come into force at once, but it shall not become operative in any cantonment or part of a cantonment until the issue or otherwise than in pursuance of a notification as hereinafter provided by section 3.

2. In this Act unless there is anything repugnant in the subject or context,—

Definitions.

(*a*) "Cantonment Authority" means a Cantonment Committee, or, in the case of a cantonment for which such a Committee has not been constituted, or has ceased to exist, or cannot be convened, the Commanding Officer of the cantonment: [*Cf.* Act XIII, 1899, ss. 6 (1), 26 (5).]

(*b*) "military officer" means a commissioned or warrant officer of Her Majesty's regular forces on military duty in a cantonment and includes a Chaplain, a Cantonment Magistrate and any person in Army Departmental employment whom the General Officer of the Command may at any time, for the purposes of this Act, place on the same footing as a military officer: [*Cf.* definition (*c*) in Annexure to Form B, Schedule IV to Rules.]

(*c*) "civil officer" means a gazetted civil officer of the Government, and includes any other person in the service of the Government, not being a military officer, whom the Local Government may at any time, for the purposes of this Act, place on the same footing as a civil officer: [*Cf.* definition (*d*), *ibid.*]

(*d*) "General Officer of the Command" means the General Officer Commanding the Forces in a Command; and
"Command" means one of the principal portions into which the army of India is for the time being divided: [*Cf.* Rule 3 (1).]

(*e*) "Grantee" means a person who has been granted permission, before the Cantonment Rules, 189——, came into force, to occupy, for the purposes of a building-site, land belonging to the East India Company or to Her Majesty in a cantonment, and includes the successors in interest of a grantee: [*Cf.* Rule 3 (2).]

(*f*) "house" means a house erected on land occupied by a grantee, and includes the land and buildings appurtenant to a house; and, if any question arises whether any land or building is appurtenant to a house, it shall be decided by the Cantonment Magistrate, whose decision thereon shall, subject to revision by the District Magistrate, be final; and [*Cf.* definition (*a*) in Annexure to Form B, Schedule IV to Rules.]

(*g*) the expression "repairs" to a house includes such repairs as are usually made in the neighbourhood to buildings of the same class as that to which the house belongs, but does not include additions, improvements or alterations, except in so far as they are necessary to carry out such repairs as aforesaid or have been made with the grantee's consent. [*Cf.* definition (*b*), *ibid.*]

CHAPTER II.

APPLICATION OF ACT.

3. (*1*) The Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the local official Gazette, declare this Act to be operative in any cantonment or part of a cantonment situate in the territories under its administration, other than a cantonment situate within the limits of a Presidency town.

Cantonments, or parts of cantonments, in which Act is to be operative.

(*2*) Before issuing a notification under subsection (*1*) in respect of any cantonment, the Local Government shall cause local inquiry to be made with a view to determining how the land in the cantonment is held.

(*3*) The Local Government shall cause public notice of every such inquiry to be given in the cantonment. Such notice shall specify, if the Act is to be operative in a part only of the cantonment, the particular part of the cantonment in which it is to be operative, and shall require all persons claiming to hold any land in the cantonment or part of the cantonment, as the case may be, by a lawful title acquired by him or his predecessors in title prior to the formation of the cantonment or the inclusion in it of that part in which the Act is to be operative, to appear, personally or by agent, before an officer to be named in the notice at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their claims and their objections (if any) to the land being included in the area in which the Act is to be operative.

(*4*) On the day so fixed, or any other subsequent day to which the inquiry may be adjourned, the officer so named shall proceed to inquire into any claims and objections which any person has stated pursuant to the notice given under subsection (*3*), and shall make a report thereon.

(*5*) *Primâ facie*, all land in such a cantonment as aforesaid shall be deemed to be held under a grant from Her Majesty, but, if any person proves to the satisfaction of the Local Government that he holds any land by a lawful title acquired by him or his predecessors in title prior to the formation of the cantonment, then such land shall be excluded from the area of the notification, and in like manner if, pending the inquiry or at any time thereafter, any land is proved by the decree of a Court of competent jurisdiction to be held under such lawful title, it shall be excluded from the area of the notification by a further notification to be published in the same manner as the original notification.

4. Nothing in this Act shall affect the provisions of any lease or other agreement in writing granted or made by, or on behalf of the East India Company or Her Majesty before the Cantonment Rules, 189——, came into force, unless the lessee or other party entitled consents in writing to be bound by the terms of this Act.

Saving of existing grants from the Government.

CHAPTER III.

APPROPRIATION OF HOUSES FOR OCCUPATION BY OFFICERS.

5. Every house situate in a cantonment or part of a cantonment in respect of which a notification under section 3, sub-section (*1*), is for the time being in force, shall be liable, subject to the provisions hereinafter contained, to appropriation at any time for occupation by any military or civil officer. [*Cf.* Condition VI, Annexure to Form B, Schedule IV to Rules.]

Liability of houses to appropriation for occupation by any military or civil officer

6. Where the Cantonment Authority considers that the liability imposed by section 5 should be enforced in behalf of any military officer, it may, if the house is not already occupied by a military officer, by notice in writing—

(*a*) require the grantee to let the house to the military officer named in the notice, and

Appropriation of house for a military officer, where it is not already occupied by a military officer.

(*b*) require the existing tenant (if any) to vacate the same. [*Cf.* Condition VIII, *ibid.*]

7. If a house is occupied by a departmental military officer, and the Cantonment Authority considers that the liability imposed by section 5 should be enforced in behalf of a regimental officer, or *vice versâ*, it may, by notice in writing, require the officer in occupation to vacate the house; and may, if necessary, by further notice in writing, require the grantee to accept the change of tenancy. [*Cf.* Condition IX, *ibid.*]

Appropriation of house for a military officer, where it is occupied by another military officer.

8. Where the Cantonment Authority considers that the liability imposed by section 5 should be enforced in behalf of any civil officer, it may, if the house is not already occupied by a military or civil officer, by notice in writing,— [*Cf.* Condition X (3) *ibid.*

Appropriation of house for a civil officer, where it is not already occupied by a military or civil officer

(*a*) require the grantee to let the house to the civil officer named in the notice, and

(*b*) require the existing tenant (if any) to vacate the same.

9. Every notice to the grantee issued under section 6, section 7 or section 8 shall state the amount of monthly rent which the proposed tenant offers to pay for the house. [*Cf.* Condition XIV, *ibid.*]

Rent offered to be stated in notice to grantee.

10. (*1*) Where a military or civil officer considers that a notice should be issued in his behalf under section 6, section 7 or section 8, as the case may be, he may request the Commanding Officer of his regiment or (in the case of a departmental military officer) the local head of his department or (in the case of a civil officer) the District Magistrate to make an application to that effect to the Cantonment Authority. [*Cf.* Condition XI, *ibid.*]

Procedure to be observed before appropriating house.

(*2*) On receipt of an application under subsection (*1*) the Cantonment Authority shall inquire into the case, and it shall not issue the notice applied for unless it is satisfied—

(*a*) that the officer ought to reside in the cantonment, or, if this Act is in force in part of the cantonment only, then in that part, and

(*b*) that the circumstances are such as to require its intervention, and

(*c*) that the rent offered by the officer for the house is reasonable, and,

(*d*) that the house is suitable for the residence of the officer and, if it is occupied, that there is no vacant house in the cantonment or the said part of the cantonment, as the case may be, which is suitable for the residence of the officer.

Explanation.—In considering whether a house is suitable for the residence of an officer, regard shall be had to (*i*) the locality in which his duties chiefly lie and (*ii*) his rank.

11. No house in any cantonment or part of a cantonment in which the Act has been declared by a notification under section 3, sub-section (*1*), to be operative shall, unless it was so occupied at the date of such notification, be occupied for the purposes of a bank, hotel, shop or school, or by a railway administration without the previous sanction of the General Officer of the Command, given with the concurrence of the Local Government. [*Cf.* Condition XII, *ibid.*]

Sanction to be obtained before a house is occupied as a bank, hotel, shop or school or by a railway administration.

(2) Before application is made for such sanction as aforesaid, the Commanding Officer of the cantonment shall certify whether or not in his opinion the number of houses in the cantonment, as compared with the strength of the existing or probable garrison, renders it likely that such occupation as aforesaid would—

(a) cause any difficulty in obtaining accommodation in the cantonment, or in the part of the cantonment in which the house is situate, for military or civil officers, or

(b) necessitate the acquisition of land at some future time for the extension of the cantonment.

[*Cf.* Condition XIII, *ibid.*]

Houses not to be appropriated for military or civil officers in certain cases.

12. No notice shall be issued under section 6 or section 8, if the house—

(a) was occupied prior to the date of a notification under section 3, sub-section (1), declaring the Act to be operative in the cantonment or part of the cantonment, or is occupied, with the sanction required by section 11, as a bank, hotel, shop or school, and has been so occupied continuously during the three years immediately preceding the time when the occasion for issuing the notice arises, or

(b) was occupied prior to the date of such a notification as is referred to in clause (a), or is occupied, with the sanction aforesaid, by a railway administration, or

(c) is occupied by the grantee, and was so occupied before the Cantonment Rules, 189—, came into force, or

(d) is appropriated by the Local Government with the concurrence of the General Officer of the Command or by the Governor-General in Council, for use as a public office or for any other purpose.

[*Cf.* Condition XV, *ibid.*]

Time to be allowed for giving possession of house.

13. (1) If a house is unoccupied, a notice issued under section 6 or section 8 may require the grantee to give possession of the same to the proposed tenant within four days from the service of the notice.

(2) If a house is occupied, a notice issued under section 6, section 7 or section 8 shall not require its vacation in less than thirty days from the service of the notice.

[*Cf.* Rule 242 (5).]

Surrender of house when to be enforced.

14. If the grantee fails to give possession of a house to the proposed tenant in pursuance of a notice issued under section 6, section 7 or section 8, or if the existing tenant fails to vacate a house in pursuance of such a notice, the Cantonment Magistrate, by himself or by another person generally or specially authorized by him in this behalf, shall enter on the premises and enforce the surrender of the house.

Option for owner on whom notice is issued under section 6, section 7 or section 8, to call upon the officer concerned or the Government to purchase the house.

15. (1) If a house in respect of which a notice is issued under section 6 section 7 or section 8, stands on land which is proved to the satisfaction of the Local Government or is shown by a decree or order of a Court, to have been granted by or on behalf of the East India Company or Her Majesty—

(a) under the conditions, rules, regulations and orders in force in Bengal between the twelfth day of September 1836, and the seventh day of December 1864 (both inclusive), or

(b) under the conditions, rules, regulations and orders in force in Bombay between the seventh day of May 1838, and the thirty-first day of May 1875 (both inclusive),

then the grantee shall have the option of either complying with the notice or offering the house for sale to the officer in whose behalf the notice was issued, or to the Secretary of State in Council.

(2) If the grantee elects to sell the house, and the said officer or the Secretary of State in Council is willing to purchase it, the amount of the purchase-money to be paid shall in the event of disagreement, be determined by a Committee of Arbitration.

[*Cf.* Condition XVI, Annexure to Form B, Schedule IV of Rules.]

Terms of tenancy applicable to military and civil officers.

16. (1) Subject to the terms of any agreement in writing between a grantee and a military or civil officer, and to the provisions of this section, every lease of a house to such an officer shall be deemed to be a lease from month to month, terminable

(a) without notice, in the case of the departure of the officer from the cantonment on duty or under medical certificate, or in the case of a Committee of Arbitration deciding, as hereinafter provided for, that the house has become unfit for occupation,

(b) by one month's notice to the grantee in any other case.

(2) A notice under sub-section (1) shall be in writing signed by or on behalf of the officer; and the Cantonment Magistrate shall, if the officer so desires, cause it to be served on the grantee free of charge.

(3) Where a military or civil officer has, in pursuance of sub-section (1), clause (a), given up his occupation of a house without notice and has occupied the house during a portion only of the calendar month in which his occupation ceased, he shall be liable to pay as rent for that portion a sum bearing the same proportion to the monthly rent as the said portion bears to the whole month;

Provided that the sum shall not in any case be less than one-fourth of the monthly rent.

[*Cf.* Condition XVII, *ibid.*]

Sub lease voidable at option of grantee

17. If the tenant of a house, being a military or civil officer, sub lets the same without the consent of the grantee, the sub-lease shall be voidable at the option of the grantee.

[*Cf.* Condition XVIII, *ibid.*]

Power for grantee to require reference to arbitration on question of rent.

18. (1) If the grantee considers that the rent offered by a proposed tenant and stated in a notice in accordance with section 12 is insufficient, he may, within a period of fifteen days from the service of such notice, require that the matter be referred by the Commanding Officer of the cantonment to a Committee of Arbitration.

(2) If the grantee does not make such a requisition within the said period, he shall be deemed to have accepted the rent so offered.

(3) After such acceptance or the decision of a Committee of Arbitration, the amount of such rent shall not be called in question by either party, except in the circumstances mentioned in section 21, clause (a).

[*Cf.* Condition XIX, *ibid.*]

Power for grantee to require reference to arbitration on question of repairs.

19. (1) If the grantee fails to execute any repairs to a house which the tenant, being a military or civil officer, considers necessary, the Cantonment Authority may, at the request of the tenant and if it is satisfied that such repairs or any of them are necessary, by notice in writing, require

the grantee to execute such repairs, or such of them as it may consider necessary, within a period, not less than fifteen days, to be specified in the notice.

(2) If the grantee objects to comply with a notice issued under sub-section (1), he may, within fifteen days from the service of the notice, require that the matter be referred by the Commanding Officer of the cantonment to a Committee of Arbitration.

[*Cf.* Condition XX, *ibid.*]

Power for tenant to require reference to arbitration on question whether house has become unfit for occupation.

20. If the tenant of a house, being a military or civil officer, considers that his lease should be terminable without notice in consequence of the house having become unfit for occupation, he may require that the matter be referred by the Commanding Officer of the cantonment to a Committee of Arbitration.

[*Cf.* Condition XXI, *ibid.*]

Power for either grantee or tenant to require reference to arbitration on other questions.

21. If the grantee and the tenant of a house, being a military or civil officer, disagree—

(a) as to any change in the rent of the house which is proposed in consequence of dilapidations or additions to buildings or for any other similar reason, or

(b) on any matter relating to rent or repairs not otherwise provided for by this Act,

either the grantee or the tenant may require that the matter be referred by the Commanding Officer of the cantonment to a Committee of Arbitration.

[*Cf.* Condition XXIII, *ibid.*]

Power for tenant to execute repairs and deduct cost from rent.

22. (a) If the grantee fails to comply with a notice issued under section 19, sub-section (1), and has not, within fifteen days from the service of such notice, required that the matter be referred to a Committee of Arbitration, or,

(b) if a Committee of Arbitration constituted under Chapter IV decides that repairs are necessary and the extent to which they are necessary, and the grantee fails to execute such repairs within a period to be specified in a notice issued by the Cantonment Authority in that behalf,

the tenant of the house may himself cause the repairs specified in the notice to be executed, at rates not exceeding those paid in the cantonment by the Military Works Department or the Public Works Department, and may deduct the cost thereof from the rent, or otherwise recover it from the grantee.

[*Cf.* Condition IV, *ibid.*]

Power for General Officer of the Command to veto transfer of grantee's interest in certain cases.

23. (1) Where a grantee intends to tranfer by sale, mortgage, gift or exchange, his interest in any land or house, or in any part of any land or house, situate in a cantonment or part of a cantonment in respect of which a notification under section 3, sub-section (1), is for the time being in force, he shall be bound to give the Cantonment Magistrate one month's notice in writing before the transfer is completed, unless such notice as aforesaid has been duly given by the intended transferee.

(2) The General Officer of the Command shall have power, within the said period of one month and with the concurrence of the Local Government, to impose, by an order in writing, his veto on any such transfer; and, if in any case the Cantonment Authority considers it desirable that the said power of veto should be exercised, it shall report the case to such General Officer without delay.

(3) If notice of any such transfer be not given as aforesaid or if any such transfer be made after the same has been vetoed, the transfer shall be void.

CHAPTER IV.

COMMITTEES OF ARBITRATION.

[*Cf.* Condition XXII, *ibid.*]

Convening of Committees of Arbitration in cases falling under section 15, sub-section (2).

24. In the event of any disagreement as to the amount of the purchase-money of a house to be sold under section 15, sub-section (2), the Cantonment Authority shall apply to the Commanding Officer of the cantonment to refer the matter to a Committee of Arbitration, and the Commanding Officer of the cantonment shall forthwith proceed to convene a Committee of Arbitration to determine it.

[*Cf.* Rule 257.]

Convening of Committees of Arbitration in cases falling under section 18 or section 19.

25. Where a requisition is made to the Commanding Officer of a cantonment under section 18 or section 19 within the period mentioned in such section, he shall forthwith proceed to convene a Committee of Arbitration—

(a) to determine the amount of monthly rent to be paid, or

(b) to determine whether any and, if so, what repairs are necessary, and the extent to which they are necessary.

[*Cf.* Rule 258.]

Convening of Committees of Arbitration in cases falling under section 20 or section 21.

26. (1) Where a requisition is made to the Commanding Officer of the cantonment under section 20 or section 21, he may, after such inquiry as he may think fit to make, proceed to convene a Committee of Arbitration—

(a) to determine whether the house has become unfit for occupation, or

(b) to determine the amount of monthly rent to be paid, or

(c) to determine whether any and, if any, what repairs are necessary, and the extent to which they are necessary, or

(d) otherwise to determine the question in dispute.

(2) In the exercise of the discretion vested in him by sub section (1), the Commanding Officer may refuse to convene a Committee of Arbitration on the ground that the application therefor is groundless or frivolous.

[*Cf.* Rule 260.]

Procedure for convening Committees of Arbitration generally.

27. (1) Where a Committee of Arbitration is to be convened, the Commanding Officer of the cantonment shall cause an order to be published in Station Orders, stating the matter to be determined.

(2) The Cantonment Magistrate shall send a copy of such order to the District Magistrate and to the parties concerned, and shall, by notice in writing, require the parties to nominate members of the Committee in accordance with the provisions of sections 28 and 29.

[*Cf.* Rule 261.]

Composition of Committee of Arbitration.

28. Every Committee of Arbitration shall consist of—

(a) the District Magistrate, or, if it is inconvenient for him to act on any Committee, some Magistrate, being Justice of the Peace, appointed by him to act in his stead;

(b) a member to be nominated by the military or civil officer concerned; and

(c) a member to be nominated by the grantee: Provided that—

(i) if the military or civil officer or the grantee fails to nominate a member within seven days from the date on which he may be called upon to do so, or,

(*ii*) if any member who has been nominated, neglects or refuses to act, and the officer or the grantee, as the case may be, fails to nominate another member in his place within seven days from the date on which he is called upon to do so,

the Commanding Officer of the cantonment shall forthwith appoint a member in the place of a nominee of the officer or grantee, as the case may be.

[*Cf.* Rule 263.]

Members of Committees of Arbitration to be persons who are personally disinterested and whose services are immediately available.

29. (*1*) A person shall not be nominated or appointed a member of a Committee of Arbitration unless he is personally disinterested in the matter under reference and his services are immediately available for the purposes of the Committee.

(*2*) If any person who has been nominated is, in the opinion of the Commanding Officer of the cantonment, personally interested in the matter under reference, or if his services are not immediately available as aforesaid, and if the officer or the grantee, as the case may be, fails to nominate another member in his place within seven days from the date on which he is called on so to do, such failure shall be deemed to constitute a failure to make a nomination within the meaning of section 28.

[*Cf.* Rule 264.]

Assembling of Committees of Arbitration.

30. When a Committee of Arbitration has been duly constituted, the Cantonment Magistrate shall, by notice in writing, inform each of the members of the fact, and the Committee shall assemble within seven days from the service of the notice.

[*Cf.* Rule 265.]

Chairman of Committees of Arbitration.

31. The District Magistrate, or the Magistrate appointed by him to act in his stead, shall be the chairman of every Committee of Arbitration.

Calculation of amount of purchase-money by Committees of Arbitration.

32. For the purpose of determining the amount of the purchase-money to be paid for a house to be sold under section 15, sub-section (*2*), the Committee of Arbitration convened under section 24 shall estimate the market-value of the house at the date on which the notice was served on the grantee under section 6, section 7 or section 8, as the case may be.

Calculation of rent by Committees of Arbitration.

33. For the purpose of determining the amount of monthly rent to be paid for a house, every Committee of Arbitration shall estimate, as nearly as may be, the market-value of all buildings and authorized additions; and the amount of rent determined upon shall be such percentage on such market-value as the Committee may consider reasonable with reference to the circumstances of the neighbourhood, and the period of time and season for which the house is likely to be occupied during the year, and shall include the taxes (if any) levied upon the land, or such proportion thereof as the Committee may find to be customarily paid for the time being in the neighbourhood by tenants.

Decisions of Committees of Arbitration.

34. (*1*) The decision of every Committee of Arbitration shall be determined by the majority of the votes taken at a meeting at which all the members are present.

(*2*) The decision of a Committee of Arbitration shall be final.

CHAPTER V.

APPEALS.

[*Cf.* Rules 251 and 252.]

Appeals when allowed.

35. (*1*) If any grantee or any tenant of a house is aggrieved by a notice issued under section 6, section 7 or section 8, he may appeal to the General Officer of the Command.

(*2*) No such appeal shall be admitted unless made within a period of twenty-one days from the service of the notice aforesaid, and such period shall be computed in accordance with the provisions of the Indian Limitation Act, 1877, with respect to the computation of the period of limitation thereunder.

XV of 1877.

[*Cf.* Rule 253.]

Petition of appeal.

36. (*1*) Every petition of appeal shall be in writing and accompanied by a copy of the notice appealed against.

(*2*) Any such petition may be presented to the Cantonment Authority; and that Authority shall be bound to forward it to the General Officer of the Command, and may attach thereto any report which it may desire to make in explanation of the notice appealed against.

(*3*) If any such petition is presented direct to the General Officer of the Command and an immediate order on the petition is not necessary, the General Officer of the Command may refer the petition to the Cantonment Authority for report.

[*Cf.* Rule 254.]

Order in appeal final.

37. The decision of the General Officer of the Command on any such appeal shall be final.

Provided that no appeal shall be decided until the appellant has had a reasonable opportunity of being heard.

[*Cf.* Rule 255.]

Suspension of action pending appeal.

38. Where an appeal from a notice has been presented within the period prescribed by section 35, sub-section (*2*), all action on such notice shall, on the application of the appellant, be held in abeyance pending the decision of the appeal.

CHAPTER VI.

SUPPLEMENTAL PROVISIONS.

[*Cf.* Act XIII of 1889, s. 39 (*38*), (*39*), (*51*).]

Power for Governor-General in Council to make rules.

39. (*1*) The Governor-General in Council may make rules to carry out the purposes and objects of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) regulate the procedure of Committees of Arbitration;

(*b*) empower Committees of Arbitration to receive evidence and for that purpose to require the production of documents and the attendance of witnesses;

(*c*) define the powers of inspection, entry and search which may be exercised in carrying out this Act or any rule thereunder; and

(*d*) prescribe the mode in which notices, requisitions and other documents are to be served on the persons to whom they are addressed.

[*Cf.* Act XIII of 1889, s. 39 (*2*).]

Supplemental provisions respecting rules.

40. (*1*) The power to make rules under section 39 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 may direct.

(*2*) Any rule under section 39 may be general for all cantonments or parts of cantonments in British India in which this Act is for the time being operative, or may be special for any of such cantonments or parts as the Governor-General in Council may direct.

(*3*) A copy of the rules under section 39 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 (*b*) or clause (*c*) of section 39, the Governor-General in Council may direct that any person—

(*i*) failing to comply with any requisition made by a Committee of Arbitration as to the production of documents or the attendance of witnesses, or

(*ii*) obstructing any person, not being a public servant within the meaning of section 21 of the Indian Penal Code, in making any inspection, entry or search,

XLV of 1860.

shall be punishable with fine which may extend to fifty rupees or with imprisonment for a term which may extend to eight days, and, in case of a continuing offence, 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 such offence continues.

Act XIII of 1888, ss. 39 (*3*), 41.

Inapplicability of section 556 of the Code of Criminal Procedure, 1898, to trials of offences against rules.

41. No Judge or Magistrate shall be deemed, within the meaning of section 556 of the Code of Criminal Procedure, 1898, to be a party to, or personally interested in, any prosecution for an offence against any rule under this Act because he is a member of the Cantonment Committee or because he has ordered or approved the prosecution.

Protection to persons acting under Act.

42. No suit or other legal proceeding shall lie against any person for anything done or in good faith intended to be done under this Act.

STATEMENT OF OBJECTS AND REASONS.

As stated in the preamble to this Bill, various conditions, rules, regulations and orders in regard to the grant of land and the occupation of land and houses in cantonments have from time to time been made with the object of making accommodation available for officers whose duties require their residence within cantonment limits. These provisions have been collected and are published for general information as an appendix to this statement*; but, notwithstanding their issue in the past, great difficulties have been, and are still being, experienced in the matter.

2. The necessity for removing these difficulties and of making suitable provision for the housing of officers has long been recognized by the Government, and a special Chapter was in 1888 with that object included in the Bill "to amend the law relating to cantonments." The Chapter was, however, subjected to criticism at the time, and as the matter seemed to call for further consideration, while it was thought undesirable to delay the whole measure on that account, it was decided to exclude the provisions in question and to proceed with the rest of the Bill, which was eventually passed into law as the Cantonments Act, 1889 (XIII of 1889). The difficulties referred to have, as was indeed only to be expected, steadily increased, and the Government of India consider it inexpedient any longer to defer remedial legislation on the subject.

3. The Bill which it is proposed now to introduce has been framed after careful consideration of the objections previously raised, and, while aiming at securing house accommodation for the military and civil officers of the Government whose presence in cantonments is obviously necessary, it endeavours also to safeguard as far as possible the interests of the house-owners concerned.

Clause 2 (*a*): definition of "grantee."—It will be observed that this definition is limited to persons who obtained grants of land prior to the coming into force of certain Cantonment Rules which have at present to be indefinitely referred to in the Bill, inasmuch as, though prepared and published for criticism some time ago, they have not yet come into force. It is intended, however, to bring them into operation before the Bill becomes law. These rules will provide fully for the matters dealt with in the Bill so far as grants made under them will be concerned. Consequently the operation of the Bill will be practically restricted to past grants only.

Clause 3 enacts that the provisions of the proposed Act shall not be operative in any cantonment, or part of a cantonment, until it has been declared to be so by a notification issued by the Local Government with the previous sanction of the Governor-General in Council. And it further provides that, before any notification of the kind is issued, the Local Government shall cause local inquiry to be made with a view to determining how the land in the cantonment is actually held. The inquiry contemplated is to proceed on the presumption that all land in cantonments is held under a grant from the Government; but, if any person is able to prove to the satisfaction of the Local Government that he holds land in a cantonment by a lawful title obtained prior to the formation of the cantonment, then that land is to be excluded from the area within which the provisions of the Act are to be operative. In like manner, if any land is at any time shown, by the decree of a Court of competent jurisdiction, to be held under such a title as is indicated above, it also is to be excepted from the operation of the Act.

Clause 4 expressly declares that nothing in the proposed Act shall affect the provisions of any lease or other agreement in writing granted or made by the Government before the commencement of the Act, unless the lessee or other party entitled consents in writing to be bound by the terms of the Act.

Chapter III deals with the appropriation of houses for occupation by officers, the terms of tenancy and the reference of disputes to arbitration. Clause 12 provides for the exemption, under certain conditions, from appropriation of a house occupied as a bank, hotel, shop, school or public office or by a railway administration; also a house which is occupied by the "grantee" and was so occupied at the commencement of the Act.

Clauses 18 to 21 contemplate arbitration in case of dispute as regards either rent or repairs, arbitration in such matters having hitherto been an essential condition of the grant of land in cantonments, and clause 22 confers power on the tenant in certain cases to execute repairs himself and deduct the cost from the rent.

Clause 23 takes power in certain cases to veto the transfer of a "grantee's" interest in any land or house in a cantonment. Such a power has hitherto been expressly reserved as one of the

* Not reprinted.

conditions of the grant of land in cantonments for building purposes; but the clause as drafted secures for the "grantee" a safeguard which he has not now, inasmuch as it provides that the power of veto shall be exercised by the general Officer of the Command, instead of by the local military authorities, and then only with the concurrence of the Local Government.

Chapter IV deals with the convening, constitution and proceedings of committees of arbitration. The most important provisions are those to be found in clauses 32 and 33, the former of which lays down the principle on which the selling-value of house-property in cantonments is to be calculated, and the latter the mode of fixing the rent of houses. Clause 33 has been drawn so as to remove what has hitherto been a fruitful source of complaint on the part of house-owners.

Chapter V makes adequate provision for the right of appeal.

The provisions of Chapter VI are supplemental. Power is taken for the Governor General in Council to make rules to carry out the purposes and objects of the proposed Act, and protection is afforded to persons acting under its provisions in good faith.

EDWIN H. H. COLLEN.

The 4th November 1898.

(Republished by order of His Excellency the Governor in Council.)

G. STOKES,
Chief Secretary.

MADRAS : PRINTED AND PUBLISHED BY THE SUPERINTENDENT GOVERNMENT PRESS.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

The following Report of the Select Committee on the Bill to further amend the Presidency Small Cause Courts Act, 1882, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 20th January 1899 :—

We, the undersigned, Members of the Select Committee to which the Bill to further amend the Presidency Small Cause Courts Act, 1882, was referred, have considered the Bill and the papers noted in the margin, and have now the honor to submit this our Report, with the Bill as amended by us annexed hereto.

From High Court, Calcutta, No. 724, dated 19th March 1898 [Paper No. 1].
Telegram from Government, Madras, dated 20th March 1898 [Paper No. 2].
Telegram from Government, Bombay, No. 2162, dated 19th March 1898 [Paper No. 3].
From Government, Bombay, No. 4979, dated 20th July 1898, and enclosures [Papers No. 4].
From Government, Bengal, No. 1695-J., dated 18th March 1898, and enclosure [Papers No. 5].

2. In connection with clause 3 of the Bill, we have considered a suggestion that a person should not be appointed from outside to act as Chief Judge of a Presidency Small Cause Court where a Judge already in the Court is legally qualified to do so. As a general rule, no doubt, a Judge already in the Court, if legally qualified, would be the proper person to officiate for the Chief Judge during the latter's absence; but we feel that occasions might arise where the only Judge legally qualified to fill the place of Chief Judge might be a person whom it would be undesirable to appoint over the heads of his seniors on the Bench; and we have, therefore, made no change in clause 3.

3. We have added to the Bill a fifth clause making an amendment in section 13 of the Act which follows upon that of section 4 proposed by clause 2 of the Bill.

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

In English.

Gazette.	Date.
Gazette of India	12th March 1898.
Fort St. George Gazette	17th March 1898.
Bombay Government Gazette	17th March 1898.
Calcutta Gazette	16th March 1898.

5. 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.

M. D. CHALMERS.
C. M. RIVAZ.
ALLAN ARTHUR.
P. M. MEHTA.
J. D. REES.

The 18th January 1899.

I-3

No. II.

A Bill to further amend the Presidency Small Cause Courts Act, 1882.

XV of 1882. WHEREAS it is expedient to further amend the Presidency Small Cause Courts Act, 1882; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Presidency Small Cause Courts Act, 1899; and

(*2*) It shall come into force at once.

Amendment of section 4, Act XV, 1882.

2. To section 4 of the said Act the words 'and the expression "Registrar" includes a Deputy Registrar,' shall be added.

XV of 1882. 1 of 1895.

Substitution of new section for section 8A, Act XV, 1882, as amended by Act I, 1895, section 4.

3. For section 8A of the Presidency Small Cause Courts Act, 1882, as amended by the Presidency Small Cause Courts Act, 1895, following section shall be substituted, namely:—

Performance of duties of absent Judge.

"8A. (*1*) During any absence of the Chief Judge or any Judge of the said Court, or during the period for which any Judge is acting as Chief Judge, the Local Government may appoint any person, having the qualifications required by section 7, to act as Chief Judge or Judge of the said Court, as the case may be.

(*2*) Every person so appointed shall be authorized to perform the duties of the Chief Judge or a Judge of the said Court until the return of the absent Chief Judge or Judge, or of the Judge acting as Chief Judge, or until the Local Government sees cause to cancel the appointment of such acting Chief Judge or Judge, as the case may be."

Amendment of section 9, Act XV, 1882, as amended by Act I, 1895 section 5.

4. In section 9, sub-section (*1*), of the said Act as so amended, after clause (*a*) the following clause shall be added, namely:—

"(*aa*) empower the Registrar to hear and dispose of undefended suits and interlocutory applications or matters, *and*".

Amendment of section 13, Act XV, 1882.

5. *In section 13 of the said Act, between the word "appoint" and the words "as many clerks" the words "a Deputy Registrar and" shall be inserted.*

H. W. C. CARNDUFF,
Offg. Secretary to the Government of India.

(Re-published by order of His Excellency the Governor in Council.)

G. STOKES,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

FORT ST. GEORGE GAZETTE SUPPLEMENT.

TUESDAY EVENING, JANUARY 31, 1899.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 20th January 1899:—

No. 1 OF 1899.

THE INDIAN PETROLEUM BILL.

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THE FIRST SCHEDULE.—TESTING.
THE SECOND SCHEDULE.—ENACTMENTS REPEALED.

A Bill to consolidate and amend the law relating to the importation, possession and transport of petroleum and other substances.

WHEREAS it is expedient to consolidate and amend the law relating to the importation, possession and transport of petroleum and other substances; It is hereby enacted as follows:—

Preliminary.

Short title, commencement and extent

1 (*1*) This Act may be called the Indian Petroleum Act, 1899; and [1.]

(*2*) It shall come into force at once.

(3) Sections 1 to 3, section 25, and all the provisions of this Act in so far as they relate to dangerous petroleum and the importation of petroleum, extend to the whole of British India. The rest of this Act extends only to such local areas as the Local Government may, by notification in the local official Gazette, direct.

[2.] 2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(a) "petroleum" includes also—

(i) the liquids commonly known by the names of rock oil, Rangoon oil, Burma oil, paraffin oil, mineral oil, kerosine, petroline, gasoline, benzoline, benzine and benzol;

(ii) any inflammable liquid which is made from petroleum, coal, schist, shale, peat or any other bituminous substance, or from any product of petroleum; and

(iii) any liquid, or viscous mixture having in its composition any of the liquids aforesaid;

but it does not include any oil ordinarily used for lubricating purposes and having its flashing point at or above two hundred degrees of Fahrenheit's thermometer:

(b) "dangerous petroleum" means petroleum having its flashing point below seventy-six degrees of Fahrenheit's thermometer:

Provided that, when all or any of the petroleum on board a ship, or in the possession of a dealer, is declared by the master of the ship or the consignee of the cargo, or by the dealer, as the case may be, to be of one uniform quality, the petroleum shall not be deemed to be dangerous, if the samples selected from the petroleum have their flashing points, on an average, at or above seventy-three degrees of Fahrenheit's thermometer, and if no one of these samples has its flashing point below seventy degrees of that thermometer:

(c) to "import" means to bring into British India by sea or land:

(d) to "transport" means to remove within British India from one place to another:

(e) "prescribed" means prescribed by rules made under this Act: and

(f) "ship" includes anything made for the conveyance by water of human beings or property.

[3 (1), (2).] 3. (1) The "flashing point" of petroleum means the lowest temperature at which the petroleum yields a vapour which will furnish a momentary flash or flame when tested in accordance with the directions in the first schedule with an apparatus which has been stamped and certified as provided by this Act within a period of five years immediately preceding the date on which the apparatus is used for the testing, and after the corrections (if any) which the certificate declares are to be applied to the results of the testing, have been made. Matters supplemental to definitions.

(2) Notwithstanding anything in the definitions of "import" and "transport," the Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the local official Gazette, declare—

(a) that petroleum imported into the Province from any part of British India, by sea or across intervening territory not being part of British India, shall, for all or any of the purposes of this Act, be deemed to be transported; and

(b) that petroleum transported into the Province from any place in British India shall, for all or any of those purposes, be deemed to be imported;

and thereupon the provisions of this Act and of the rules made under this Act, with respect to transport and import, respectively, shall apply to petroleum so imported or transported.

[4 (3).] 4. (1) The Governor General in Council may, by notification in the *Gazette of India* alter or add to the first schedule by laying down new or varied tests and directions for preparing and using them; and, after the issue of any such notification as aforesaid, the reference in section 3, sub-section (1), to the first schedule shall be construed as referring to the said schedule as so altered or added to for the time being. Power to vary tests and prescribe new tests.

[New.] (2) The Governor-General in Council may, in like manner, lay down special tests and issue special instructions in respect of the testing of any substance other than petroleum to which the whole or any portion of this Act may be applied in exercise of the power conferred by section 22, and for which the tests in the first schedule are unsuitable.

[4 (4).] (3) The provisions of section 23 of the General Clauses Act, 1897, shall apply to notifications under this section as if they were rules or orders required to be made after previous publication. X of 1897.

Dangerous Petroleum.

[5.] 5. (1) No quantity of dangerous petroleum exceeding forty gallons shall be imported or transported or kept by any one person or on the same premises, except under, and in accordance with the conditions (if any) of, a license from the Local Government granted as next hereinafter provided. Dangerous petroleum in quantities exceeding forty gallons.

(2) Every application for such a license shall be in writing in the prescribed form, and shall contain the prescribed particulars.

[6.] 6. No quantity of dangerous petroleum equal to, or less than, forty gallons shall be kept or transported without a license: Dangerous petroleum in quantities not exceeding forty gallons.

Provided that nothing in this section shall apply in any case when the quantity of the petroleum kept by any one person or on the same premises, or transported, does not exceed three gallons, and the petroleum is placed in separate glass, stoneware or metal vessels, each of which contains not more than a pint and is securely stopped.

[7.] 7. Dangerous petroleum— Vessels containing dangerous petroleum to be labelled.

(a) Which is imported and is kept at any place after seven days from the date of its importation, or

(b) which is transported, or

(c) which is sold or exposed for sale,

shall be contained in vessels having attached thereto labels in conspicuous characters stating the description of the petroleum, with the addition of the words "highly inflammable" and with the addition,—

(d) in the case of a vessel kept, of the name and address of the consignee or owner;

(e) in the case of a vessel transported, of the name and address of the sender; and

(f) in the case of a vessel sold or exposed for sale, of the name and address of the vendor.

Petroleum generally.

[New.]

[11 (3).]

[8 and 11 (1), (2).]

[11 (1) (a).]

[11 (2) (b).]

[9 (1) (c).]

[11 (1) (d).]

[11 (1) (e).]

[11 (1) (f).]

[9 (2) (f).]

[9 (2) (h).]

[9 (2) (i).]

[9 (2) (j).]

[9 (2) (k).]

[9 (2) (l).]

[9 (2) (e).]

Power for Governor-General in Council to make rules.

8. (1) The Governor-General in Council may make rules to carry out the purposes and objects of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for the granting of licenses to transport petroleum from any part of British India to any other part of British India in cases in which such licenses are by law required.

Power for Local Government to make rules.

9. (1) The Local Government, with the previous sanction of the Governor-General in Council, may make rules to regulate the importation of petroleum and the granting of licenses to possess or to transport petroleum within the Province in cases in which such licenses are by law required.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) determine the ports at which alone petroleum may be imported;

(b) provide for ascertaining the quantity and description of any petroleum on board any ship;

(c) determine the places at which, and the conditions on and subject to which, petroleum may be discharged into boats, landed, transhipped or stored;

(d) provide for the selection by an officer appointed by the Local Government in this behalf, and for the delivery to him, either after or before petroleum has been landed, of samples of all petroleum landed or intended to be landed;

(e) provide, in the case of each consignment which is stated to be of one uniform quality, for the number of samples to be selected, and for the averaging of the results of the testing of those samples;

(f) provide, where the results of the testing of the samples raise a doubt as to the uniformity of the quality of the petroleum in any such consignment, for the division of the consignment into lots, and for the selection and testing of samples of each lot, and for the treatment of the lot in accordance with the results of the testing of those samples;

(g) fix fees for the sampling and testing of petroleum;

(h) fix fees for the storage of petroleum unless a body of port commissioners or other like body is empowered in that behalf;

(i) define, with respect to any petroleum produced within the Province, the limits of the places in which such petroleum is to be refined;

(j) provide for the testing at or near those places of petroleum so produced;

(k) prevent the removal from those limits, otherwise than under the provisions of this Act applicable to dangerous petroleum, of petroleum so produced which has not satisfied the prescribed tests;

(l) prescribe the authority by which licenses to possess or to transport petroleum may be granted;

[11 (2) (f).] (m) fix the fee to be charged for any such license;

[11 (2) (g).] (n) limit the quantity of petroleum to be covered by any such license;

[11 (2) (h).] (o) prescribe the conditions which may be inserted in any such license;

[11 (2) (i).] (p) limit the time during which any such license is to continue in force;

[11 (2) (j).] (q) provide for the renewal of any such license;

[11 (2) (a), (b).] (r) provide for the nature and situation of the premises in respect of which licenses to possess petroleum may be granted, the inspection of premises so licensed and the testing of petroleum found thereon; and

[11 (2) (c), (d).] (s) prescribe the manner in which the petroleum covered by a license to transport is to be packed, the mode and time of its transit, the route by which it is to be taken, and its stoppage and inspection during transit.

[9.] 10. (1) Petroleum discharged into boats or landed in accordance with rules made under section 9, sub-section (2), shall not be removed from the boats or places in or at which it is stored until the samples selected therefrom in accordance with those rules have been tested by an officer appointed by the Local Government in this behalf and the officer has given a certificate that the petroleum is not dangerous petroleum. Procedure after petroleum has been discharged or landed.

(2) If the officer, after testing the samples, refuses to give the certificate in respect of any petroleum, the Local Government may permit the consignee, within a time to be fixed by the Local Government in this behalf,—

(a) to rectify the petroleum,

(b) to apply for a license to import the petroleum as dangerous petroleum, or

(c) to re-export the petroleum.

(3) If the consignee does not, within the time fixed under sub-section (2), avail himself of the permission granted under that sub-section, the petroleum may be disposed of as the Local Government may direct.

(4) Notwithstanding anything in the foregoing provisions of this section, the Local Government, in its discretion, may, where the officer has refused the certificate, direct that the petroleum be re-tested by another officer appointed by it in this behalf, and may, if that officer advises that the petroleum is not dangerous petroleum, authorize its removal from the boats or places in or at which it is stored.

[10.] 11. No quantity of petroleum exceeding five hundred gallons shall be kept by any one person or on the same premises, or shall be transported, except under, and in accordance with the conditions of, a license granted under this Act: Possession and transport of petroleum.

Provided that the Local Government may, by notification in the local official Gazette, exempt from the operation of this section petroleum when transported in such particular manner and under such particular conditions as may be set forth in the notification.

[12.] 12. Any officer specially authorized in this behalf by the Local Government may require any dealer in petroleum to show him any place and any of the vessels in which any petroleum in his possession is stored Power to inspect and require dealer to sell samples.

or contained, to give him such assistance as he may require for examining the same, and to deliver to him samples of the petroleum on payment of the value of the samples.

[13.] 13. When any such officer has, in exercise of the powers conferred by section 12, or by purchase, obtained a sample of petroleum in the possession of a dealer, he may give a notice in writing to the dealer informing him that he is about to test the sample, or cause it to be tested, at a time and place to be fixed in the notice, and that the dealer or his agent may be present at the testing.

Notice to be given when officer proposes to test samples.

[14.] 14. On any such testing, if it appears to the officer or other person so testing that the petroleum from which the sample has been taken, is or is not dangerous petroleum, the officer or other person may certify the fact; and the certificate so given shall be receivable as evidence in any proceedings which may be taken under this Act against the dealer in whose possession the petroleum was found, and shall, until the contrary is proved, be proof of the fact stated therein; and a certified copy of the certificate shall be given, free of charge, to the dealer at his request.

Certificate as to result of testing.

Penalties.

[15 and 17.] 15. Whoever,—

Penalty for illegal importation, possession or transport of petroleum or for refusal to comply with section 12.

(*a*) in contravention of this Act or of any of the rules thereunder, imports, possesses or transports any petroleum; or

(*b*) otherwise contravenes any such rules as aforesaid; or

(*c*) breaks any condition contained in a license granted under this Act; or,

(*d*) being a dealer in petroleum, refuses or neglects to show to any officer authorized under section 12 any place or any of the vessels in which petroleum in his possession is stored or contained, or to give him such assistance as he may require for examining the same, or to give him samples of the petroleum on payment of the value of the samples;

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

[16.] 16. Whoever keeps, sells or exposes for sale dangerous petroleum in vessels not labelled as prescribed by section 7 shall be punishable with fine which may extend to five hundred rupees.

Penalty for contravention of section 7.

[18.] 17. In any case in which an offence under section 15, clause (*a*), clause (*b*) or clause (*c*), or section 16 has been committed, the convicting Magistrate may direct that—

Confiscation of petroleum.

(*a*) the petroleum in respect of which the offence has been committed, or,

(*b*) where the offender is importing or transporting, or is in possession of, any petroleum exceeding the quantity (if any) which he is permitted to import, transport or possess, as the case may be, the whole of the petroleum which he is importing or transporting or is in possession of,

shall, together with the tins or other vessels in which it is contained, be confiscated.

[19.] 18. The criminal jurisdiction under this Act shall, in the Presidency-towns, be exercised by a Presidency Magistrate, and, elsewhere, by a Magistrate of the first class or (where especially empowered by the Local Government to try cases under this Act) a Magistrate of the second class.

Jurisdiction.

Test-apparatus.

[20.] 19. A model of the apparatus for testing petroleum under this Act shall be deposited in the office of the Chemical Examiner to Government, Calcutta, and be marked with the words "Model test-apparatus."

Model test-apparatus.

[21.] 20. (*1*) The Chemical Examiner shall, on payment of the prescribed fee (if any), compare with the said model test-apparatus and verify every apparatus for testing petroleum which is submitted to him for the purpose.

Verification of test-apparatus.

(*2*) If any apparatus for testing petroleum, when compared and verified as provided by sub-section (*1*), is found correct, or correct subject to certain corrections to be applied to the results of the tests, the Chemical Examiner shall stamp the same with a special number and with the date of the verification, and shall further give a certificate in writing under his hand, in the prescribed form, to the effect that on the date aforesaid the apparatus was compared and verified by him and found to be correct, or correct subject to certain specified corrections to be applied to the results of the tests.

(*3*) A certificate granted under this section shall, until the contrary is proved, be proof of the matters stated therein.

(*4*) The Chemical Examiner shall keep a register, in the prescribed form, of all certificates granted under this section.

(*5*) Subject to the payment of the prescribed fees (if any), the said model test-apparatus shall be at all reasonable times open to inspection by any person desiring to inspect it.

Miscellaneous.

21. The Local Government may, by notification in the local official Gazette, exempt from the operation of all or any of the provisions of this Act, or of all or any of the rules made under this Act, any petroleum, which has its flashing point at or above one hundred and twenty degrees of Fahrenheit's thermometer and is imported as ordinary cargo and in quantity not exceeding that specified in the notification.

Power to exempt petroleum from operation of Act.

22. (*1*) The Governor-General in Council may, by notification in the *Gazette of India*, apply the whole or any portion of this Act to any substance, other than petroleum, and may by the notification fix, in substitution for the quantities of petroleum fixed by sections 5, 6 and 11, the quantities of the substance to which those sections shall apply.

Power to apply Act to other substances.

(*2*) When the whole or any portion of this Act has been applied as aforesaid to any substance other than petroleum, the provisions so applied shall be construed with all necessary modifications and shall have effect as if such other substance had been included in the definition of petroleum.

[24.] 23. The Governor-General in Council may, by notification in the *Gazette of India* and in the local official Gazette, limit, in any manner he deems fit, the operation of any enactment for the time being in force relating to municipalities in any local area or to any particular municipality, and the exercise of any power conferred by any such enactment, in so far as the enactment relates to the possession or transport of petroleum.

Power to limit operation of enactments, relating to possession or transport of petroleum, in municipalities.

[26 (*1*), (*2*), (*3*), (*4*), (*6*).] 24. (*1*) Every power to make rules conferred by this Act is subject to the condition of the rules being made after previous publication in such manner as the Governor-General in Council may, by notification in the *Gazette of India*, direct.

Previous publication, etc., of rules.

[26 (*5*).] (*2*) All rules made by the Governor-General in Council or by the Local Government under this Act shall be published in the *Gazette of India* or the local official Gazette, as the case may be, and on such publication shall have effect as if enacted by this Act.

[2.] 25. The enactments mentioned in the second schedule are hereby repealed to the extent specified in the fourth column thereof.

Repeal.

THE FIRST SCHEDULE.

TESTING.

(*See section 3.*)

I—Nature of the Test-apparatus.

The apparatus consists of the following parts:—

(1) the oil-cup;
(2) the cover, with slide, test-lamp, and clock-work arrangement for opening and closing the holes in the cover and for dipping the test-flame;
(3) the water-bath or heating vessel;
(4) the tripod stand with jacket and spirit-lamp for heating the water-bath;
(5) the thermometer for indicating the temperature of the oil in the oil-cup;
(6) the temperature for indicating the temperature of the water in the water-bath;
(7) the thermometer for indicating the temperature of the oil before it is poured into the oil-cup;
(8) the dropping bottle or *pipette* for replenishing the test-lamp; and
(9) a barometer standardised at the Meteorological Office of the Province or at any other place appointed by the Local Government.

The oil-cup is a cylindrical flat-bottomed vessel made of gun-metal or brass, and tinned or silvered inside. A gauge is fixed to the inside of the cup to regulate the height to which it is to be filled with the sample under examination.

The cup is provided with a close-fitting overlapping cover, which carries the thermometer, the test-lamp and the adjuncts thereto. The test-lamp is suspended upon two supports by means of trunnions, which allow it to be easily inclined to a particular angle and restored to its original position. The socket in the cover, which is to hold a round bulb thermometer for indicating the temperature of the oil during the testing operation, is so adjusted that the bulb of the latter is always inserted in a definite position below the surface of the liquid.

The cover is provided with three holes, one in the centre and two smaller ones close to the sides. These are closed and opened by means of a pivoted slide. When the slide is moved so as to uncover the holes, the suspended lamp is caught by a projection fixed on the slide, and tilted in such a way as to bring the end of the spout just below the surface of the lid. As the slide moves back so as to cover the holes, the lamp returns to its original position. Upon the cover, in front of and in a line with the nozzle of the lamp, is fixed a white bead the diameter of which presents the size of the test-flame to be used.

The water-bath or heating vessel is so constructed that, when the oil-cup is placed in position in it, an air-space or air-chamber intervenes between the two; consequently, in applying the test under ordinary circumstances, the heat is transmitted gradually to the oil from the hot water through the air-space. The water-bath is fitted with a socket for receiving a long bulb thermometer, to indicate the temperature of the water. It is also provided with a funnel, an overflow-pipe and two handles.

The water-bath rests upon a tripod stand, which is fitted with a copper cylinder or jacket, so that the bath is surrounded by an enclosed air-space, which retains and regulates the heat. One of the legs of of the stand serves as a support for a spirit-lamp, which is attached to it by a small swing bracket.

The clockwork arrangement, by which during the operation of testing the slide is withdrawn, and the test-flame dipped into the cup and raised again as the slide is replaced, is provided with a ratchet key for setting it in action for each test, and with a trigger for starting it each time that the test-flame is applied.

II.—Directions for drawing the Sample and preparing it for testing.

1. Drawing the sample.—In all cases the testing officer or some person duly authorised by him shall personally superintend the drawing of the sample from an original unopened tin or other vessel.

An opening sufficiently large to admit of the oil being rapidly poured or syphoned from the tin or other vessel shall be made.

Two bottles, each of the capacity of about forty fluid ounces, are to be filled with the oil. One of these, the contents of which is intended to be preserved for reference in case of need, is to be carefully corked, the cork being well driven home, cut off level with the neck, and melted sealing-wax worked into it. The other bottle may be either stoppered or corked.

2. Preparing the sample for testing.—About ten fluid ounces of the oil, sufficient for three tests, are transferred from the bottle into which the sample has been drawn to a pint flask or bottle, which is to be immersed in water artificially cooled until a thermometer, introduced into the oil, indicates a temperature not exceeding 50° Fahrenheit.

III.—Directions for preparing and using the Test apparatus.

1. Preparing the water-bath.—The water-bath is filled by pouring water into the funnel until it begins to flow out at the overflow-pipe. The

temperature of the water at the commencement of each test, as indicated by the long bulb thermometer, is to be 130° Fahrenheit, and this is attained in the first instance by mixing hot and cold water, either in the bath or in a vessel from which the bath is filled, until the thermometer which is provided for testing the temperature of the water gives the proper indication; or the water is heated by means of the spirit-lamp (which is attached to the stand of the apparatus) until the required temperature is indicated.

2. *Preparing the test-lamp.*—The test-lamp is fitted with a piece of cylindrical wick of such thickness that it fills the wick holder, but may readily be moved to and fro for the purpose of adjusting the size of the flame. In the body of the lamp, upon the wick, which is coiled within it, is placed a small tuft of cotton wool, moistened with petroleum, any oil not absorbed by the wool being removed. When the lamp has been lighted, the wick is adjusted by means of a pair of forceps until the flame is of the size of the bead fixed on the cover of the oil-cup; should a particular test occupy so long a time that the flame begins to get smaller, through the supply of oil in the lamp becoming exhausted, three or four drops of petroleum are allowed to fall upon the tuft of wool in the lamp from the dropping bottle or *pipette* provided for that purpose. This can be safely done without interrupting the test.

3. *Filling the oil-cup.*—The oil-cup having been previously cooled, by placing it bottom downwards in water at a temperature not exceeding 50° Fahrenheit, is to be rapidly wiped dry, placed on a level surface in a good light, and the oil to be tested is poured in very slowly, without splashing, until its surface is level with the point of the gauge which is fixed in the cup. The round bulb thermometer is inserted into the lid of the cup, care being taken that the projecting rim of the collar touches the edge of the socket; the test-lamp, prepared as already described, is placed in position, and the cover is then put on to the cup and pressed down so that its edge rests on the rim of the cup.

4. *Application of the test.*—The water-bath, with its thermometer in position, is placed in some locality where it is not exposed to currents of air, and where the light is sufficiently subdued to admit of the size of the entire test-flame being compared with that of the bead on the cover. The cup is carefully lifted without shaking it, and placed in the bath, the test-lamp is lighted, and the clockwork wound up by turning the key. The thermometer in the oil-cup is now watched, and, when the temperature has reached 56° Fahrenheit, the clockwork is set in motion by pressing the trigger.

If no flash takes place, the clockwork is at once rewound and the trigger pressed at 57° Fahrenheit, and so on, at every degree rise of temperature, until the flash occurs, or until a temperature of 95° Fahrenheit has been reached.

If the flash takes place at any temperature below 77° Fahrenheit, the temperature at which it occurs is to be recorded. Two fresh portions of the sample are then to be successively tested in a similar manner and the results recorded. If no greater difference than 2° Fahrenheit exists between any two of the three recorded results, and if in no instance the flash has taken place within eight degrees of the temperature at which the testing is commenced, each result is to be corrected for atmospheric pressure as hereafter described, and the average of the three corrected results is the flashing point of the sample. In the event of there being a greater difference than 2° Fahrenheit between any two of the results, while in no instance has the flash taken place within eight degrees of the temperature at which the testing was commenced, the series of tests is to be rejected, and a fresh series of three similarly obtained, and so on until a sufficiently concordant series is furnished, when the results are to be corrected and the average taken in the manner already described.

If, however, a flash has occurred at or below 64° when the test is applied in the manner above described, the next testing shall be commenced ten degrees lower than the temperature at which the flash had been previously obtained (that is to say, at 54° or thereunder), and this procedure shall be continued until the results of three consecutive tests do not show a greater difference than 2° and until a flash has not occurred in any of the three tests within eight degrees of the temperature at which the testing is commenced: Provided always that, if at the commencement of the series of tests a flash has occurred on the first application of the test-flame at 50°, and if a flash has also occurred on the first application of the flame in each of three successive tests in which, thereupon, the test-flame is first applied at 46° as above directed, the testing officer shall certify that the petroleum has a flashing point below 47°, and the sample shall be reported dangerous.

If a temperature of 76° Fahrenheit has been reached without a flash occurring, the application of the test flame is to be continued at every degree rise of temperature until a temperature of 95° Fahrenheit has been reached. If no flash has occurred up to this point, and if the petroleum is declared to be imported subject to the provisions of the Act, the tests shall not be continued, and the testing officer shall certify that the petroleum has a flashing point over 95° and is not dangerous. But, if the petroleum is oil ordinarily used for lubricating purposes and is declared to have its flashing point at or above 200° or is oil to which a notification of the Local Government exempting it from the operation of the Act will be applicable in the event of the flashing point being found to be at or above 120°, the test shall be continued as follows:—The oil-cup is to be removed from the water-bath, and the temperature of the water in the water-bath is to be reduced to 95° Fahrenheit by pouring cold water into the funnel (the hot water escaping by the overflow-pipe). The air-chamber is then to be filled to a depth of 1½ inches with water at a temperature of about 95° Fahrenheit, the oil-cup is to be re-placed in the water-bath and the spirit-lamp attached to the water-bath is to be lighted and placed underneath. The test-flame is then to be again applied, from 96° Fahrenheit, at every degree rise of temperature as indicated by the thermometer in the oil-cup until a flash takes place or until a temperature of 200° Fahrenheit or 120° Fahrenheit, as the case may be, has been reached. If during this operation the test flame appears to diminish in size, the lamp is to be replenished in the manner prescribed at (2) without interrupting the test.

If a flash occurs at any temperature between 76° and 200° Fahrenheit, the temperature at which it occurs, subject to correction for atmospheric pressure, is the flashing point of the sample.

In repeating a test a fresh sample of oil must always be used, the tested sample being thrown away, and the cup must be wiped dry from any adhering oil and cooled, as already described, before receiving the fresh sample.

5. *Correction for atmospheric pressure.*—As the flashing point of an oil is influenced by changes in atmospheric pressure to an average extent of 1·6° Fahrenheit for every inch of the barometer, a correction of the observed flashing point may become necessary. The height of the barometer must therefore be determined at the time of making the test for the flashing point. The true height of the barometer for the purpose of the test shall be considered to be the height of the column of mercury measured at 32° Fahrenheit, which is supported by the air pressure at the time of the experiment; that is, the actual height of the barometer at the time of observation duly corrected for any error of the instrument and for its temperature, if necessary. For the purpose of applying the correction to the flashing point of the oil obtained by the test, a table is appended to this schedule giving the flashing points of oils ranging from 65° to 80° Fahrenheit, under pressure ranging from 27 to 31 inches of mercury.

The table is used in the following manner:—

Example.—An oil has given a flashing point of 71°, the barometer being at 28·6 inches; take the nearest number to 71° in the vertical column headed 28·6. This number is 70·8. Substitute for this the number in the same horizontal line in the column headed 30 (the normal height of the barometer). The substituted number, that is, the true flashing point of the oil, is 73°.

Table for correction of Flashing Points indicated by the test for Variations in Barometric Pressure on either side of Thirty Inches.

Barometer in inches.

27	27·2	27·4	27·6	27·8	28	28·2	28·4	28·6	28·8	29	29·2	29·4	29·6	29·8	30	30·2	30·4	30·6	30·8	31
Flashing Point in Degrees Fahrenheit.																				
60·2	60·5	60 8	61·2	61·5	61·8	62 1	62·4	62·8	63·1	63·4	63·7	64	64 4	64·7	65	65·3	65·6	66	66·3	66·6
61·2	61·5	61·8	62·2	62·5	62·8	63·1	63·4	63·8	64·1	64·4	64·7	65	65·4	65·7	66	66 3	66 6	67	67·3	67·6
62·2	62·5	62·8	63·2	63·5	63·8	64·1	64·4	64·8	65 1	65·4	65·7	66	66·4	66·7	67	67·3	67 6	68	68·3	68·6
63·2	63·5	63·8	64·2	64·5	64·8	65·1	65·4	65·8	66·1	66·4	66 7	67	67·4	67·7	68	68·3	68·6	69	69·3	69·6
64·2	64·5	64·8	65·2	65·5	65 8	66·1	66·4	66·8	67·1	67·4	67·7	68	68·4	68 7	69	69·3	69·6	70	70·3	70·6
65·2	65·5	65 8	66·2	66·5	66·8	67·1	67·4	67 8	68·1	68·4	68 7	69	69·4	69·7	70	70 3	70·6	71	71·3	71 6
66·2	66 5	66·8	67·2	67·5	67·8	68·1	68·4	68 8	69·1	69·4	69·7	70	70·4	70·7	71	71·3	71·6	72	72·3	72·6
67·2	67·5	67·8	68·2	68·5	68·8	69·1	69·4	69·8	70·1	70·4	70·7	71	71·4	71·7	72	72·3	72·6	73	73·3	73·6
68·2	68·5	68 8	69·2	69·5	69 8	70·1	70 4	70·8	71·1	71·4	71·7	72	72·4	72·7	73	73·3	73·6	74	74·3	74 6
69·2	69·5	69 8	70·2	70·5	70·8	71·1	71 4	7 ·8	72·1	72·4	72·7	73	73·4	73·7	74	74·3	74 6	75	75·3	75·6
70·2	70·5	70 8	71·2	71·5	71·8	72·1	72 4	72·8	73 1	73·4	73 7	74	74·4	74·7	75	75·3	75·6	76	76·3	76·6
71 2	71·5	71 8	72·2	72·5	72·8	73·1	73·4	73·8	74·1	74·4	74·7	75	75·4	75 7	76	76·3	76·6	77	77·3	77 6
72·2	72·5	72·8	73 2	73 5	73·8	74 1	74·4	74·8	75·1	75·4	75·7	75	76·4	76·7	77	77·3	77·6	78	78·3	78·6
73·2	73·5	73·8	74·2	74·5	74 8	75 1	75·4	75·8	76·1	76·4	76·7	77	77·4	77·7	78	78·4	78·7	79	79·3	79·6
74·2	74·5	74·8	75·2	75·5	75 8	76·1	76·4	76·8	77·1	77·4	77·7	78	78·4	78·7	79	79·3	79 6	80	80·3	80·6
75·2	75·5	75·8	76·2	76·5	76 8	77·1	77·4	77·8	78·1	78·4	78·7	79	79·4	79·7	80	80·3	80·6	81	81·3	81·6

THE SECOND SCHEDULE.

ENACTMENTS REPEALED.

(*See section 25.*)

Year.	Number.	Short title.	Extent of repeal.
1886	XII	The Petroleum Act, 1886	The whole.
1890	XIV	The Petroleum Act (1886) Amendment Act, 1890.	Ditto.
1891	XII	The Repealing and Amending Act, 1891 ..	So much as relates to Act XII of 1886.
1897	XIV	The Indian Short Titles Act, 1897	So much as relates to Act XIV of 1890.
1898	VII	The Petroleum Act, 1898	The whole.

STATEMENT OF OBJECTS AND REASONS.

THIS is in the main a Consolidation Bill, which is intended to repeal and reproduce three Acts entirely and parts of two others. In so far as it is an amending measure, the changes proposed are based upon the following considerations.

2. There are other illuminant or inflammable substances which require regulation on the same lines as petroleum and its compounds, but are beyond the reach of the law as it now stands. Carbide of calcium, for instance, is becoming a common illuminant; but it is not in itself inflammable, although the gases generated by it are dangerously so, and, being a solid, it cannot be brought within the purview of the present Act—the Petroleum Act, 1886—by means of a notification under section 23 thereof. The language of that Act has, therefore, been widened so as to make it capable of application to carbide of calcium and other substances which may hereafter be brought into use in this country and which it may be desirable, in the public interest, to control by including them in the same category as petroleum.

3. New and improved tests for different substances are from time to time devised. By the Petroleum Act, 1898, an amending measure, power was accordingly taken to prescribe, by means of alterations of, or additions to, the schedule to the Act of 1886, new and varied tests and directions for preparing and using them; and it is now proposed to extend this power so as to provide for the laying down independently of special tests and the issue of special instructions in the case of other substances for which the scheduled tests are altogether unsuitable.

4. The opportunity has been taken to make an addition to section 10 of the Act—see clause 11 of the Bill—with the object of enabling the Government to exempt from the restrictions as to possession and transport petroleum when transported in such particular manner and under such particular conditions as may be set forth in the exempting notification. Experience has shown that some provision of this kind is desirable.

5. The remaining alterations incorporated in the Bill are of a formal character and intended merely to improve and simplify the language and contents generally of the existing Act. They appear to require no detailed explanation.

C. M. RIVAZ.

H. W. C. CARNDUFF,
Offg. Secretary to the Government of India.

The 16th January 1899.

(Republished by order of His Excellency the Governor in Council.)

G. STOKES,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

The following Report of the Select Committee on the Bill to provide for the exemption from the operation of Municipal laws of certain buildings and lands which are the property, or in the occupation, of Government and situate within the limits of a municipality was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 27th January 1899:—

WE, the undersigned, Members of the Select Committee to which the Bill to provide for the exemption from the operation of Municipal laws of certain buildings and lands which are the property, or in the occupation, of Government and situate within the limits of a municipality, 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 hereto.

From Officiating Chief Commissioner, British Baluchistan, No. 7841, dated 4th November 1896 [Paper No. 1].
From Chief Commissioner, Coorg, No. 1687, dated 12th November 1896 [Paper No. 2].
From High Court, Calcutta, No. 2750, dated 8th December 1896 [Paper No. 3].
From Resident, Hyderabad, No. 365, dated 7th December 1896, and enclosures [Papers No. 4].
From Chief Commissioner, Ajmere-Merwara, No. 1479, dated 17th December 1896 [Paper No. 5].
From Chief Commissioner, Assam No. 207-L. & L.—5195-J, dated 21st December 1896, and enclosures [Papers No. 6].
From Chief Commissioner, Central Provinces, No. 8860, dated 22nd December 1896 [Paper No. 7].
From Chief Commissioner, Burma, No. 33—1 T.-1, dated 5th January 1897, and enclosures [Papers No. 8].
From Goverment, Punjab, No. 71, dated 28th January 1897, and enclosures [Papers No. 9].
From Government, Bombay, No. 268, dated 18th January 1897, and enclosures [Papers No. 10].
From Government, Madras, No. 542-A.M., dated 15th March, 1897, and enclosures [Papers No. 11].
From Government, North-Western Provinces and Oudh, No. 345, dated 4th March 1897, and enclosures [Papers No. 12].
From Government, Bengal, No. 4177—M., dated 11th August 1898, and enclosures [Papers No. 13].

2. In the heading and preamble we have inserted the word "building" before the word "laws," in order at once to indicate the limited scope of the measure. It is not intended by this measure to interfere with the taxation of Government property in municipalities, a matter which is already provided for by the Municipal Taxation Act, 1881 (XI of 1881).

3. In clause 2 and throughout the Bill we have substituted the more comprehensive expression "municipal authority" for "municipal committee." Municipal authorities are denominated "committees" in some, and "boards" in other, parts of the country.

4. From clause 2 we have omitted the definition of "Government," as being unnecessary in view of section 3, sub-section (*21*), of the General Clauses Act, 1897 (X of 1897).

5. We have, by means of an alteration in clause 3, confined the operation of the Bill to buildings used or required "for the public service or for any public purpose;" and, in adopting this phrase, we have followed the language of section 194 of the Public Health (Scotland) Act, 1897 (60 & 61 Vict., c. 38). A further amendment has here been made with the object of requiring notice to be given only in the case of material structural alterations: this probably would have been the construction put on the provision as orginally drawn, but we think it better to make the point clear. Finally, the latter part of the clause seems to us to go too far, in that it contemplates the giving of notice in the case of

all building operations undertaken by the Government. It is clearly necessary that buildings connected with Imperial defence, and buildings the plans or construction of which are of a confidential or secret character, should be excluded from the purview of the provision, and we have inserted words to effect that purpose.

6. The addition to, and alterations in, clause 4 are consequential. The clause should, we think, like the latter part of clause 3, avoid all reference to the maintenance of buildings.

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

In English.

Gazette.	Date.
Gazette of India	17th October 1896.
Fort St. George Gazette	17th November 1896.
Bombay Government Gazette	22nd October 1896.
Calcutta Gazette	28th October 1896.
North-Western Provinces and Oudh Government Gazette ..	24th October 1896.
Punjab Government Gazette	22nd October 1896.
Burma Gazette	7th November 1896.
Central Provinces Gazette	24th October 1896.
Assam Gazette	7th November 1896.
Coorg District Gazette	2nd November 1896.
Sind Official Gazette	5th November 1896.

In the Vernaculars.

Province.	Language.	Date.
Madras	Hindustani	17th November 1896.
	Kanarese	17th November 1896.
	Malayalam	17th November 1896.
	Tamil	24th November 1896.
Bombay	Marathi	26th November 1896.
	Gujarathi	26th November 1896.
	Kanarese	26th November 1896.
Bengal	Bengali	24th November 1896.
	Hindi	24th November 1896.
	Uriya	26th November 1896.
North-Western Provinces and Oudh	Urdu	21st November 1896.
Burma	Burmese	14th November 1896.
Assam	Bengali	5th December 1896.
Coorg	Kanarese	1st December 1896.
Sindh	Sindhi	5th November 1896.

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

C. M. RIVAZ.
M. D. CHALMERS.
P. ANANDA CHARLU.
J. D. LATOUCHE
MD. FAIYAZ ALI KHAN.

The 25th January 1899.

No. II.

A Bill to provide for the exemption from the operation of municipal building laws of certain buildings and lands which are the property, or in the occupation, of the Government and situate within the limits of a municipality.

WHEREAS it is expedient to provide for the exemption from the operation of municipal *building* laws of certain buildings and lands which are the property, or in the occupation, of the Government and situate within the limits of a municipality; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Government Buildings Act, 1899.

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

(*3*) It shall come into force at once.

"Municipal authority" defined.

2. (*1*) In this Act the expression "municipal *authority*" includes a Municipal Corporation or a body of Municipal Commissioners constituted by, or under the provisions of, any law or enactment for the time being in force.

Exemption of certain Government buildings from municipal laws to regulate the erection, etc., of buildings within municipalities.

3. Nothing contained in any law or enactment for the time being in force to regulate the erection, re-erection, construction, alteration or maintenance of buildings within the limits of any municipality shall apply to any building *used or required for the public service or for any public purpose*, which is the property, or in the occupation, of the Government, or which is to be erected on land which is the property, or in the occupation, of the Government:

Provided that, where the erection, re-erection or *material structural* alteration of any such building as aforesaid (*not being a building connected with Imperial defence, or a building the plan or construction of which ought, in the opinion of the Government, to be treated as confidential or secret*) is contemplated, reasonable notice of the proposed work shall be given to the municipal *authority* before *it* is commenced.

Control over the erection, etc., of certain Government buildings within municipalities.

4. (*1*) In the case of any such building as is mentioned in the last preceding section (*not being a building connected with Imperial defence, or a building the plan or construction of which ought, in the opinion of the Government, to be treated as confidential or secret*), the municipal *authority*, or any person authorized by it in this behalf, may, with the permission of the Local Government previously obtained, but not otherwise, and subject to any restrictions or conditions which may, by general or special order, be imposed by the Local Government, inspect the said land and building and all plans connected with its erection, re-erection, construction or alteration, as the case may be, and may submit to the Local Government a statement in writing of any objections or suggestions which such municipal *authority* may deem fit to make with reference to such erection, re-erection, construction *or* alteration.

(*2*) Every objection or suggestion submitted as aforesaid shall be considered by the Local Government, which shall, after such investigation (if any) as it shall think advisable, pass orders thereon, and the building referred to therein shall be erected, re-erected, constructed *or* altered, as the case may be, in accordance with such orders:

Provided that, if the Local Government overrules or disregards any such objection or suggestion as aforesaid, it shall give its reasons for so doing in writing.

(*3*) Every order passed by the Local Government under this section shall be subject to revision by the Governor-General in Council, but not otherwise, and the decision of the Governor-General in Council thereon shall be final.

H. W. C. CARNDUFF,
Offg. Secretary to the Government of India.

(Republished by order of His Excellency the Governor in Council.)

G. STOKES,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

The following Report of the Select Committee on the Bill to further amend the Indian Evidence Act, 1872, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 3rd February 1899 :—

WE, the undersigned, Members of the Select Committee to which the Bill to further amend the Indian Evidence Act, 1872, 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 hereto.

From Government, Burma, No. 1-L.—37, dated 1st December 1898 [Paper No. 1].
From Chief Commissioner, Ajmere-Merwara, No. 7-C.—690, dated 29th November 1898 [Paper No. 2].
From Secretary for Berar to Resident, Hyderabad, No. 377, dated 9th December 1898 [Paper No. 3].
From Chief Commissioner, Central Provinces, No. 8888, dated 9th December 1898, and enclosure [Papers No. 4].
From Chief Commissioner, Assam, No. 145-L. and L.—5083-J., dated 20th December 1898 [Paper No. 5].
From Chief Commissioner, Coorg, No. 2404, dated 23rd December 1898 [Paper No. 6].
From Government, Bombay, No. 8611, dated 27th December 1898 [Paper No. 7].
From Agent to Governor-General in Baluchistan, No. 9053, dated 29th December 1898, and enclosures [Papers No. 8].
From Government, Bengal, No. 6603-J., dated 23rd December 1898, and enclosures [Papers No. 9].
From Government, Madras, No. 52, dated 6th January 1899, and enclosures [Papers No. 10].
From Government, Bengal, No. 189-J., dated 12th January 1899, and enclosures [Papers No. 11].
From Government, Punjab, No. 109, dated 27th January 1899, and enclosures [Papers No. 12].

2. To clause 3 of the Bill we have added a sub-section making a consequential amendment in section 73 of the Act of 1872.

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

In English.

Gazette.	Date.
Gazette of India	22nd October 1898.
Fort St. George Gazette	1st November 1898.
Bombay Government Gazette	29th October 1898.
Calcutta Gazette	2nd November 1898.
North-Western Provinces and Oudh Government Gazette ..	29th October 1898.
Punjab Government Gazette	27th October 1898.
Burma Gazette	12th November 1898.
Central Provinces Gazette	29th October 1898.
Assam Gazette	12th November 1898.
Coorg District Gazette	1st December 1898.
Sind Official Gazette	25th November 1898.

In the Vernaculars.

Province.	Language.	Date.
Bombay	Marathi	1st December 1898.
	Gujarathi	1st December 1898.
	Kanarese	1st December 1898.
Bengal	Bengali	15th November 1898.
	Hindi	29th November 1898.
	Uriya	24th November 1898.
Punjab	Urdu	1st December 1898.
Burma	Burmese	17th November 1898.
Assam	Bengali	26th November 1898.
Sind	Sindhi	1st December 1898.

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

M. D. CHALMERS.
C. M. RIVAZ.
P. ANANDA CHARLU.
J. D. LATOUCHE.
P. SURAJ KAUL.

The 1st February 1899.

No. II.

A Bill to further amend the Indian Evidence Act, 1872.

I of 1872. WHEREAS it is expedient to further amend the Indian Evidence Act, 1872; It is hereby enacted as follows:—

Short title and commencement. 1. (*1*) This Act may be called the Indian Evidence Act, 1899; and

(*2*) It shall come into force at once.

I of 1872. Addition to section 37, Act I, 1872. 2. To section 37 of the Indian Evidence Act, 1872, the following shall be added, namely:—

"This section applies also to any Act of the Lieutenant-Governor in Council of the North-Western Provinces and Oudh, the Punjab or Burma."

XVIII of 1872. Amendment of section 45, and addition to section 73, Act I, 1872. 3. (*1*) In section 45 of the said Act, as amended by section 4 of the Indian Evidence Act Amendment Act, after the word "handwriting," in each of the two places in which it occurs, the words "or finger-impressions" shall be inserted.

(*2*) To section 73 of the said Act the following shall be added, namely:—

"This section applies also, with any necessary modifications, to finger-impressions."

Amendment of section 86, Act I, 1872. 4. In section 86 of the said Act, as amended by section 8 of the Indian Evidence Act (1872) Amendment Act, 1891, for the second paragraph the following shall be substituted, namely:—

III of 189

"An officer who, with respect to any territory or place not forming part of Her Majesty's dominions, is a Political Agent therefor, as defined in section 3, clause (40), of the General Clauses Act, 1897, shall, for the purposes of this section, be deemed to be a representative of the Government of India in and for the country comprising that territory or place."

X of 1897.

Partial repeal of section 8, Act III, 1891. 5. In section 8 of the Indian Evidence Act (1872) Amendment Act, 1891, the words and figures from "and to the same" to the end of the section are hereby repealed.

III of 18

H. W. C. CARNDUFF,
Offg. Secretary to the Government of India.

(Republished by order of His Excellency the Governor in Council.)

G. STOKES,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

FORT ST. GEORGE GAZETTE SUPPLEMENT.

TUESDAY EVENING, FEBRUARY 14, 1899.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

The following Report of the Select Committee on the Bill to amend the Indian Contract Act, 1872, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 3rd February 1899:—

WE, the undersigned, Members of the Select Committee to which the Bill to amend the Indian Contract Act, 1872, 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 hereto.

From Chief Commissioner, Coorg, No. 763, dated 9th May 1898, and enclosures [Papers No. 1].
From Chief Commissioner, Ajmere-Merwara, No. 819—690, dated 20th July 1898, and enclosures [Papers No. 2].
From Government, Burma, No. 406-L.—28, dated 10th August 1898 [Paper No. 3].
From Resident, Hyderabad, No. 270, dated 22nd August 1898, and enclosures [Papers No. 4].
From Officiating Agent to Governor-General in Baluchistan, No. 1108-Z., dated 26th August 1898, and enclosures [Papers No. 5].
From Chief Commissioner, Assam, No. 73-L. & L.—3562-J., dated 24th August 1898 [Paper No. 6].
From High Court, Calcutta, No. 2298, dated 25th August 1898, and enclosures [Papers No. 7].
From Government, Madras, No. 1378, dated 5th September 1898, and enclosures [Papers No. 8].
From Government, Bengal, No. 5418-J., dated 6th September 1898, and enclosures [Papers No. 9].
From Officiating Agent to Governor-General in Baluchistan, No. 1232-Z., dated 12th September 1898, and enclosures [Papers No. 10].
From Government, Punjab, No. 1411, dated 29th September 1898, and enclosures [Papers No. 11].
From Government, Bombay, No. 6500, dated 28th September 1898, and enclosures [Papers No. 12].
From Government, Bombay, No. 7101, dated 22nd October 1898, and enclosures [Papers No. 13].
From Chief Commissioner, Central Provinces, No. 7597, dated 31st October 1898, and enclosures [Papers No. 14].
From Government, Bombay, No. 7791, dated 28th November 1898, and enclosure [Papers No. 15].
From Government, North-Western Provinces and Oudh, No. 935, dated 5th December 1898, and enclosures [Papers No. 16].
From Government, Bombay, No. 8317, dated 15th December 1898, and enclosures [Papers No. 17].

2. We have made a formal amendment in the preamble, and have suggested the 1st May 1899, as the date for the coming into operation of the measure.

3. In sub-section (3) of clause 1 of the Bill we have inserted words to make it plain that the new provisions are to apply to an unconscionable bargain set up after the commencement of the proposed Act by the defendant in any suit, whether or not the bargain was made before or after such commencement.

4. We have, by substituting for the phrase "where one party is in a position to dominate the other" the phrase "where the relations subsisting between the parties are such that one of the parties is in a position to dominate the will of the other," somewhat limited the scope of the new section 16 of the Indian Contract Act, 1872, which clause 2 of the Bill is to enact. It seems to us that this more clearly brings out the doctrine of English law by indicating that there must be at the time of the contract a special relationship between the parties which puts one in the power of the other, and Illustration (*c*) has been simplified, while another Illustration (*d*) has been added, with the object of making this apparent. We have at the same time omitted, as unnecessary, the reference to the parties not contracting "on a footing of equality," as well as the concluding words as to the consent of the party subjected to undue influence being obtained to "terms to which he would not otherwise have consented."

5. We have made verbal alterations in sub-section 2 (*a*) of this new section, and from sub-section (*b*) we have omitted the reference to persons who are "naturally feeble-minded," that being only

one element for the consideration of the Court in determining whether a contract has been induced by undue influence or not.

6. Sub-section (3) has also been modified. We think that, apart from the cases covered by section 111 of the Indian Evidence Act, 1872, where one of the parties stands in a relation of active confidence to the other, the ordinary onus of proof ought not to be shifted until *primâ facie* evidence is given that the contract made by the dominating party is unconscionable.

7. We have recast the language of the new section 19A of the Act of 1872, proposed by clause 3 of the Bill, so as to bring it more closely into accord with the language of section 19. A contract obtained by undue influence is on a different footing from a contract obtained by fraud. In the case of the latter, a party who, with knowledge of the fraud, has taken any benefit under the contract, is held to have elected to affirm it; but, where a contract has been obtained through the exercise of undue influence, it is necessary that the Court should have power to relieve the party who acted under the undue influence, even although he may have received some benefit under the contract. On the other hand, where such benefit has been received, the Court ought to have full power to impose such conditions as may be just upon the party seeking relief.

8. To the new section 74 of the Contract Act, proposed by clause 4 of the Bill, an *Explanation* has been appended to make it clear that, where enhanced interest is payable under a contract from the date of default, the stipulation therefor may be by way of penalty or not, in accordance with the circumstances of the case. The Illustration (*d*), which is given, is an instance in which the stipulation is obviously by way of penalty, but is not intended to lay down any hard and fast rule. Similarly, *Illustration* (*f*) is merely an "illustration" to the section, and does not pre-judge the question whether, for example, in a case where the instalments agreed upon for the repayment of a debt comprise future interest, the stipulation that, in the event of any default, the whole sum (*i.e.*, the principal and the whole of the future interest) shall become due at once, is not a stipulation by way of penalty.

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

In English.

Gazette.	Date.
Gazette of India	26th March 1898.
Fort St. George Gazette	3rd May 1898.
Bombay Government Gazette	31st March 1898.
Calcutta Gazette	30th March 1898.
North-Western Provinces and Oudh Government Gazette ..	2nd April 1898.
Punjab Government Gazette	7th April 1898.
Burma Gazette	9th April 1898.
Central Provinces Gazette	2nd April 1898.
Assam Gazette	9th April 1898.
Coorg District Gazette	2nd May 1898.
Sindh Official Gazette	12th May 1898.

In the Vernacular.

Province.	Language.	Date.
Madras	Tamil	16th May 1898.
	Telugu	10th May 1898.
	Hindustani	10th May 1898.
	Kanarese	10th May 1898.
	Malayalam	10th May 1898.
Bombay	Marathi	2nd June 1898.
	Gujarathi	2nd June 1898.
	Kanarese	2nd June 1898.
Bengal	Uriya	19th May 1898.
	Hindi	24th May 1898.
	Bengali	31st May 1898.
North-Western Provinces and Oudh	Urdu	9th July 1898.
Punjab	Urdu	14th July 1898.
Burma	Burmese	23rd April 1898.
Central Provinces	Hindi	24th August 1898.
Assam	Bengali	11th June 1898.
Coorg	Kanarese	1st June 1898.
Sindh	Sindhi	26th May 1898.

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

M. D. CHALMERS.
C. M. RIVAZ.
G. H. P. EVANS.
P. SURAJ KAUL.
P. M. MEHTA.
J. K. SPENCE.
J. D. REES.

The 31st January 1899.

No. II.

A Bill to amend the Indian Contract Act, 1872.

WHEREAS it is expedient to amend the Indian Contract Act, 1872; It is hereby enacted as follow:—

IX of 1872.

Short title, commencement and application.

1. (*1*) This Act may be called the Indian Contract Act Amendment Act, 1899.

(*2*) It shall come into force on the first day of May, 1899; and

(*3*) It shall apply to every contract in respect of which any suit is instituted, or which is put in issue in any suit, after the commencement of this Act.

IX of 1872.

Substitution of new section for section 16, Act IX, 1872.

2. Section 16 of the Indian Contract Act, 1872, is hereby repealed, and the following is substituted therefor, namely:—

"Undue influence" defined.

'16. (*1*) A contract is said to be induced by "undue influence" where the relations subsisting between the parties are such that one of the parties is in a position to dominate the will of the other and uses that position to obtain an unfair advantage over the other.

(*2*) In particular and without prejudice to the generality of the foregoing principle, a person is deemed to be in a position to dominate the will of another—

(*a*) where he holds a real or apparent authority over the other, or where he stands in a fiduciary relation to the other; or

(*b*) where he makes a contract with a person whose mental capacity is temporarily or permanently affected by reason of age, illness, or mental or bodily distress.

(*3*) Where a person who is in a position to dominate the will of another, enters into a contract with him, and the transaction appears, on the face of it or on the evidence adduced, to be unconscionable, the burden of proving that such contract was not induced by undue influence shall lie upon the person in a position to dominate the will of the other.

Nothing in this sub-section shall affect the provisions of section 111 of the Indian Evidence Act, 1872.

Illustrations.

(*a*) A having advanced money to his son, B, during his minority, upon B's coming of age obtains, by misuse of parental influence, a bond from B for a greater amount than the sum due in respect of the advance. A employs undue influence.

(*b*) A, a man enfeebled by disease or age, is induced, by B's influence over him as his medical attendant, to agree to pay B an unreasonable sum for his professional services. B employs undue influence.

(*c*) A, being in debt to B, the money lender of his village, contracts a fresh loan on terms which appear to be unconscionable. It lies on B to prove that the contract was not induced by undue influence.

(*d*) A applies to a banker for a loan at a time when there is stringency in the money market. The banker declines to make the loan except at an unusually high rate of interest. A accepts the loan on these terms. This is a transaction in the ordinary course of business, and the contract is not induced by undue influence.'

Amendment of section 19 of, and addition of new section to, Act IX, 1872.

3. In section 19 of the said Act the words "undue influence" are hereby repealed, and after the same section the following is inserted, namely:—

Power to set aside contract induced by undue influence.

"19A. When consent to an agreement is caused by undue influence, the agreement is a contract voidable at the option of the party whose consent was so caused.

Any such contract may be set aside either absolutely or, if the party who was entitled to avoid it has received any benefit thereunder, upon such terms and conditions as to the Court may seem just.

Illustrations.

(*a*) A's son has forged B's name to a promissory note. B, under threat of prosecuting A's son, obtains a bond from A for the amount of the forged note. If B sues on this bond, the Court may set the bond aside.

(*b*) A, a money lender, advances Rs. 100 to B, an agriculturist, and, by undue influence, induces B to execute a bond for Rs. 200 with interest at 12 per cent. per month. The Court may set the bond aside, ordering B to repay the Rs. 100 with such interest as may seem just."

Amendment of section 74, Act IX, 1872.

4. (*1*) Section 74, paragraph one, of the said Act is hereby repealed and the following is substituted therefor, namely:—

"74. When a contract has been broken, if a sum is named in the contract as the amount to be paid in case of such breach, *or if the contract contains any other stipulation by way of penalty*, the party complaining of the breach is entitled, whether or not actual damage or loss is proved to have been caused thereby, to receive from the party who has broken the contract reasonable compensation not exceeding the amount so named *or*, as the case may be, *the penalty stipulated for*.

Compensation for breach of contract where penalty stipulated for.

Explanation.—A stipulation for increased interest from the date of default may be a stipulation by way of penalty."

(*2*) After *Illustration* (*c*) to the said section the following *Illustrations* shall be added, namely:—

"(*d*) A gives B a bond for the repayment of Rs. 1,000 with interest at 12 per cent. at the end of six months, with a stipulation that, in case of default, interest shall be payable at the rate of 75 per cent. from the date of default. This is a stipulation by way of penalty, and B is only entitled to recover from A such compensation as the Court considers reasonable.

(*e*) A, who owes money to B, a money-lender, undertakes to repay him by delivering to him 10 maunds of grain on a certain date, and stipulates that, in the event of his not delivering the stipulated amount by the stipulated date, he shall be liable to deliver 20 maunds. This is a stipulation by way of penalty, and B is only entitled to reasonable compensation in case of breach.

(*f*) A undertakes to repay B a loan of Rs. 1,000 by five equal monthly instalments, with a stipulation that, in default of payment of any instalment, the whole shall become due. This stipulation is not by way of penalty, and the contract may be enforced according to its terms."

H. W. C. GARNDUFF,
Offg. Secretary to the Government of India.

(Republished by order of His Excellency the Governor in Council.)

G. STOKES,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

The following Report of the Select Committee on the Bill to consolidate and amend the law relating to the importation, possession and transport of petroleum and other substances was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 3rd February 1899 :—

WE, the undersigned, Members of the Select Committee to which the Bill to consolidate and amend the law relating to the importation, possession and transport of petroleum and other substances was referred, have considered the Bill, and have now the honour to submit this our Report thereon.

2. We have no suggestions to make regarding the Bill, which seems to us to be, subject to the remarks contained in the Statement of Objects and Reasons, an useful measure of pure consolidation. We recommend, therefore, that it be passed as introduced.

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

In English.

Gazette.	Date.
Gazette of India	21st January 1899.
Fort St. George Gazette	(*Not reported.*)
Bombay Government Gazette	26th January 1899.
Calcutta Gazette	25th January 1899.
North-Western Provinces and Oudh Government Gazette ..	28th January 1899.
Punjab Government Gazette	2nd February 1899.
Central Provinces Gazette	28th January 1899.
Coorg District Gazette	(*Not reported.*)

C. M. RIVAZ.
M. D. CHALMERS.
G. M. CHITNAVIS.
DONALD SMEATON.
J. D. REES.

The 3rd February 1899.

H. W. C. CARNDUFF,
Offg. Secretary to the Government of India.

(Republished by order of His Excellency the Governor in Council.)

G. STOKES,
Chief Secretary.

MADRAS : PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

The following Report of the Select Committee on the Bill to further amend the Inland Steam-vessels Act, 1884, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 10th February 1899 :—

WE, the undersigned, Members of the Select Committee to which the Bill to further amend the Inland Steam-vessels Act, 1884, 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 hereto.

From High Court, Calcutta, No. 2013, dated 25th July 1898 [Paper No. 1].
From Government, Bengal, No. 1691-Marine, dated 20th August 1898, and enclosures [Papers No. 2].
From Government, Madras, No. 750-Marine, dated 5th September 1898 [Paper No. 3].
From Government, Burma, No. 371—3-S.-10, dated 12th September 1898 [Paper No. 4].
From Government, Bombay, No. 224, dated 23rd September 1898 and enclosure [Papers No. 5].
From Government of India, Finance Department, No. 470-S. R., dated 30th January 1899 [Paper No. 6].

2. We have added a clause (clause 2 of the amended Bill) to make it clear that the certificates of competency or service provided for by Chapter III of the Act of 1884 are to have effect throughout British India. Section 45 shows that this was the original intention.

3. Some verbal alterations have been made in the proposed new section 50A, and an additional power has been taken to require vessels other than steam-vessels to carry and exhibit lights on specified inland waters where steam-vessels ply.

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

In English.

Gazette.	Date.
Gazette of India	9th July 1898.
Fort St. George Gazette	2nd August 1898.
Bombay Government Gazette	14th July 1898.
Calcutta Gazette	20th July 1898.
Burma Gazette	7th July 1898.

In the Vernaculars.

Province.	Language.	Date.
Bombay	Marathi	4th August 1898.
	Gujarathi	4th August 1898.
Bengal	Bengali	26th July 1898.
	Hindi	2nd August 1898.
Burma	Burmese	6th August 1898.

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

J. WESTLAND.
M. D. CHALMERS.
ALLAN ARTHUR.
DONALD SMEATON.

The 9th February 1899.

No. II.

A Bill to further amend the Inland Steam-vessels Act, 1884.

VI of 1884.

WHEREAS it is expedient to further amend the Inland Steam-vessels Act, 1884 (hereinafter referred to as "the said Act"); It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Inland Steam-vessels Act (1884) Amendment Act, 1899; and

(*2*) It shall come into force at once.

Addition of new section after section 29, Act VI, 1884.

2. *After section 29 of the said Act the following section shall be added namely:—*

Certificates of competency or service to have effect throughout British India.

"29A. *Every certificate of competency or service granted under this Act shall have effect throughout British India.*"

Amendment of heading to Chapter VI, Act VI, 1884.

3. To the heading to Chapter VI of the said Act the words "AND FROM COLLISION" shall be added.

Addition of new section after section 50, Act VI, 1884.

4. After section 50 of the said Act the following section shall be added, namely:—

Power for Local Government to make rules for protection of inland steam-vessels from collision.

"50A. (*1*) The Local Government may make rules for the protection of inland steam-vessels from collision.

(*2*) Rules under this section may regulate the following among other matters, that is to say:—

(*a*) the making of sound-signals;

(*b*) the carriage *and exhibition* of lights *by inland steam-vessels;*

(*c*) *the carriage and exhibition of lights by other vessels on inland waters on which steam-vessels ply and which are specified in the rules;*

(*d*) the steering rules to be observed; and

(*e*) the towing of vessels astern or alongside.

(*3*) Any rule under this section may contain a provision that any person committing a breach of it shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both."

H. W. C. CARNDUFF,
Offg. Secretary to the Government of India.

(Republished by order of His Excellency the Governor in Council.)

G. STOKES,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

The following Report of the Select Committee on the Bill to amend the Law relating to Carriers was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 17th February 1899:—

WE, the undersigned, Members of the Select Committee to which the Bill to amend the Law relating to Carriers 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 hereto.

From Chief Commissioner, Central Provinces, No. 8553, dated 29th November 1898 [Paper No. 1].
From Chief Commissioner, Coorg, No. 2289, dated 5th December 1898 [Paper No. 2].
From High Court, Calcutta, No. 2979, dated 6th December 1898 [Paper No. 3].
From Secretary for Berar to Resident, Hyderabad, No. 396, dated 23rd December 1898, and enclosure [Papers No. 4].
From Chief Commissioner, Ajmere-Merwara, No. 28-C., dated 25th December 1898 [Paper No. 5].
From Government, Bengal, No. 4, dated 5th January 1899, and enclosures [Papers No. 6].
From Agent to Governor-General in Baluchistan, No. 262, dated 10th January 1899, and enclosures [Papers No. 7].
From Government, North-Western Provinces and Oudh, No. 25, dated 7th January 1899, and enclosures [Papers No. 8].
From Government, Burma, No. 455-L.—3, dated 17th January 1899, and enclosures [Papers No. 9].
From Government, Bombay, No. 27, dated 27th January 1899, and enclosures [Papers No. 10].
From Chief Commissioner, Assam, No. 4-L. & L.—412-J., dated 1st February 1899 [Paper No. 11].

2. In clause 2 of the Bill we have omitted all reference to non-delivery and so have confined the provisions as to notice of the proposed new section 10 of the Act of 1865 to cases of loss of, or injury to, goods. It seems to us that suits for non-delivery are on the same footing as suits for delay; for non-delivery may arise from causes other than accident, in regard to which the evidence of the carrier's servants is required to rebut any presumption of negligence during carriage. We have at the same time inserted the words "in writing" after the word "notice".

3. We are, further, of opinion that the same period of limitation should apply to suits for delay in delivering, or non-delivery of, goods as to suits for loss of, or injury to, goods; and, as a matter of drafting, we think that it will be clearer to repeal and re-enact the entries concerned in the second schedule to the Indian Limitation Act, 1877 (XV of 1877). We have accordingly recast clause 3 of the Bill.

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

In English.

Gazette.	Date.
Gazette of India	5th November 1898.
Fort St. George Gazette	(*Not reported.*)
Bombay Government Gazette	10th November 1898.
Calcutta Gazette	16th November 1898.
North-Western Provinces and Oudh Government Gazette ..	12th November 1898.
Punjab Government Gazette	10th November 1898.
Burma Gazette	26th November 1898.
Central Provinces Gazette	12th November 1898.
Assam Gazette	26th November 1898.
Coorg District Gazette	1st December 1898.

In the Vernaculars.

Province.	Language.	Date.
Bombay	Marathi	8th December 1898.
	Gujarathi	8th December 1898.
Bengal	Bengali	6th December 1898.
	Hindi	20th December 1898.
North-Western Provinces and Oudh.	Urdu	17th December 1898.
Burma	Burmese	3rd December 1898.
Assam	Bengali	17th December 1898.
Coorg	Kanarese	2nd January 1899.

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

M. D. CHALMERS.
C. M. RIVAZ.
ALLAN ARTHUR.
DONALD SMEATON.
RAMESHWARA SINGH.

The 15th February 1899.

No. II.

A Bill to amend the Law relating to Carriers.

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

Short title and commencement.

1. (*1*) This Act may be called the Carriers Act, 1899; and

(*2*) It shall come into force on the first day of May, 1899.

III of 1865.

Addition of new section after section 9, Act III, 1865.

2. After section 9 of the Carriers Act, 1865, the following section shall be added, namely:—

Notice of loss or injury to be given within six months.

"10. No suit shall be instituted against a common carrier for the loss of, *or injury to*, goods entrusted to him for carriage, unless notice *in writing* of the loss *or injury* has been given to him before the institution of the suit and within six months of the time when the loss *or injury* first came to the knowledge of the plaintiff."

Amendment of Schedule II, Act XV, 1877.

XV of 1877.

3. (*1*) In *Part IV of the first division of* the second schedule to the Indian Limitation Act, 1877, *after* the entry numbered *29 the following entries shall be inserted, namely*:—

"*30.—Against a carrier for compensation for losing or injuring goods.*	*Ditto* ..	*When the loss or injury occurs.*
31.—Against a carrier for compensation for non-delivery of, or delay in delivering, goods.	*Ditto* ..	*When the goods ought to be delivered."*

(*2*) *In Part V of the same division of the said schedule, the entries numbered 30 and 31, respectively, are hereby repealed; and, in the entry numbered 32, for the word "Ditto" in the second column the words "Two years" shall be substituted.*

H. W. C. CARNDUFF,
Offg. Secretary to the Government of India, Legislative Department.

(Republished by order of His Excellency the Governor in Council.)

G. S. FORBES,
for *Chief Secretary*.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

FORT ST. GEORGE GAZETTE SUPPLEMENT.

TUESDAY EVENING, FEBRUARY 28, 1899.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

The following Report of the Select Committee on the Bill to amend the Law relating to Arbitration was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 17th February 1899:—

WE, the undersigned Members of the Select Committee to which the Bill to amend the Law relating to Arbitration 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 hereto.

From Chief Commissioner, Coorg, No. 2102—21, dated 9th November 1898, and enclosures [Papers No. 1].
From Chief Commissioner, Ajmere-Merwara, No. 1448—690, dated 2nd December 1898, and enclosures [Papers No. 2].
From Government, Madras, No. 1974, Judicial, dated 16th December 1898, and enclosures [Papers No 3].
From Resident, Hyderabad, No. 395, dated 23rd December 1898, and enclosures [Papers No. 4].
From Agent to Governor-General in Baluchistan, No. 8952, dated 24th December 1898, and enclosures [Papers No. 5].
From Chief Commissioner, Central Provinces, No. 9370, dated 31st December 1898, and enclosures [Papers No. 6].
From Chief Commissioner, Assam, No. 149 L. & L.—29-J., dated 5th January 1899 [Paper No. 7].
From Government, Burma, No. 133-L.—47, dated 9th January 1899, and enclosures [Papers No. 8].
From Government, Bombay, No. 326, dated 17th January 1899, and enclosures [Papers No. 9].
From High Court, Calcutta, No. 207, dated 26th January 1899 [Paper No. 10].
From Government, North-Western Provinces and Oudh, No. 73, dated 23rd January 1899, and enclosures [Papers No. 11].
From Government, Punjab, No. 107, dated 27th January 1899, and enclosures [Papers No. 12].

2. We have suggested the 1st July next as the date for the coming into force of the measure. This will give the High Courts time to make rules in exercise of the powers which the Bill proposes to confer upon them.

3. In clause 2 we have inserted the words "whether with leave or otherwise" before the words, "be instituted", as in certain cases suits can be brought only with leave. We have at the same time thought it expedient to make the power of extending the application of the proposed Act beyond the limits of the Presidency-towns subject to the previous sanction of the Governor-General in Council. The case of Rangoon, to which the measure ought apparently to be at once applied, has been considered by us; and having regard to local peculiarities of jurisdiction, we have thought it advisable to add a clause (22) specially providing for its application to that place, instead of leaving it to the Local Government to take action to that end in the manner contemplated by the proviso to clause 2.

4. Various suggestions have been received with reference to the proviso to clause 3 of the Bill, but we think it preferable here, as elsewhere, to adhere as closely as possible to the language of the Arbitration Act, 1889 (52 and 53 Vict., c. 49), which will draw with it the decisions of the English Courts.

5. In connection with clause 5 a question has arisen as to the effect of the death of one of the parties to an arbitration. The general rule appears to be that a submission before award made is revoked by death; but we have arrived at the conclusion that it will be better not to lay down any legislative provision on the subject; so that, where it is intended that the general rule above referred to ought not to apply, the matter will, as in the English Act, have to be expressly dealt with in the submission.

6. We have added words to clause 7 in order to make it clear that it is open to the parties to agree that an arbitrator be left to the selection, not of a named person, but of the holder for the time being of an office or appointment. In doing so we have followed the wording of section 1 of the Arbitration (Scotland) Act, 1894 (57 and 58 Vict., c. 13).

7. We have in sub-clauses (*b*) and (*d*) of clause 8, as also in clause 9 (*a*), inserted the words "or is removed" so as to make it plain that those provisions are intended to cover the case of an arbitrator removed by the Court.

8. Objection has been taken to sub-clause (*e*) of clause 8, which is reproduced *verbatim* from section 5 of the Statute of 1889, on the ground that it does not meet certain exceptional cases where there is a submission to more than two arbitrators. We think, however, that such arbitrations ought not to be encouraged—see *Russell on Arbitration*, Ed. 7, at p. 215—, and we propose to leave parties resorting to them to make special provision by the terms of their submission for carrying them into effect.

9. Later on in sub-section (*1*) of this clause we have substituted for the words "written notice to appoint an arbitrator" the words "written notice to *concur in appointing* in arbitrator," which will give effect to the interpretation put upon the corresponding provision in section 5 of the English Act by the Court of Appeal *In re Eyre* [1892], 1 Q. B. 136, at p. 142.

10. As regards the use of the word "may" in sub-section (*2*), we may point out that it has been held in England, in the case just cited, that, "as a general rule, where the conditions exist under which the section is applicable, the Court or Judge has no discretion to refuse to appoint an arbitrator".

11. In the same provision we have inserted words to show that the order of the Court appointing an arbitrator, umpire or third arbitrator, is not an *ex parte* order.

12. We have confined the proviso at the end of clause 9 to cases [of the kind provided for by the second sub-clause.

13. In clause 10 we have omitted sub-clause (*a*) of sub-section (*1*), which proposes to give to arbitrators the powers of Civil Courts in respect of the summoning of witnesses and the production of documents, and in lieu thereof we have inserted a provision corresponding with section 7 (*a*) of the English Statute. In that Statute the power of administering an oath to a witness is supplemented by a provision for the suing out of process for compelling attendance before an arbitrator. As such a provision would be a novelty in India and might, we fear, be misused, we have refrained from incorporating it in the Bill. In sub-clause (*c*) we have omitted the reference to a submission, and sub-section (*2*) has been struck out along with sub-section (*1*) (*a*) as originally drawn.

14. Clause 11 has been recast in order to show on the face of it that an arbitrator or umpire is not bound to deliver out, or to file, his award until his charges have been paid.

15. For the sake of clearness we have made the proviso to clause 14 (*1*) of the Bill as introduced a separate and substantive enactment—see clause 14 of the amended Bill—, and we have made a drafting amendment in clause 15 (*1*) as re-numbered. We may here note that the English Act provides that the award shall be enforceable by leave of the Court; but it seems unnecessary to make any such provision in India, as execution in this country can be obtained only by means of an application to the Court.

16. We have limited clause 16 (now clause 17) to orders made by the Court. Apart from the special terms of the submission, there will be an implied authority for every arbitrator to deal with all questions as to costs arising in the reference.

17. In clause 18 (now clause 19) we have made two amendments. In the first place, we have, with a view to the saving of expense, given the High Courts express power to make rules for the transfer of small awards which have been filed, for execution by Presidency Courts of Small Causes. The High Courts, it may be observed, appear to have already the power so to transfer their own decrees for execution. And, secondly, we have added a sub-clause enabling the High Courts to make rules for the stay of proceedings taken in contravention of a submission to arbitration, thereby giving them the same power as the English Courts have under section 4 of the Statute of 1889. The amendment proposed by clause 19 (now clause 20, of the Bill) of section 21 of the Specific Relief Act, 1877 (I of 1877), so as to make a submission to arbitration under the new Act a bar to a suit, would, in our opinion, be inadequate without the additional power of summary interference in clear cases.

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

In English.

Gazette.	Date.
Gazette of India	3rd September 1898.
Fort Saint George Gazette	13th September 1898.
Bombay Government Gazette	8th September 1898.
Calcutta Gazette	
North-Western Provinces and Oudh Government Gazette.	10th September 1898.
Punjab Government Gazette	8th September 1898.
Burma Gazette	24th September 1898.
Central Provinces Gazette	10th September 1898.
Assam Gazette	24th September 1898.
Coorg District Gazette	1st October 1898.
Sind Official Gazette	20th October 1898.

In the Vernaculars.

Province.	Language.	Date.
Madras	Tamil	11th October 1898.
	Telugu	4th October 1898.
	Hindustani	4th October 1898.
	Kanarese	4th October 1898.
	Malayalam	4th October 1898.
Bombay	Marathi	17th November 1898.
	Gujarathi	17th November 1898.
	Kanarese	17th November 1898.
North-Western Provinces and Oudh	Urdu	22nd October 1898.
Punjab	Urdu	20th October 1898.
Burma	Burmese	15th October 1898.
Assam	Bengali	15th October 1898.
Coorg	Kanarese	1st November 1898.
Sindh	Sindhi	17th November 1898.

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

M. D. CHALMERS.
C. M. RIVAZ.
P. ANANDA CHARLU.*
G. H. P. EVANS.†
ALLAN ARTHUR.
P. M. MEHTA.
J. K. SPENCE.

The 15th February 1899.

No. II.

A Bill to amend the Law relating to Arbitration.

WHEREAS it is expedient to amend the law relating to arbitration by agreement without the intervention of a Court of Justice; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian Arbitration Act, 1899.

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

(*3*) It shall come into force *on the first day of July 1899*.

Application.

2. *Subject to the provisions of section 22*, this Act shall apply only in cases where, if the subject-matter submitted to arbitration were the subject of a suit, the suit could, *whether with leave or otherwise*, be instituted in a Presidency-town:

Provided that the Local Government, *with the previous sanction of the Governor-General in Council*, may, by notification in the local official Gazette, declare this Act applicable in any other local area as if it were a Presidency-town.

XIV of 1882. Repeal.

3. Sections 523 to 526 of the Code of Civil Procedure are hereby repealed as regards the Presidency-towns, and shall be repealed as regards any local area to which this Act may hereafter be applied by notification under the last foregoing section, with effect from the date of such notification:

[52 and 53 Vict., c. 49, s. 25.]

Provided that nothing in this Act shall effect any arbitration pending in a Presidency-town at the commencement of this Act or in any local area at the date of the application thereto of this Act as aforesaid, but shall apply to every arbitration commenced after the commencement of this Act or the date of the application thereof, as the case may be, under any agreement *or order* previously made.

[*Ibid*, s. 7.] Definitions.

4. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "the Court" means, in the Presidency-towns, the High Court, and, elsewhere, the Court of the District Judge; and

(*b*) "submission" means a written agreement to submit present or future differences to arbitration, whether an arbitrator is named therein or not.

[*Ibid*, s. 1.] Submission to be irrevocable except by leave of Court.

5. A submission, unless a different intention is expressed therein, shall be irrevocable, except by leave of the Court.

[*Ibid*, s. 2.] Provisions implied in submissions.

6. A submission, unless a different intention is expressed therein, shall be deemed to include the provisions set forth in the first schedule, in so far as they are applicable to the reference under submission.

Reference to arbitrator appointed by third person.

7. The parties to a submission may agree that the reference shall be to an arbitrator or arbitrators to be appointed by a person designated therein.

Such person may be designated either by name or as the holder for the time being of any office or appointment.

Illustration.

The parties to a submission may agree that any dispute arising between them in respect of the subject-matter of the submission shall be referred to an arbitrator *to be* appointed by the Bengal Chamber of Commerce, *or, as the case may be, to an arbitrator to be appointed by the President for the time being of the Bengal Chamber of Commerce.*

[52 & 53 Vict., c. 49, s. 5.] Power for the Court in certain cases to appoint an arbitrator, umpire or third arbitrator.

8. (*1*) In any of the following cases:—

(*a*) where a submission provides that the reference shall be to a single arbitrator, and all the parties do not, after differences have arisen, concur in the appointment of an arbitrator;

(*b*) if an appointed arbitrator *neglects or* refuses to act, or is incapable of acting, or dies, *or is removed*, and the submission does not show that it was intended that the vacancy should not be supplied, and the parties do not supply the vacancy;

(*c*) where the parties or two arbitrators are at liberty to appoint an umpire or third arbitrator and do not appoint him;

* I am sorry that I cannot bring myself to agree to leave the parties utterly helpless when their witnesses would not voluntarily attend or produce documents, while we are, by this Act, taking away their right to sue which carries with it the right to invoke help, under the circumstances.

The terms of sub-clause (*a*) of sub-section (*1*) of clause 10 are indeed too wide and may lead to abuse. I would minimise the chances of abuse by giving the High Court power to make rules in that behalf, by inserting a sub-clause between (*a*) and (*b*) of clause 10 as follows:—

"compelling the attendance of witnesses and the production of documents before arbitrators or umpires;"

I would, in this view, make the consequential alterations needed in sub-clause (*2*) in clause 10, but not omit it as proposed.

P. ANANDA CHARLU.

† I would make section 4 of the English Act, with a slight verbal alteration, part of the Act.

G. H. P. EVANS.

(*d*) where an appointed umpire or third arbitrator refuses to act, or is incapable of acting, or dies, *or is removed*, and the submission does not show that it was intended that the vacancy should not be supplied, and the parties or arbitrators do not supply the vacancy;

any party may serve the other parties or the arbitrators, as the case may be, with a written notice to *concur in appointing* an arbitrator, umpire or third arbitrator.

(*2*) If the appointment is not made within seven clear days after the service of the notice, the Court may, on application by the party who gave the notice, *and after giving the other party an opportunity of being heard*, appoint an arbitrator, umpire or third arbitrator, who shall have the like power to act in the reference and make an award as if he had been appointed by consent of all parties.

[*Ibid*, s. 6.]

9. Where a submission provides that the reference shall be to two arbitrators, one to be appointed by each party, then, unless a different intention is expressed therein,—

Power for parties in certain cases to supply vacancy.

(*a*) if either of the appointed arbitrators refuses to act, or is incapable of acting, or dies *or is removed*, the party who appointed him, may appoint a new arbitrator in his place;

(*b*) if, on such a reference, one party fails to appoint an arbitrator, either originally or by way of substitution as aforesaid, for seven clear days after the other party, having appointed his arbitrator, has served the party making default with a written notice to make the appointment, the party who has appointed an arbitrator, may appoint that arbitrator to act as sole arbitrator in the reference, and his award shall be binding on both parties as if he had been appointed by consent:

Provided that the Court may set aside any appointment made in pursuance of *clause* (*b*) *of* this section.

[52 & 53 Vict., c. 49, ss 7, 8 and 24]

10. The arbitrators or umpire acting under a submission shall, unless a different intention is expressed therein,—

Powers of arbitrator.

(*a*) have power *to administer oaths to the parties and witnesses appearing*;

(*b*) have power to state a special case for the opinion of the Court on any question of law involved; and

(*c*) have power to correct in *an* award any clerical mistake or error arising from any accidental slip or omission.

[XIV of 1882, s. 528.]

11. (*1*) When the arbitrators or umpire have made their award, they shall sign it and *shall give notice to the parties of the making and signing thereof and of the amount of the fees and charges payable to the arbitrators or umpire in respect of the arbitration and award.*

Award to be signed and filed.

(*2*) *The arbitrators or umpire shall*, at the request of any party *to the submission* or any person claiming under him, *and upon payment of the fees and charges due in respect of the arbitration and award and of the costs and charges of filing the award*, cause *the award*, or a signed copy of it, to be filed in the Court; and notice of the filing shall be given to the parties *by the arbitrators or umpire*.

[*Ibid*, s. 517.]

(*3*) Where the arbitrators or umpire state a special case under section 10, clause (*b*), the Court shall deliver its opinion thereon; and such opinion shall be added to, and shall form part of, the award.

12. The time for making an award may, from time to time, be enlarged by order of the Court, whether the time for making the award has expired or not.

[52 & 53 Vict., c. 49, s. 9.]

Power for Court to enlarge time for making award.

13. (*1*) The Court may, from time to time, remit the award to the reconsideration of the arbitrators or umpire.

Power to remit award.

(*2*) Where an award is remitted under sub-section (*1*), the arbitrators or umpire shall, unless the Court otherwise directs, make a fresh award within three months after the date of the order remitting the award.

14. Where an arbitrator or umpire has misconducted himself, or an arbitration or award has been improperly procured, the Court may set aside the award.

[52 & 53 Vict., c. 49, s. 11 (2).]

Power to set aside award.

15. (*1*) An award on a submission, on being filed in the Court in accordance with the foregoing provisions, shall (*unless the Court remits it to the reconsideration of the arbitrators or umpire, or sets it aside*) be enforceable as if it were a decree of the Court.

[*Ibid*, s. 12.]

Award when filed to be enforceable as a decree.

(*2*) An award may be conditional or in the alternative.

Illustration.

A dispute concerning the ownership of a diamond ring is referred to arbitration. The award may *direct* that the party in possession shall pay the other party Rs. 1,000 the said sum to be reduced to Rs. 5, if the ring is returned within fourteen days.

16. Where an arbitrator or umpire has misconducted himself, the Court may remove him.

[*Ibid*, s. 11 (1).]

Power to remove arbitrator or umpire.

17. Any order made *by the Court* under this Act may be made on such terms as to costs or otherwise as the *Court* thinks fit.

[*Ibid*, s. 20.]

Costs.

18. The forms set forth in the second schedule, or forms similar thereto, with such variations as the circumstances of each case require, may be used for the respective purposes there mentioned, and, if used, shall not be called in question.

[New.]

Forms.

19. The High Court may make rules consistent with this Act as to—

Power for High Court to make rules.

(*a*) the filing of awards and all proceedings consequent thereon or incidental thereto;

(*b*) the filing and hearing of special cases and all proceedings consequent thereon or incidental thereto;

(*c*) *the transfer to Presidency Courts of Small Causes for execution of awards filed, where the sum awarded does not exceed two thousand rupees;*

(*d*) *the staying of any suit or proceeding in contravention of a submission to arbitration; and,*

(*e*) generally, all proceedings in Court under this Act.

20. In section 21 of the Specific Relief Act, 1877, after the words "Code of Civil Procedure" the words and figures "and the Indian Arbitration Act, 1899," shall be inserted, and for the words "a controversy" the words "present or future differences" shall be substituted.

I of 1877.

Amendment of section 21, Act I, 1877.

21. The provisions of this Act shall be binding on the Crown.

[52 & 53 Vict., c. 49, s. 23.]

Crown to be bound.

22. (*1*) *This Act shall apply within the local limits of the ordinary civil jurisdiction of the Recorder of Rangoon in cases where, if the subject-matter submitted to arbitration were the subject of a suit, the suit could, whether with leave or otherwise, be instituted within those local limits.*

Special provision as to application of Act to Rangoon.

(*2*) *For the purposes of this Act in its application to Rangoon as aforesaid, the Recorder of Rangoon shall have all the powers of a High Court.*

THE FIRST SCHEDULE.

(*See Section* 6.)

PROVISIONS TO BE IMPLIED IN SUBMISSIONS.

I. If no other mode of reference is provided, the reference shall be to a single arbitrator.

II. If the reference is to two arbitrators, the two arbitrators may appoint an umpire at any time within the period during which they have power to make an award.

III. The arbitrators shall make their award in writing within three months after entering on the reference, or after having been called on to act by notice in writing from any party to the submission, or on or before any later day to which the arbitrators, by any writing signed by them, may, from time to time, enlarge the time for making the award.

IV. If the arbitrators have allowed their time or extended time to expire without making an award, or have delivered to any party to the submission, or to the umpire, a notice in writing stating that they cannot agree, the umpire may forthwith enter on the reference in lieu of the arbitrators.

V. The umpire shall make his award within one month after the original or extended time appointed for making the award of the arbitrators has expired, or on or before any later day to which the umpire, by any writing signed by him, may, from time to time, enlarge the time for making his award.

VI. The parties to the reference, and all persons claiming through them respectively, shall, subject to the provisions of any law for the time being in force, submit to be examined by the arbitrators or umpire on oath or affirmation in relation to the matters in dispute, and shall, subject as aforesaid, produce before the arbitrators or umpire all books, deeds, papers, accounts, writings and documents within their possession or power respectively which may be required or called for, and do all other things which during the proceedings on the reference the arbitrators or umpire may require.

VII. The witnesses on the reference shall, if the arbitrators or umpire think fit, be examined on oath.

VIII. The award to be made by the arbitrators or umpire shall be final and binding on the parties and the persons claiming under them respectively.

IX. The costs of the reference *and award* shall be in the discretion of the arbitrators or umpire, who may direct to and by whom, and in what manner, those costs or any part thereof shall be paid, and may tax or settle the amount of costs to be so paid or any part thereof, and may award costs to be paid as between solicitor and client.

THE SECOND SCHEDULE.

(*See Section 18.*)

FORM I.

Submission to single arbitrator.

In the matter of the Indian Arbitration Act, 1899:—

Whereas differences have arisen and are still subsisting between A. B. of and C. D. of concerning

Now we, the said A. B. and C. D., do hereby agree to refer *the said* matters in difference to the award of X. Y.

(*Signed*) A. B.
C. D.

Dated the , *189* .

FORM II.

Submission of particular dispute to single arbitrator.

In the matter of the Indian Arbitration Act, 1899:—

Whereas differences have arisen and are still subsisting between A. B. of and C. D. of concerning

Now we, the said A. B. and C. D., do hereby agree to refer the said matters in difference to the award of X. Y.

(*Signed*) A. B.
C. D.

Dated the , *189* .

FORM III.

Appointment of single arbitrator under agreement to refer future differences to arbitration.

In the matter of the Indian Arbitration Act, 1899:—

Whereas, by an agreement in writing, dated the day of , 18 , and made between A. B. of and C. D. of , it is provided that differences arising between the parties thereto shall be referred to an arbitrator as therein mentioned;

And whereas differences within the meaning of the said provision have arisen and are still subsisting between the said parties concerning :

Now we, the said parties, A. B. and C. D., do hereby refer the said matters in difference to the award of X. Y.

(*Signed*) A. B.
C. D.

Dated the , *189* .

FORM IV.

Enlargement of time by arbitrator by endorsement on submission.

In the matter of the Indian Arbitration Act, 1899, and an arbitration between A. B. of and C. D. of :—

I hereby enlarge the time of making my award in respect of the matters in difference referred to me by the within (*or* above) submission until the day of 189 .

(*Signed*) X. Y.,
Arbitrator.

Dated the , *189* .

FORM V.

Special case.

In the matter of the Indian Arbitration Act, 1899, and an arbitration between A. B. of and C. D. of :—

The following special case is, pursuant to the provisions of section 10, sub-section (*1*), clause (*b*), of the said Act, stated for the opinion of the *:—

(*Here state the facts concisely in numbered paragraphs.*)

*Here specify the Court.

The questions of law for the opinion of the said Court are:—

First, whether

Secondly, whether

(*Signed*) X. Y.,
Arbitrator.

Dated the , *189* .

FORM VI.

Award.

In the matter of the Indian Arbitration Act, 1899, and an arbitration between A. B. of and C. D. of :—

Whereas in pursuance of an agreement in writing dated the day of , 189 , and made between A. B. of and C. D. of , the said A. B. and C. D. have referred to me, X. Y., the matters in difference between them *concerning* (*or as the case may be*);

Now I, the said X. Y., having duly considered the matters submitted to me, do hereby make my award as follows:—

I *award*—

(1) that

(2) that

Dated the , *189* . (*Signed*) X. Y., *Arbitrator.*

H. W. C. CARNDUFF,
Offg. Secretary to the Government of India.

(Republished by order of His Excellency the Governor in Council.)

G. S. FORBES,
for *Chief Secretary.*

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT GOVERNMENT PRESS.

FORT ST. GEORGE GAZETTE SUPPLEMENT.

TUESDAY EVENING, MARCH 14, 1899.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

The following Report of the Select Committee on the Bill to amend the Law relating to the Forgery of Currency-Notes and Bank-Notes was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 3rd March 1899:—

WE, the undersigned, Members of the Select Committee to which the Bill to amend the Law relating to the forgery of currency-notes and bank-notes 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 hereto.

From Chief Commissioner, Ajmere-Merwara, No. 4-C—690, dated 27th November 1898 [Paper No. 1].
From Resident, Hyderabad, No. 370, dated 3rd December 1898 [Paper No. 2].
From Agent to Governor-General in Baluchistan, No. 8390, dated 7th December 1898, and enclosures [Paper No. 3].
From Chief Commissioner, Coorg, No. 2335, dated 12th December 1898 [Paper No. 4].
From Government, Bombay, No. 8552, dated 23rd December 1898, and enclosures [Paper No. 5].
From Chief Commissioner, Assam, No. 133-L. & L.—502-T. J., dated 16th December 1898, and enclosure [Papers No. 6].
From Chief Commissioner, Central Provinces, No. 9093, dated 17th December 1898, and enclosures [Papers No. 7].
From Government, Burma, No. 434—1-C-7, dated 17th December 1898, and enclosures [Papers No. 8].
From Government, Bengal, No. 6627, dated 23rd December 1898, and enclosures [Papers No. 9].
From Government, Bengal, No. 461-F., dated 19th January 1899, and enclosures [Papers No. 10].
From Government, North-Western Provinces and Oudh, No. 307-X.—311, dated 25th January 1899, and enclosures [Papers No. 11].
From Government, Punjab, No. 108, dated 27th January 1899, and enclosures [Papers No. 12].
From Government, Madras, No. 289, dated 14th February 1899, and enclosures [Papers No. 13.]
Office Memorandum from Finance Department, No. 814-A., dated 21st February 1899, and enclosure [Papers No. 14].
From High Court, Calcutta, No. 654, dated 20th February 1899 [Paper No. 15].

2. In clause 2 of the Bill we have added another provision (489 A) rendering the counterfeiting of currency-notes or bank-notes a substantive offence by itself, and we have included a definition of "bank-note" for the purpose of making the expression cover the currency-notes of other countries as well as bank-notes strictly so-called.

3. We have further divided the new section 489 A proposed by the Bill as introduced, into two sections (489 B and 489 C). The first will provide against trafficking in forged or counterfeit notes and will punish any person who "sells to, or buys or receives from, any other person, or otherwise traffics in or uses as genuine, any forged or counterfeit currency-note, or bank-note, knowing or having reason to believe the same to be forged or counterfeit." The second will deal with mere possession, and in this case we think that a less severe penalty should be fixed, and that the onus should be thrown on the prosecution of showing that the possessor of a bad note not only knew or had reason to believe it to be forged or counterfeit, but intended that it should be used as genuine.

4. We have recast and shortened the drafting of the new section 489 B proposed by the Bill as introduced—see section 489 D of the amended Bill—and have followed the language of section 257 of the Code, which penalizes the making or selling of instruments for the counterfeiting of Government stamps.

5. Consequential amendments and additions have been made in clause 3 of the Bill, and it will be seen that the offence under the proposed new section 489 C is to be made bailable.

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

In English.

Gazette.	Date.
Gazette of India	24th September 1898.
Fort Saint George Gazette	11th October 1898.
Bombay Government Gazette	29th September 1898.
Calcutta Gazette	5th October 1898.
North-Western Provinces and Oudh Government Gazette ..	1st October 1898.
Punjab Government Gazette	29th September 1898.
Burma Gazette	15th October 1898.
Central Provinces Gazette	1st October 1898.
Assam Gazette	15th October 1898.
Coorg District Gazette	1st November 1898.
Sind Official Gazette	3rd November 1898.

In the Vernaculars.

Province.	Language.	Date.
Madras	Tamil	1st November 1898.
	Telugu	1st November 1898.
	Hindustani	1st November 1898.
	Kanarese	1st November 1898.
	Malayalam	1st November 1898.
Bombay	Marathi	24th November 1898.
	Gujarathi	24th November 1898.
	Kanarese	24th November 1898.
Bengal	Bengali	11th October 1898.
	Uriya	27th October 1898.
	Hindi	15th November 1898.
North-Western Provinces and Oudh.	Urdu	22nd October 1898.
Punjab	Urdu	13th October 1898.
Burma	Burmese	29th October 1898.
Assam	Bengali	22nd October 1898.
Sindh	Sindhi	16th November 1898.

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

J. WESTLAND.
M. D. CHALMERS.
C. M. RIVAZ.
J. D. LATOUCHE.
P. M. MEHTA.

The 2nd March 1899.

No. II.

A Bill to amend the law relating to the forgery of currency-notes and bank-notes.

WHEREAS it is expedient to amend the law relating to the forgery of currency-notes and bank-notes; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Currency-Notes Forgery Act, 1899; and

(*2*) It shall come into force at once.

XLV of 1860.

Insertion of new sections after section 489, Act XLV, 1860.

2. After section 489 of the Indian Penal Code the following sections shall be inserted, namely:—

'*Of Currency-Notes and Bank-Notes.*

Counterfeiting currency-notes or bank-notes.

'*489A. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any currency-note or bank-note, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.*

Explanation.—For the purposes of this section and of sections 489B, 489C and 489D, the expression "bank-note" means a promissory note or engagement for the payment of money to bearer on demand issued by any person carrying on the business of banking in any part of the world, or issued by or under the authority of any State or Sovereign Power, and intended to be used as equivalent to, or as a substitute for, money.

Using as genuine forged or counterfeit currency-notes or bank-notes.

'*489B. Whoever sells to, or buys or receives from, any other person, or otherwise traffics in or uses as genuine, any forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.*

Possession of forged or counterfeit currency-notes or bank-notes.

'*489C. Whoever has in his possession any forged or counterfeit currency note or bank-note, knowing or having reason to believe the same to be forged or counterfeit and intending to use the same as genuine, or that it may be used as genuine, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.*

Making or possession of instruments or materials for forging or counterfeiting currency notes or bank-notes.

'*489D. Whoever makes, or performs any part of the process of making, or buys or sells or disposes of, or has in his possession, any machinery, instrument or material for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for forging or counterfeiting any currency-note or bank-note, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.*'

Addition to Schedule II, Act V, 1898.

3. In the Code of Criminal Procedure, 1898, in Schedule II, after the entries relating to section 489 of the Indian Penal Code the following shall be inserted, namely:—

"*Of Currency-Notes and Bank-Notes.*"

489A.	*Counterfeiting currency-notes or bank-notes.*	*May arrest without warrant.*	*Warrant.*	*Not bailable.*	*Not compoundable.*	*Transportation for life or imprisonment of either description for 10 years, and fine.*	*Court of Session.*
	Using as genuine forged or counterfeit currency-notes or bank notes.	Do.	Do.	Do.	Do.	Do.	Do.
489C.	*Possession of forged or counterfeit currency-notes or bank-notes.*	Do.	Do.	*Bailable.*	Do.	*Imprisonment of either description for 7 years, or fine, or both.*	Do.
489D.	Making or possession of instruments or materials for forging or counterfeiting currency-notes or bank-notes.	Do.	Do.	Not bailable.	Do.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Do."

H. W. C. CARNDUFF,
Offg. Secretary to the Government of India.

(Re-published by order of His Excellency the Governor in Council.)

G. STOKES,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

The following Report of the Select Committee on the Bill to further amend the Court-fees Act, 1870, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 3rd March 1899:—

We, the undersigned, Members of the Select Committee to which the Bill to further amend the Court-fees Act, 1870, 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 hereto.

From High Court, Calcutta, No. 1711, dated 27th July 1897 [Paper No. 1].
Endorsement by Home Department, No. 1076, dated 2nd August 1897, and enclosure [Papers No. 2].
From Chief Commissioner, Ajmere-Merwara, No. 892—690, dated 9th August 1897 [Paper No. 3].
From Agent to Governor-General, Baluchistan, No. 1672-C., dated 20th August 1897 [Paper No. 4].
From Chief Commissioner, Coorg, No. 1182-E.—2, dated 23rd August 1897, and enclosures [Papers No. 5].
From Chief Commissioner, Central Provinces, No. 6713, dated 25th August 1897 [Paper No. 6].
From Chief Commissioner, Assam, No. 22-T., dated 25th August 1897, and enclosure [Papers No. 7].
From Government, Burma, No. 750-L.—18, dated 20th August 1897, and enclosures [Papers No. 8].
From Resident, Hyderabad, No. 259, dated 31st August 1897, and enclosures [Papers No. 9].
From Government, Bombay, No. 6561, dated 9th September 1897, and enclosures [Papers No. 10].
From Government, Punjab, No. 1211, dated 22nd September 1897, and enclosures [Papers No. 11].
From Government, North-Western Provinces and Oudh, No. 302, dated 18th September 1897, and enclosures [Papers No. 12].
From Government, Bengal, No. 627-J.—D., dated 20th September 1897, and enclosures [Papers No. 13].
From the Revd. P. C. Rosario, Mangalore, dated 9th October 1897 [Paper No. 14].
From Government, Madras, No. 1819, dated 20th December 1897, and enclosures [Papers No. 15].
Note by the Hon'ble Rai Bahadur Pandit Saraj Kaul, dated 2nd January 1898 [Paper No. 16].
From Government, Bombay, No. 1099, dated 8th February 1898, and enclosures [Papers No. 17].
From the Revd. P. C. Rosario, Mangalore, dated 16th October 1898 [Paper No. 18].
Endorsement by Home Department, No 1360, dated 18th November 1898, and enclosures [Papers No. 19].

2. Various suggestions have been made for amending the law so as either to oblige Hindus, Muhammadans and Buddhists to take out probate or letters of administration in order to establish rights to the property of persons deceased, or to exempt from that obligation Native Christians. We are of opinion that these suggestions are quite outside the scope of the present measure, which deals only with the due collection of the proper court-fees where there is an application with a view to obtaining probate or letters of administration; and we have, therefore, not considered the propriety of any such alteration of the general law on the subject of succession-duty.

3. We have recast the new section 19-H of the Court-fees Act, 1870 proposed by clause 2 of the Bill, first, by providing that, where an application for probate or letters of administration is made to a District Court, notice shall be given to the Collector, and that, where such an application is made to a High Court, notice shall be given to the Chief Controlling Revenue-authority, which will, if necessary, communicate with the Collector concerned. Next we have proposed that, if the Collector is of opinion that an estate has been undervalued, he may summon the petitioner and make inquiry into the matter in such manner as he may deem fit; and that, if, after such inquiry (if any), he still thinks that there has been an undervaluation and the petitioner does not agree to amend his estimate accordingly, the Collector may proceed to move the Court to hold a judicial inquiry. It seems to us that by this procedure the expense and trouble of an inquiry by the Court will, in most cases probably, be avoided. Further, we have added a proviso to the effect that the Court shall not be set in motion

after the expiration of six months from the date of the exhibition of the inventory required by section 277 of the Indian Succession Act, 1865, or by section 98 of the Probate and Administration Act, 1881, as the case may be. We have also inserted an express provision making the Collector a party to any judicial inquiry which may be held, and added a sub-section declaring that the finding of the Court in the matter shall be final, but expressly saving the provisions of section 19-E of the Act. And, finally, we have provided for the making of rules by the Local Government for the guidance of Collectors in the exercise of the new powers to be conferred upon them.

4. The remaining additional provision proposed by the Bill as introduced has also been recast so as to provide that, before any order is made entitling a person to the grant of probate or letters of administration, a valuation of the estate must be made and submitted in the prescribed form and the Court is to be satisfied that the fee indicated in No. 11 of the first schedule to the Act of 1870 has been paid.

5. Section 20 of the Probate and Administration Act, 1889 (VI of 1889), amended sections 19-E and 19-G of the Court-fees Act, 1870. We propose to transfer this provision to its proper place, which is in the Act of 1870, and, in amplifying the Bill in order to do so, we have taken the opportunity of removing a doubt as to whether it confers power on the Chief Controlling Revenue-authority to remit excess court-fees under section 19-E as well as penalties strictly so called.

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

In English.

Gazette.	Date.
Gazette of India	3rd July 1897.
Fort St. George Gazette	20th July 1897.
Bombay Government Gazette	8th July 1897.
Calcutta Gazette	14th July 1897.
North-Western Provinces and Oudh Government Gazette ..	10th July 1897.
Punjab Government Gazette	8th July 1897.
Burma Gazette	24th July 1897.
Central Provinces Gazette	10th July 1897.
Assam Gazette	24th July 1897.
Coorg District Gazette	2nd August 1897.
Sind Official Gazette	20th July 1897.

In the Vernaculars.

Province.	Language.	Date.
Madras	Tamil	27th July 1897.
	Telugu	20th July 1897.
	Hindustani	20th July 1897.
	Malayalam	20th July 1897.
	Kanarese	27th July 1897.
Bombay	Marathi	12th August 1897.
	Gujarathi	12th August 1897.
	Kanarese	12th August 1897.
Bengal	Bengali	3rd August 1897.
	Uriya	12th August 1897.
	Hindi	17th August 1897.
Punjab	Urdu	5th August 1897.
Burma	Burmese	31st July 1897.
Assam	Bengali	14th August 1897.
Coorg	Kanarese	2nd August 1897.
Sindh	Sindhi	5th August 1897.

7. We think that the Bill has not been so altered as to require republication, and we recommend that it be passed as now amended.

C. M. RIVAZ.
J. WESTLAND.
M. D. CHALMERS.
P. SURAJ KAUL.
P. M. MEHTA.
DONALD SMEATON.
J. D. REES.*

The 28th February 1899.

* I have signed this report because it can only be desirable to provide checks upon evasions of the existing Court-fees Act. For the reason, however, that sums paid on account of probate and administration are really succession-duties and not court-fees, and that any increased stringency as regards payment chiefly affects Indian Christians, I hope that their position in regard to succession-duties will receive favourable consideration whenever proposals are entertained for amending the general law in this behalf.

J. D. REES.

No. II.

A Bill to further amend the Court-fees Act, 1870.

VII of 1870. WHEREAS it is expedient to further amend the Court-fees Act, 1870; It is hereby enacted as follows:—

Short title and commencement. 1. (1) This Act may be called the Court-fees Amendment Act, 1899; and

(2) It shall come into force at once.

Addition of two new sections after section 19G, Act VII, 1870. VII of 1870. 2. After section 19G of the Court-fees Act, 1870, the following sections shall be added, namely:—

Notice of applications for probate or letters of administration to be given to Revenue-authorities, and procedure thereon "*19H.* (1) *Where an application for probate or letters of administration is made to any Court other than a High Court, the Court shall cause notice of the application to be given to the Collector.*

(2) *Where such an application as aforesaid is made to a High Court, the High Court shall cause notice of the application to be given to the Chief Controlling Revenue-authority of the Province.*

(3) The *Collector within the local limits of whose revenue-jurisdiction the property of the deceased or any part thereof is,* may at any time inspect or cause to be inspected, *and take or cause to be taken copies of,* the record of any case in which application for probate or letters of administration has been made; and if, on such inspection or otherwise, he is of opinion that the petitioner has under-estimated the value of the *property* of the deceased, *the Collector may, if he thinks fit, require the attendance of the petitioner (either in person or by agent) and take evidence and inquire into the matter in such manner as he may think fit, and, if he is still of opinion that the value of the property has been under-estimated, may require the petitioner to amend the valuation.*

(4) *If the petitioner does not amend the valuation to the satisfaction of the Collector, the Collector may move* the Court before which *the* application *for probate or letters of administration was made,* to hold an inquiry into the true value of the *property*:

Provided that no such motion shall be made after the expiration of six months from the date of the exhibition of the inventory required by section 277 of the Indian Succession Act, X of 1865. *1865, or, as the case may be, by section 98 of the Probate and Administration Act,* V of 1881. *1881.*

(5) *The* Court, when so *moved* as aforesaid, shall hold, *or cause to be held,* an inquiry accordingly, and shall record a finding as to the true value, as near as may be, at which the *property* of the deceased should have been estimated. *The Collector shall be deemed to be a party to the inquiry.*

(6) For the purposes of any such inquiry, the Court *or officer authorised to hold the inquiry* may examine the petitioner for probate or letters of administration on oath (whether in person or by commission), and may take such further evidence as may be produced to prove the true value of the *property.*

(7) *The finding of the Court recorded under sub-section (5) shall be final, but shall not bar the entertainment and disposal by the Chief Controlling Revenue-authority of any application under section 19E.*

(8) *The Local Government may make rules for the guidance of Collectors in the exercise of the powers conferred by sub-section (3).*

19I. No order entitling the petitioner to the grant of probate or letters of administration shall be made upon an application for such grant until the petitioner has filed in the Court a valuation of the property in the form set forth in the third schedule, and the Court is satisfied that the fee mentioned in No. 11 of the first schedule has been paid.

Payment of court fees in respect of probates and letters of administration.

19J. (1) *Any penalty or forfeiture under section 19G 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.*

Recovery of penalties, etc.

(2) *The Chief Controlling Revenue-authority may remit the whole or any part of any such penalty or forfeiture as aforesaid, or any part of any penalty under section 19E or of any court-fee under section 19E in excess of the full court-fee which ought to have been paid.*" [See Act VI of 1889, s. 20.]

Addition of schedule to Act VII, 1870. VII of 1870. 3. *To the Court-fees Act, 1870, the following schedule shall be added, namely:—*

"SCHEDULE III.

FORM OF VALUATION OF (TO BE USED WITH SUCH MODIFICATIONS, IF ANY, AS MAY BE NECESSARY).

IN THE COURT OF

In the Probate of the Will of , (or Administration of the property and credits of ,) deceased.

I { solemnly affirm / make oath }

and say that I am the executor (*or* one of the executors *or* one of the next of kin) of , deceased, and that I have truly set forth in Annexure A to this affidavit all the property and credits of which the abovenamed deceased died possessed or was entitled to at the time of his death, and which have come, or are likely to come, to my hands.

2. I further say that I have also truly set forth in Annexure B all the items I am by law allowed to deduct.

3. I further say that the said assets, exclusive only of such last-mentioned items, but inclusive of all rents, interest, dividends and increased values since the date of the death of the said deceased, are under the value of

ANNEXURE A.

VALUATION OF THE MOVEABLE AND IMMOVEABLE PROPERTY OF , DECEASED.	R.	A.	P.
Cash in the house and at the banks, household goods, wearing-apparel, books, plate, jewels, etc. (*State estimated value according to best of Executor's or Administrator's belief.*)			
Property in Government securities transferable at the Public Debt Office. (*State description and value at the price of the day; also the interest separately, calculating it to the time of making the application.*)			
Immoveable property, consisting of (*State description, giving, in the case of houses, the assessed value, if any, and the number of years' assessment the market-value is estimated at, and, in the case of land, the area, the market-value and all rents that have accrued.*)			

	R.	A.	P.
Leasehold property			
(*If the deceased held any leases for years determinable, state the number of years' purchase the profit rents are estimated to be worth and the value of such, inserting separately arrears due at the time of death and all rents received or due since that period to the time of making the application.*)			
Property in public companies			
(*State the particulars and the value, calculated at the price of the day; also the interest separately, calculating it to the time of making the application.*)			
Policy of insurance upon life, money out on mortgage and other securities, such as bonds, mortgages, bills, notes and other securities for money.			
(*State the amount of the entire; also the interest separately, calculating it to the time of making the application.*)			
Book debts			
(*Other than bad.*)			
Stock in trade.			
(*State the estimated value, if any.*)			
Other property not comprised under the foregoing heads.			
(*State the estimated value, if any.*)			
TOTAL ..			
Deduct amount shown in Annexure B not subject to duty.			
NET TOTAL ..			

ANNEXURE B.

SCHEDULE OF DEBTS, ETC.

	R.	A.	P.
Amount of debts due and owing from the deceased, payable by law out of the estate.			
Amount of funeral expenses			
Amount of mortgage incumbrances ..			
Property held in trust not beneficially or with general power to confer a beneficial interest.			
Other property not subject to duty			
TOTAL ..			

4. *Section 20 of the Probate and Administration Act, 1889, is hereby repealed.* VI of 1889.
Repeal.

H. W. C. CARNDUFF,
Offg. Secy. to the Government of India.

(Republished by order of His Excellency the Governor in Council.)

G. STOKES,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

FORT ST. GEORGE GAZETTE SUPPLEMENT.

TUESDAY EVENING, MARCH 21, 1899.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 10th March 1899:—

No. 2 OF 1899.

A Bill to further amend the Indian Tariff Act, 1894.

WHEREAS it is expedient to further amend the Indian Tariff Act, 1894; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Indian Tariff Amendment Act, 1899; and

(*2*) It shall come into force at once.

Addition of new section 8A after section 8, Act VIII, 1894. VIII of 1894.

2. After section 8 of the Indian Tariff Act, 1894, the following section shall be added, namely:—

Additional import duty on bounty-fed articles.

"8A. (*1*) Where any country, dependency or colony pays or bestows, directly or indirectly, any bounty or grant upon the exportation therefrom of any article and the article is chargeable with duty under the provisions of this Act, then, upon the importation of any such article into British India, whether the same is imported directly from the country of production or otherwise, and whether it is imported in the same condition as when exported from the country of production or has been changed in condition by manufacture or otherwise, the Governor-General in Council may, by notification in the *Gazette of India*, impose an additional duty equal to the net amount of such bounty or grant, however the same be paid or bestowed.

"(*2*) The net amount of any such bounty or grant as aforesaid shall be, from time to time, ascertained, determined and declared by the Governor-General in Council, and the Governor-General in Council may, by notification in the *Gazette of India*, make rules for the identification of such articles and for the assessment and collection of any additional duty imposed upon the importation thereof under sub-section (*1*)."

STATEMENT OF OBJECTS AND REASONS.

During the last two years there has been a rapid and large increase in the amount of bounty-fed sugar imported into India, especially from Germany and Austro-Hungary. This appears to be seriously affecting the important sugar industries of India, as it is reported that many refineries have already ceased to work and that others are on the verge of being closed.

2. The present Bill has been prepared with the object of enabling the Government of India to impose countervailing duties on bounty-fed articles at the port of importation and thus to preserve the sugar cultivation and industries of this country.

The 10th Mar. 1899. J. WESTLAND.

H. W. C. CARNDUFF,
Offg. Secretary to the Government of India.

(Re-published by order of His Excellency the Governor in Council.)

G. STOKES,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

The following Report of the Select Committee on the Bill to consolidate and amend the Law relating to Glanders and Farcy was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 10th March 1899:—

We the undersigned, Members of the Select Committee to which the Bill to consolidate and amend the Law relating to Glanders and Farcy 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 hereto.

From Chief Commissioner, Coorg, No. 2268, dated 30th November 1898 [Paper No. 1].
From High Court, Calcutta, No. 2980, dated 6th December 1898 [Paper No. 2].
From Resident, Hyderabad, No. 887, dated 21st December 1898, and enclosures [Papers No. 3].
From Chief Commissioner, Ajmere-Merwara, No. 29-C—690, dated 25th December 1898 [Paper No. 4].
From Agent to Governor-General in Baluchistan, No. 287, dated 11th January 1899 [Paper No. 5].
From Chief Commissioner, Assam, No. 189-L. & L-98-J., dated 10th January 1899 [Paper No. 6].
From Government, Punjab, No. 33, dated 13th January 1899, and enclosures [Papers No. 7].
From Government, Bombay, No. 277, dated 16th January 1899, and enclosures [Papers No. 8].
From Government, Burma, No. 340-I.—V—I., dated 18th January 1899, and enclosures [Papers No. 9].
From Chief Commissioner, Central Provinces, No. 417, dated 27th January 1899, and enclosures [Papers No. 10].
From Government, Punjab, No 88, dated 30th January 1899, and enclosures [Papers No. 11].
From Government, Madras, No. 85, dated 31st January 1899, and enclosures [Papers No. 12].
From Government, North-Western Provinces and Oudh, No. 626, dated 13th February 1899, and enclosures [Papers No. 13].
From Government, Bengal, No. 746, dated 23rd February 1899, and enclosures [Papers No. 14].

2. It has been suggested that the law should recognize the *mallein* test for glanders as being the most reliable at present known; but new and improved tests may be discovered hereafter, and it seems to us inadvisable that the Act itself should lay down any particular one. We have, however, amplified clause 7 of the Bill in order to admit of the application of such tests as the Local Government may from time to time prescribe, and we have at the same time made an addition to the rule-making clause (14) so as expressly to take power for the Local Government to regulate the use of tests and the isolation of horses while subjected to them, and to provide for recovering the expenses incidental to any necessary detention from the owners or persons in charge of the horses tested.

3. The words "some police-officer" at the end of clause 10 seem to be too vague. We have, therefore, altered the provision and provided that information of disease shall be given either to the Inspector or "to such authority as the Local Government may appoint in this behalf."

4. A clause on the usual lines—see clause 16 of the amended Bill—has been inserted to protect persons acting in good faith under the proposed Act.

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

In English.

Gazette.	Date.
Gazette of India	5th November 1898.
Fort St. George Gazette	15th November 1898.
Bombay Government Gazette	10th November 1898.
Calcutta Gazette	15th November 1898.
North-Western Provinces and Oudh Government Gazette ..	12th November 1898.
Punjab Government Gazette	10th November 1898.
Burma Gazette	26th November 1898.
Central Provinces Gazette	12th November 1898.
Assam Gazette	26th November 1898.
Coorg District Gazette	1st December 1898.
Sind Official Gazette	1st December 1898.

In the Vernaculars.

Province.	Language.	Date.
Madras	Telugu	29th November 1898.
	Kanarese	29th November 1898.
	Malayalam	29th November 1898.
	Tamil	6th December 1898.
Bombay	Marathi	1st December 1898.
	Gujarathi	1st December 1898.
	Kanarese	1st December 1898.
Bengal	Bengali	29th November 1898.
	Uriya	8th December 1898.
	Hindi	27th December 1898.
North-Western Prov. and Oudh.	Urdu	3rd December 1898.
Punjab	Urdu	8th December 1898.
Burma	Burmese	3rd December 1898.
Assam	Bengali	10th December 1898.
Coorg	Kanarese	2nd January 1899.
Sindh	Sindhi	8th December 1898.

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

C. M. RIVAZ.
M. D. CHALMERS.
EDWIN H. H. COLLEN.
P. SURAJ KAUL.
J. K. SPENCE.

The 7th March, 1899.

No. II.

A Bill to consolidate and amend the Law relating to Glanders and Farcy.

WHEREAS it is expedient to *consolidate and amend the law relating to glanders and farcy*; It is hereby enacted as follows:—

[1] Short title, extent and commencement.

1. (*1*) This Act may be called the *Glanders and Farcy Act, 1899.*

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

(*3*) It shall come into force at once.

[2] Definition of "diseased."

2. (*1*) In this Act, unless there is *anything* repugnant in the subject or context, "diseased" means affected with glanders *or farcy or any other dangerous epidemic disease among horses which the Governor General in Council may, by notification in the Gazette of India, specify in this behalf.*

(*2*) *The provisions of this Act relating to horses shall apply also to asses and mules.*

[3] Application of Act to local areas by Local Government.

3. The Local Government may, by notification in the *local* official Gazette, apply this Act, or any provision of this Act, to any local area, to be specified in such notification, within the *Province.*

[4] Local Government to appoint Inspectors.

4. (*1*) When this Act has been so applied to any local area, the Local Government may, by notification in the *local* official Gazette, appoint such persons as it thinks fit to be Inspectors under this Act and to exercise and perform, within the whole of such local area or such portions thereof as it may prescribe, the powers conferred and the duties imposed by this Act on such officers.

(*2*) Every person so appointed shall be deemed a public servant within the meaning of the Indian Penal Code. XLV of 1860.

[5] Power of entry and search.

5. *Within the local limits for which he is so appointed, any* such Inspector *as aforesaid* may, subject to such rules as the Local Government may make in this behalf, enter and search any field, building or other place *for the purpose of ascertaining whether there is therein any horse which is diseased within the meaning of this Act.*

[6] Power of seizure.

6. Within *such* limits *as* aforesaid, the Inspector may seize any horse which he has reason to believe to be diseased.

[7] Horse to be examined by Veterinary Practitioner.

7. (*1*) On any such seizure *as aforesaid*, the Inspector shall cause the horse seized to be examined as soon as possible by such Veterinary Practitioner as the Local Government may appoint in this behalf:

Provided that, when the Inspector is also a Veterinary Practitioner so appointed, he may make the examination himself.

(2) For the purposes of the examination the Veterinary Practitioner may submit the horse to any test or tests which the Local Government may prescribe.

[8] Horse to be destroyed if found diseased: otherwise restored.

8. (*1*) If the *Veterinary* Practitioner certifies in writing that the horse is diseased, the Inspector shall cause the same to be immediately destroyed:

Provided that, in the case of any disease other than glanders or farcy, horses certified to be diseased as aforesaid may, subject to any rules which the Local Government may make in this behalf, be either destroyed or otherwise treated or dealt with as the Veterinary Practitioner may deem necessary.

(*2*) If, after completing the examination, the Veterinary Practitioner does not certify that *the horse is diseased*, the Inspector shall at once deliver the same to the person entitled to the possession thereof.

[9] When horse diseased, place where it has been to be disinfected, etc.

9. (*1*) When any diseased horse has been in any building, shed or other enclosed place, or in any open lines, the Inspector may issue a notice to the owner of the building, shed, place or lines, or the person in charge thereof, directing him to have the same disinfected and the internal fittings thereof, or such other things found therein or near thereto as the Local Government may by rule prescribe, destroyed.

(*2*) On the failure or neglect of such owner or other person as aforesaid to comply with the notice within a reasonable time, the Inspector shall cause the building, shed, place or lines to be disinfected and the fittings or other things to be destroyed, and the expense (if any) thereby incurred may be recovered from the owner or other person as if it were a fine.

[10] Owner or person in charge of diseased horse to give notice.

10. The owner or any person in charge of a diseased horse shall give immediate information of the horse being diseased to the Inspector or **to such authority as the Local Government may appoint in this behalf.**

[11] Prohibition against removal, without license, of horse which has been with diseased horse.

11. No person in charge of any horse which has been in the same field, building or place as, or in contact with, a diseased horse, shall remove such horse except in good faith for the purpose of preventing infection, or under a license to be granted by the Inspector and subject to the conditions of such license.

[12] Vexatious entries, searches and seizures.

12. (*1*) *Whoever, being an* Inspector *appointed under this Act, vexatiously and unnecessarily* enters or searches any field, building or other place, or seizes or detains any horse on the pretence that it is diseased, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

(*2*) No prosecution under this section shall be instituted after the expiry of three months from the date on which the offence has been committed.

[13] Penalty for refusing to comply with notice under section 9, or for moving horse contrary to section 11.

13. *Whoever* refuses or neglects to comply with any notice issued by the Inspector under section 9, or removes any horse in contravention of section 11, shall be punishable with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

[14] Power to make rules.

14. (*1*) The Local Government may make rules *to carry out the purposes and objects of this Act.*

(*2*) *In particular and without prejudice to the generality of the foregoing power, such rules as aforesaid may—*

(*a*) regulate entries, searches and seizures by Inspectors under this Act;

(b) regulate the use of tests and the isolation of horses subjected thereto, and provide for recovering the expense of detaining, isolating and testing horses from the owners or persons in charge thereof as if it were a fine;

(c) regulate the destruction *or treatment, as the case may be,* of horses certified under section 8 to be diseased, and the disposal of the carcases of *diseased* horses;

(d) regulate the disinfecting of buildings and places in which diseased horses have been, and prescribe what things found therein or near thereto shall be destroyed; *and*

(e) regulate the grant of licenses under section 11 and the conditions on which those licenses shall be granted.

(*3*) All rules under this section shall be published in the *local* official Gazette, and, *on such publication*, shall have *effect as if enacted by this Act.*

(*4*) *In making any* rule under this section, *the Local Government may direct that a breach of it* shall be punishable with imprisonment *for a term* which may extend to one month, or with fine which may extend to fifty rupees, or with both.

[15] Appointment of same person to be both Inspector and Veterinary Practitioner.

15. Any Veterinary Practitioner may be appointed by the Local Government to be both Inspector and Veterinary Practitioner for all or any of the purposes of this Act or of any rule thereunder.

[Cf. Act III, of 1897, s. 4] Protection to persons acting under Act.

16. No suit, prosecution or other legal proceeding shall lie against any person for anything which is, in good faith, done or intended to be done under this Act.

[New.] Repeal.

17. *The enactments mentioned in the schedule are hereby repealed to the extent specified in the fourth column thereof.*

THE SCHEDULE.

ENACTMENTS REPEALED.

(*See section 17.*)

Year.	*No.*	*Short Title.*	*Extent of repeal.*
1879	XX	*The Glanders and Farcy Act, 1879.*	*The whole Act.*
1891	XII	*The Repealing and Amending Act, 1891.*	*So much as relates to Act XX of 1879.*
1896	XV	*The Glanders and Farcy Act (1879) Amendment Act, 1896.*	*The whole Act.*
1897	XIV	*The Indian Short Titles Act, 1897.*	*So much as relates to Act XV of 1896.*

H. W. C. CARNDUFF,
Offg. Secy. to the Government of India.

(Republished by order of His Excellency the Governor in Council.)

G. STOKES,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

The following Report of the Select Committee on the Bill to consolidate and amend the law of Bankruptcy and Insolvency in British India was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 20th March 1899:—

WE, the undersigned, Members of the Select Committee to which the Bill to consolidate and amend the law of Bankruptcy and Insolvency in British India was referred, have considered the Bill, and have now the honour to submit this our Report.

2. The Bill was introduced on the 20th May 1886, and was referred to a Select Committee on the same day. The Select Committee, however, did not apparently meet till the 5th March 1892, and, after holding one meeting, seem to have discontinued the consideration of the measure.

3. We have come to the conclusion that the Bill in its present form should be abandoned and struck off the list of pending business. Although it closely follows the provisions of the English Act of 1883, and although it would be convenient to have the substantive law of bankruptcy the same both in England and in India, we think that the procedure of the English Statute is much too complicated to suit Indian conditions. In particular, the Bill proposes to introduce two proceedings which would be novel in this country, and would create unnecessary difficulties. In the first place, the interposition of a "receiving order," with all the legal complications attendant on it, between the bankruptcy petition and the adjudication is undesirable here. In the second place, the provisions regarding special assignees, who in practice are never appointed in India, involve a large number of checks and counter-checks which are not wanted where the administration is in the hands of a permanent official and officer of the Court. Other illustrations might be given, but these may suffice to show the advisability of not proceeding further with the measure as now before the Council.

4. The publication ordered by the Council was made as noted below :—

In English.

Gazette.	Date.
Gazette of India	7th May 1886.
Fort St. George Gazette	18th June 1886.
Bombay Government Gazette	29th May, and 3rd and 10th June 1886.
Calcutta Gazette	2nd, 9th and 16th June 1886.
North-Western Provinces and Oudh Government Gazette	29th May, and 5th and 12th June 1886.
Punjab Government Gazette	27th May, and 3rd and 10th June 1886.
Burma Gazette	12th, 19th and 26th June 1886.
Central Provinces Gazette	5th, 12 [illegible] 19th June 1886.
Coorg District Gazette	1st August 1886.

In the Vernaculars.

Province.	Language.	Date.
Bombay	Gujarathi	6th January 1887.
	Marathi	17th March 1887.
	Kanarese	14th July 1887.
Bengal	Uriya	18th November 1886.
	Hindi	4th, 11th and 18th January 1887.
	Bengali	16th April 1887.
Punjab	Urdu	16th, 23rd and 30th September 1886.
Burma	Burmese	29th January, and 5th and 12th February 1887.
Central Provinces ..	Hindi	10th, 17th and 24th November 1886.
Sindh	Sindhi	26th August 1886.

M. D. CHALMERS.
C. M. RIVAZ.
G. H. P. EVANS.
ALLAN ARTHUR.
P. M. MEHTA.

The 15th March 1899.

H. W. C. CARNDUFF,
Offg. Secretary to the Government of India.

(Republished by order of His Excellency the Governor in Council.)

G. STOKES,
Chief Secretary.

MADRAS : PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 23rd June 1899 :

No. 5 OF 1899.

A Bill to validate certain marriages solemnized in the Native States of Pudukkottai and Travancore in India.

WHEREAS the Reverend Carl Manthey-Zorn, an ordained Minister of the Leipzig Evangelical Lutheran Mission, was, in or about the month of April 1872, licensed by the Governor of Fort St. George in Council, under the provisions of sections 8 and 47 of the Indian Marriage Act, 1865, to solemnize marriages and to grant certificates of marriage between Native Christians within the territories subject to the said Governor in Council, and the said Carl Manthey-Zorn did, in the years 1874 and 1875, solemnize certain marriages and grant certain certificates of marriage between Native Christians in Pudukkottai, which is a Native State beyond the said territories; V of 1865.

And whereas the late Reverend Ludvig Traugott Paesler, of the Leipzig Evangelical Lutheran Mission, was, in the month of August 1876, licensed by the said Governor in Council, under the provisions of sections 6 and 9 of the Indian Christian Marriage Act, 1872, to solemnize marriages and to grant certificates of marriage between Native Christians "within the territories subject to the Government of Madras," and the said Ludvig Traugott Paesler did, both before and after he was licensed as aforesaid, solemnize certain marriages and grant certain certificates of marriage between Native Christians in the said Native State of Pudukkottai; XV of 1872.

And whereas Catechist Visuvasam Solomon, of the London Missionary Society, Nagercoil, Travancore, was, in the month of June 1877, licensed by the said Governor in Council, under the provisions of section 9 of the Indian Christian Marriage Act, 1872, to grant certificates of marriage between Native Christians "within the territories subject to the Government of Madras," and the said Visuvasam Solomon did, in the years 1877 to 1894, grant certain certificates in respect of marriages between Native Christians in Travancore, which is a Native State beyond the said territories; XV of 1872.

And whereas the Reverend Friedrich Karl Alwin Gehring, of the Leipzig Evangelical Lutheran Mission, Kumbakonam, Tanjore district, was, in the month of May 1879, licensed by the said Governor in Council, under the provisions of section 9 of the Indian Christian Marriage Act, 1872, to grant certificates of marriage between Native Christians, and the said Friedrich Karl Alwin Gehring did, in the years 1884 and 1885, grant certain certificates in respect of marriages between Native Christians in the said Native State of Pudukkottai; XV of 1872.

And whereas the Reverend Ernst Leberecht Dachselt was, in the month of November 1886, licensed by the said Governor in Council, under the provisions of section 9 of the Indian Christian Marriage Act, 1872, to grant certificates of marriage between Native Christians, and the said Ernst Leberecht Dachselt did, both before and after he was licensed as aforesaid, grant certain certificates of marriage between Native Christians in the said Native State of Pudukkottai; XV of 1872.

And whereas the Reverend Karl Traugott Rueger, a Missionary of the Leipzig Evangelical Lutheran Mission, Madras, was, in the month of March 1888, licensed by the said Governor in Council, under the provisions of section 9 of the Indian Christian Marriage Act, 1872, to grant certificates of marriage between Native Christians, and the said Karl Traugott Rueger did, in the year 1895, grant a certificate in respect of a marriage between Native Christians in the said Native State of Pudukkottai; XV of 1872.

And whereas the Reverend Theodor Meyner, a Missionary of the Leipzig Evangelical Lutheran Mission, Trichinopoly, was, in the month of March 1888, licensed by the said Governor in Council, under the provisions of section 9 of the Indian Christian Marriage Act, 1872, to grant certificates of marriage between Native Christians, and the said Theodor Meyner did, in the years 1889 to 1891, grant certain certificates in respect of marriages between Native Christians in the said Native State of Pudukkottai; XV of 1872.

And whereas there is no reason to doubt that the said Carl Manthey-Zorn, Ludvig Traugott Paesler, Visuvasam Solomon, Friedrich Karl Alwin Gehring, Ernst Leberecht Dachselt, Karl Traugott Rueger and Theodor Meyner acted as aforesaid in good faith in the belief that they were authorized

to solemnize marriages or to grant certificates of marriage between Native Christians, as the case may be, in the Native State of Pudukkottai or Travancore, as the case may be;

And whereas there is no reason to doubt that the parties to the said marriages all in good faith believed that their marriages were being duly solemnized or certified, as the case may be, and that their marriages were valid in law;

And whereas it is doubtful whether the said marriages, or any of them, were duly solemnized or certified, as the case may be, so as to be valid in law, and it is expedient that they should be validated;

It is hereby enacted as follows:—

Short title, commencement and extent.

1. (*1*) This Act may be called the Marriages Validation (Pudukkottai and Travancore) Act, 1899; and

(*2*) It shall come into force at once.

[*Cf.* XX of 1895, s. 1 (*2*).]

(*3*) It extends to all persons and places for whom and for which the Governor-General in Council has power to make laws.

Construction.

2. In this Act all expressions used shall have the same meaning as in the Indian Christian Marriage Act, 1872.

XV of 1872.

Validation of certain irregular marriages.

3. All marriages which have been solemnized, or in respect of which certificates have been granted, in the Native State of Pudukkottai or Travancore, as the case may be, by the said Carl Manthey-Zorn, or the said Ludvig Traugott Paesler, or the said Visuvasam Solomon, or the said Friedrich Karl Alwin Gehring, or the said Ernst Leberecht Dachselt, or the said Karl Traugott Rueger, or the said Theodor Meyner, shall be, and shall be deemed to have been on and with effect from the date of the solemnization of each respectively, or the date of the certificate granted in respect of each respectively, as good and valid in law as if they had been solemnized, or the certificates in respect of them had been granted, by persons duly authorized under section 6 or section 9, as the case may be, of the Indian Christian Marriage Act, 1872, to solemnize marriage or grant certificates of marriage between Native Christians in the Native State of Pudukkottai or Travancore, as the case may be. XV of 1872.

Validation of records of the said irregular marriages.

4. Certificates of marriages which are declared by section 3 to be good and valid in law, and register-books and certified copies of true and duly authenticated extracts therefrom deposited in compliance with the provisions of the Indian Christian Marriage Act, 1872, in so far as the register-books and extracts relate to such marriages as aforesaid, shall be received as evidence of such marriages as if such marriages had been duly solemnized under Part I or Part VI, as the case may be, of the said Act. XV of 1872.

Short title conferred on Act XVII, 1895.

5. Act XVII of 1895 (*an Act to validate certain marriages solemnized in the Civil and Military Station of Bangalore*) may, without prejudice to any other mode of citation, be cited for all purposes as the Marriages' Validation (Bangalore) Act, 1895.

STATEMENT OF OBJECTS AND REASONS.

As is usual in validating legislation of this kind, the facts leading up to it and the grounds for it are fully set forth in the preamble to the Bill. To the statement there given it seems unnecessary to add anything.

The 25th April 1899. T. RALEIGH.

J. M. MACPHERSON,
Secretary to the Government of India.

(Republished by order of His Excellency the Governor in Council.)

G. STOKES,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 23rd June 1899:

No. 9 OF 1899.

A Bill to amend the Land Improvement Loans Act, 1883.

WHEREAS it is expedient to amend the Land Improvement Loans Act, 1883; It is hereby enacted as follows:— XIX of 1883.

Short title and commencement.

1. (*1*) This Act may be called the Land Improvement Loans Amendment Act, 1899; and

(*2*) It shall come into force at once.

Amendment, with retrospective effect, of section 6, Act XIX, 1883.

2. In section 6, sub-section (*1*), of the Land Improvement Loans Act, 1883, for the words "from the date of the actual advance of the last instalment", the words "from the date of the advance of the last instalment actually paid" shall be substituted and shall be deemed to have been substituted with effect from the commencement of the said Act. XIX of 1883.

STATEMENT OF OBJECTS AND REASONS.

Section 6 of the Land Improvement Loans Act, 1883 (XIX of 1883), provides that a loan granted thereunder shall be repayable within such period from the date of the actual advance of the loan, or, when the loan is advanced in instalments, from the date of the actual advance of the last instalment, as may, from time to time, be fixed by rule. The law officers in Bengal have advised that the effect of this section is to make no part of a loan, where the agreement is to advance it by instalments, repayable till after the last instalment has been advanced, the consequence being that, in the event of such last instalment not being accepted, the right of the Government to recover the amount of the earlier instalments actually advanced does not accrue. The object of this Bill is to remove this defect in the language of the section with retrospective effect from the commencement of the Act.

C. M. RIVAZ.

The 17th June 1899.

J. M. MACPHERSON,
Secretary to the Government of India.

(Republished by order of His Excellency the Governor in Council.)

N. E. MARJORIBANKS,
Ag. Secy. to Govt., Revenue Dept.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 23rd June 1899:

No. 4 OF 1899.

A Bill further to amend the Whipping Act, 1864.

VI of 1864. WHEREAS it is expedient further to amend the Whipping Act, 1864; It is hereby enacted as follows:

Short title, extent and commencement. 1. (*1*) This Act may be called the Whipping Act, 1899.

(*2*) It extends to the whole of British India, inclusive of British Baluchistan and the Santal Parganas; and

(*3*) It shall come into force at once.

VI of 1864. Addition to section 2, Act VI, 1864. 2. To section 2 of the Whipping Act, 1864, as amended by section 5 of the Indian Criminal Law Amendment Act, 1895, the following shall be added, namely:

III of 1895.

'*Group E.*

(11) rioting armed with a deadly weapon, as defined in section 148 of the said Code.'

VI of 1864. Substitution of new section for section 5, Act VI, 1864. III of 1895. 3. For section 5 of the Whipping Act, 1864, as amended by section 6 of the Indian Criminal Law Amendment Act, 1895, the following shall be substituted, namely:

Juvenile offenders when punishable with whipping. '5. Any juvenile offender who commits or attempts to commit—

(*a*) any offence which is punishable under the Indian Penal Code otherwise than with death, or XLV of 1860.

(*b*) any offence which is punishable under any special or local law with imprisonment,

may be punished with whipping in lieu of any other punishment to which he may for such offence or attempt be liable:

Provided that the Governor-General in Council may, by order in writing, direct that the punishment of whipping shall not be inflicted in respect of such offences falling under clause (*b*) as he may think fit to specify in this behalf.

Explanation.—In this section the expression "juvenile offender" means an offender who is, in the opinion of the Court (which shall be final and conclusive on the point), under sixteen years of age.'

Repeal. 4. The words 'under the provisions of the Indian Penal Code' in the preamble to the Whipping Act, 1864, and section 6 of the Indian Criminal Law Amendment Act, 1895, are hereby repealed. VI of 1864. III of 1895.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to extend the punishment of whipping in two directions.

2. Clause 2 proposes to make an addition to section 2 of the Whipping Act, 1864 (VI of 1864), which will have the effect of rendering the offence of rioting armed with a deadly weapon punishable with whipping in lieu of any other punishment already provided therefor by section 148 of the Indian Penal Code. The offence is one for which the infliction of corporal punishment seems to be very suitable.

3. Under section 5 of the Act of 1864, as it now stands, a juvenile offender cannot, the Government of India are advised, be whipped except on conviction for an offence under the Indian Penal Code; nor can he be so punished for an attempt to commit an offence. There are undoubtedly many offences against special or local laws which are punishable with imprisonment and for which a youthful offender might, with advantage, be whipped rather than sent to jail; and it is thought that, if the attempt to commit an offence punishable with whipping is not similarly punishable, it ought to be made so. Clause 3 is, therefore, intended to amend the law on the subject by substituting a revised section for section 5 of the present Act.

4. The repeals proposed by clause 4 of the Bill are purely consequential.

C. M. RIVAZ.

The 28th April 1899.

J. M. MACPHERSON,
Secretary to the Government of India.

(Republished by order of His Excellency the Governor in Council.)

G. STOKES,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 23rd June 1899:

No. 7 OF 1899.

A Bill to authorize certain Companies registered under the Indian Companies Act, 1882, to keep branch registers of their members in the United Kingdom.

WHEREAS it is expedient to authorize certain Companies registered under the Indian Companies Act, 1882, to keep branch registers of their members in the United Kingdom; It is hereby enacted as follows:

VI of 1882.

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian Companies (Branch Registers) Act, 1899.

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

(*3*) It shall come into force at once.

[46 & 47 Vict., c. 30, s. 2.]

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

VI of 1882.

(*a*) the expression "Company" means a Company registered under the Indian Companies Act, 1882, which complies with the following conditions:

(*i*) that its capital is divided into shares;

(*ii*) that its paid-up capital in money is not less than twenty lakhs of rupees; and

(*iii*) that it has *bond fide* carried on business for not less than three years; and

(*b*) the expression "shares" includes stock.

[*Cf.* 46 & 47 Vict., *c.* 30, s. 3.]

Power to keep branch registers in the United Kingdom.

3. (*1*) Any Company may, if authorized so to do by its regulations as originally framed or as altered by special resolution, cause to be kept in the United Kingdom a branch register or registers of members [resident in the United Kingdom].

(*2*) The Company shall give to the Registrar of Joint Stock Companies notice of the situation of the office where any such branch register (hereinafter called a "British register") is kept, and any change therein, and of the discontinuance of any such office in the event of the same being discontinued.

(*3*) A British register shall, as regards the particulars entered therein, be deemed to be a part of the Company's register of members kept under the Indian Companies Act, 1882, and shall be *primâ facie* evidence of all particulars entered therein. Every such branch register shall be kept in the manner provided by section 47 of the said Act, with this qualification, that, if such register is ordered to be rectified by any competent Court in the United Kingdom, such rectification shall be made and shall be binding on the Company in India. VI of 1882.

(*4*) The Company shall transmit to its registered office in India a copy of every entry in its British register or registers as soon as may be after such entry is made, and shall cause to be kept at such office, duly entered up from time to time, a duplicate or duplicates of its British register or registers. The provisions of section 55 of the Indian Companies Act, 1882, shall apply to every such duplicate, and every such duplicate shall, for the purposes of the said Act, be deemed to be part of the register of members of the Company. VI of 1882.

(*5*) Subject to the provisions of this Act with respect to the duplicate register, the shares registered in a British register shall be distinguished from the shares registered in the Indian register, and no transaction with respect to any shares registered in a British register shall, during the continuance of the registration of such shares in such British Register, be registered in any other register.

(*6*) The Company may discontinue any British register, and thereupon all entries in that register shall be transferred to some other British register kept by the Company in the United Kingdom or to the register of members kept at the registered office of the Company in India.

Power to make rules and prescribe forms.

4. The Governor-General in Council may, by notification in the *Gazette of India*, make rules and prescribe forms for the purpose of carrying into effect the provisions of this Act.

5. This Act shall, so far as is consistent with the tenor thereof, be construed as one with the Indian Companies Act, 1882.

Construction with Act VI, 1882.

VI of 1882.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to encourage, if possible, the investment of English capital in rupee-companies having an Indian domicile. When in 1897 the attention of the Government of India was drawn to the matter, it was represented that it would be a great convenience to investors in companies formed with rupee capital in this country if they were permitted by law to open registers of shares in Great Britain as well as in India, and also that investors in England would more readily subscribe to rupee capital for the construction of, for example, Indian railways, if quotations could be had on the London Stock Exchange.

2. The Bill has been drawn on the model of the Companies (Colonial Registers) Act, 1883 (46 and 47 Vict., c. 30), which authorizes any company registered in the United Kingdom for purposes comprising the transaction of business in a colony to open and maintain a branch register of shareholders in that colony. Owing to the limited powers of the Indian legislature, the legislation here proposed falls far short of what is compassed by the English Statute. But the Government of India have consulted the various Chambers of Commerce, with the result that the opinion of the mercantile community in India appears to be in favour of the measure, and its introduction has, therefore, been decided upon. The Bill, if it is passed into law, will not relieve the holders of shares registered in branch registers opened in England from the burdens imposed by the English revenue laws; and, while the Government of India will be prepared to notify such exemption from liability to Indian stamp duties as may be necessary, the measure will not secure for share-holders the same benefits as they would have if the scheme had the sanction of an Act of Parliament. The enactment will, however, be of a purely permissive character, and it will be for the investing public to avail themselves of its provisions if they find that it will afford them any advantage to do so.

C. E. DAWKINS.

The 17th June 1899.

J. M. MACPHERSON,
Secretary to the Government of India.

(Republished by order of His Excellency the Governor in Council).

G. STOKES,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 23rd June 1899:

No. 8 OF 1899.

A Bill further to amend the Indian Registration Act, 1877.

WHEREAS it is expedient further to amend the Indian Registration Act, 1877; It is hereby enacted as follows:

III of 1877.

1. (1) This Act may be called the Indian Registration Amendment Act, 1899; and

Short title and commencement.

(2) It shall come into force at once.

2. Section 22 of the Indian Registration Act, 1877, is hereby repealed, and the following section is substituted therefor, namely:

Repeal of section 22, Act III, 1877, and substitution of new section.

of 1877.

"22. (1) Where it is, in the opinion of the Local Government, practicable to describe houses, not being houses in towns, and lands by reference to a Government map or survey, the Local Government may, by rule, require that such houses and lands as aforesaid shall, for the purposes of section 21, be so described.

Description of houses and land by reference to Government maps or surveys

"(2) Save as otherwise provided by any rule made under sub-section (1), failure to comply with the provisions of section 21, clause (b), shall not disentitle a document to be registered if the description of the property, to which it relates, is sufficient to identify that property."

STATEMENT OF OBJECTS AND REASONS.

Under section 21, clause (b) of the Indian Registration Act, 1877 (III of 1877), houses outside towns and lands must, for the purposes of registration, be, whenever it is practicable, described in documents by reference to a Government map or survey; but section 22 provides that failure to comply with this requirement shall not disentitle a document to be registered if the actual description given is sufficient to identify the property.

2. It seems to the Government of India that the parties concerned may without objection be required to make use of an easy and certain method of identification where it exists, and that a change in the law obliging them to do so will not only tend to secure the best means of identification, but will be a step towards the substitution of a single for a double system of registration.

3. The object of this Bill is to amend section 22 of the Act of 1877 so as to give effect to this view.

C. M. RIVAZ.

The 20th May 1899.

J. M. MACPHERSON,
Secretary to the Government of India.

(Republished by order of His Excellency the Governor in Council.)

G. STOKES,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

1-3

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 14th July 1899:

No. 10 of 1899.

A Bill to provide for the Incorporation of Kirk Sessions of the Church of Scotland in British India.

WHEREAS there are in British India Kirk Sessions of the Church of Scotland which have been duly constituted to be Church Courts for ecclesiastical purposes in pursuance of Acts of the General Assembly of the Church of Scotland;

And whereas it is expedient that such Kirk Sessions and any others which may hereafter be so constituted, should be incorporated with the powers hereinafter provided; It is hereby enacted as follows:

Short title, extent and commencement.

1. (*1*) This Act may be called the Church of Scotland Kirk Sessions Act, 1899.

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

(3) It shall come into force at once.

Scotch Kirk Sessions to be bodies corporate.

2. Every Kirk Session which has been, or may hereafter be, duly constituted to be a Church Court for ecclesiastical purposes in pursuance of an Act of the General Assembly of the Church of Scotland, is hereby declared to be, and the same shall be, a body corporate having perpetual succession and a common seal.

Power to hold and dispose of property.

3. (*1*) Every Kirk Session constituted as aforesaid shall, as a body corporate, have power to acquire and hold any property which has been, or may hereafter be, vested in it for the purposes of the Congregation for which it has been, or may hereafter be, constituted, or of any trust which may have been or may hereafter be accepted by it, to transfer the same, to contract and to do all other things necessary for, or incidental to, the purposes of its constitution or of any such trust as aforesaid.

(*2*) The signature of the Moderator and Treasurer for the time being of a Kirk Session constituted as aforesaid shall, if affixed on behalf and by order of the Kirk Session, be sufficient for all purposes for which the signature of the Kirk Session is required.

STATEMENT OF OBJECTS AND REASONS.

In 1897 the Government of India were approached, through the Government of Bombay, by the members of the local Kirk Session with a memorial praying (1) that every duly-constituted Kirk Session of the Church of Scotland in India should be declared (by legislation, if necessary) to be a corporate body with full powers as trustees to deal with all funds and other property vested in them, and (2) that an Act should be passed constituting the Senior Minister for the time being of the Presidency Church in each of the Presidency towns a corporation sole for the purposes of the Church of Scotland in India.

2. The Government of India are advised that legislation is required to incorporate Kirk Sessions of the Church of Scotland, and they agree with the various Local Governments concerned and the Presbytery of Edinburgh and the Committee on Indian Churches, which have been consulted in the matter, in thinking that such legislation should be undertaken. There does not, however, seem to be sufficient reason for declaring Senior Chaplains of the Church of Scotland to be corporations sole. The Anglican Bishops in India are such, no doubt, by their Letters Patent; but the position of the Senior Chaplains of the Church of Scotland is essentially different, and neither Roman Catholic Bishops nor the dignitaries of other denominations are corporations sole. The present Bill, therefore, is confined to giving effect to the first part only of the memorial above referred to.

T. RALEIGH.

The 22nd June 1899.

J. M. MACPHERSON,
Secretary to the Government of India.

(Republished by order of His Excellency the Governor in Council.)

G. STOKES,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

I.B.-1

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 14th July 1899:

No. 11 OF 1899.

A Bill to make better provision for the Registration of British Ships in British India.

The marginal references are to the Indian Merchant Shipping Bill, 1898. 57 & 58 Vict., c. 60.

WHEREAS it is enacted in section 735 of the Merchant Shipping Act, 1894, that "the legislature of any British possession may, by any Act or Ordinance, confirmed by Her Majesty in Council, repeal, wholly or in part, any provisions of this Act (other than those of the Third Part thereof which relate to emigrant ships) relating to ships registered in that possession; but any such Act or Ordinance shall not take effect until the approval of Her Majesty has been proclaimed in the possession, or until such time thereafter as may be fixed by the Act or Ordinance for the purpose;"

And whereas it is expedient that certain provisions of the said Merchant Shipping Act, 1894, should be repealed in so far as they relate to the registration of British ships in British India, and that other provisions should be enacted in place thereof;

It is hereby enacted as follows:

[6.] 1. (*1*) This Act may be called the Indian Registration of Ships Act, 1899.

Short title, extent and commencement.

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

(*3*) It shall come into force on the day on which Her Majesty's approval thereof is proclaimed by notification in the *Gazette of India*.

[3.] 2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(*a*) the expression "British ship" has the meaning assigned to it by section 1 of the Merchant Shipping Act, 1894;

57 & 58 Vict., c. 60. [3 (*3*).] (*b*) the expression "home-trade ship" means a ship employed in trading between any ports in British India, or between any port in British India and any port or place on the Continent of India, or in the Maldive and Laccadive Islands, or in the Straits Settlements, or in the Island of Ceylon;

[3 (*6*).] (*c*) the expression "native coasting-ship" means a home-trade ship, being a sailing ship of not more than two hundred tons burden, which is owned by one or more native Indian subjects of Her Majesty; and

(*d*) the expression "seaman" includes every person (except masters, pilots, harbourmasters and duly-indentured apprentices) employed or engaged in any capacity on board any ship. [3 (*7*).]

[8.] 3. (*1*) Any British ship registered under Act XIX of 1838, or under the Indian Registration of Ships Act, 1841, and the Indian Registration of Ships Act (1841) Amendment Act, 1850, may,—

Re-registration of ships registered under certain Indian Acts.

X of 1841. XI of 1850.

(*a*) within a period of twelve months after the commencement of this Act, or,

(*b*) if the ship is not within a port of registry in British India at any time before the expiration of the said period, then within one month after her next return to a port of registry in British India,

be re-registered under the Merchant Shipping Act, 1894, as amended by this Act.

57 & 58 Vict., c. 60.

(*2*) No fee shall be payable for the measurement of the tonnage of any ship for the purposes of re-registration under sub-section (*1*).

(*3*) If any such ship as aforesaid is not re-registered as provided by sub-section (*1*), she shall not be recognised as a British ship:

Provided that this sub-section shall not apply in the case of any ship referred to in section 4.

[9.] 4. (*1*) Notwithstanding anything in section 2 of the Merchant Shipping Act, 1894, it shall not be obligatory on any person to register under that Act any native coasting-ship which is for the time being registered under Act XIX of 1838 or any British ship which is for the time being registered under Bombay Act I of 1863 (*an Act for the registry of vessels and levy of pilotage fees on the river Indus*) or any other British ship which plies solely on inland water.

Registration of certain native coasting-ships and of inland ships not to be required.

57 & 58 Vict., c. 60.

(*2*) The expression "inland water" means any canal, river, lake or navigable water in British India.

(*3*) The Local Government may, by notification in the local official Gazette, define how much of any tidal water shall be deemed to be inland water for the purposes of this section

[10.] 5. (*1*) So far as regards any ship the tonnage of which is measured, ascertained and marked in accordance with rules made under sub-section (*2*), the rules and orders on the same subjects prescribed by or under the Merchant Shipping

Measurement and marking of tonnage of native coasting-ships.

57 & 58 Vict., c. 60. Act, 1894, or under any other Act repealed by that Act, are hereby repealed.

(2) The Local Government may make rules to provide for measuring and ascertaining, whether for the purpose of registry or otherwise, the tonnage of native coasting-ships, and for marking the tonnage on such ships; and it shall be optional to the owner of any such ship to have her tonnage measured, ascertained and marked in accordance either with rules made under this sub-section or with the rules and orders referred to in sub-section (1).

(3) Rules made under sub-section (2) may provide, among other matters, that if any alteration be made in a native coasting-ship after she has been registered in pursuance of the said rules, the certificate of registry shall be cancelled and the ship re-measured in accordance with the said rules.

(4) The word "alteration" in sub-section (3) means any change, whether temporary or permanent, either in the structure of a native coasting-ship or in the use to which any part of a native coasting-ship is put, by which the capacity of the ship for carrying cargo is, either directly or indirectly, increased.

[11.] 6. (1) Clauses (*d*) and (*e*) of section 4 of the Merchant Shipping Act, 1894, are hereby repealed. Registrars.

57 & 58 Vict., c. 60.

(2) The following persons shall be registrars of British ships in British India, namely:

(*a*) at the ports of Calcutta, Madras, Bombay, Karachi, Aden and Rangoon, the Port Officer or any other person appointed by the Local Government in this behalf by notification in the official Gazette, and

57 & 58 Vict., c. 60. (*b*) at any other port which has been approved under section 89 of the Merchant Shipping Act, 1894, for the registry of ships, any person appointed by the Local Government in this behalf by a like notification.

[12.] Substitution of Local Government for Board of Trade and Governor of a British Possession. 7. In the application of the Merchant Shipping Act, 1894, to British India—

57 & 58 Vict., c. 60.

(*a*) sections 7, 47, 77 (*2*), 78, 80, 85, 86 and 724 (*4*) and clause 5 of rule 1 of the second schedule shall be read and construed as if the Local Government were therein named instead of the Board of Trade, and

(*b*) section 89 shall be read and construed as if the Local Government were therein named instead of the Governor of a British Possession.

[13.] 57 & 58 Vict., c. 60. 8. (1) The following portions of the Merchant Shipping Act, 1894, namely, sections 64 (1) and 77 (2), so far as they relate to fees, and sections 83 and 210 (3), and clauses (6), (7) and (8) of the sixth schedule, are hereby repealed. Fees.

(2) The fees payable in British India in respect of the matters mentioned in the first schedule to this Act shall be such sums, not exceeding those specified in that schedule, as the Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the local official Gazette, appoint.

[14.] 57 & 58 Vict., c. 60. 9. Sections 31 to 46 (both inclusive) of the Merchant Shipping Act, 1894, are hereby repealed so far as regards native coasting-ships. Mortgage and sale of native coasting-ships.

Deduction from register tonnage on account of crew space. 10. (1) Clauses (*2*), (*3*), (*4*) and (*5*) of the sixth schedule to the Merchant Shipping Act, 1894, are hereby repealed. [15.] 57 & 58 Vict., c. 60.

(2) No place in any British ship registered in British India which is occupied by seamen or apprentices engaged under any law for the time being in force and appropriated to their use shall authorize a deduction from register tonnage, unless there is in the ship one or more properly-constructed privy or privies for the use of the crew, such privy or privies to be of such number and of such construction as may be approved by a surveyor appointed under section 727 of the Merchant Shipping Act, 1894.

(3) Every place so occupied and appropriated as aforesaid shall, whenever the ship is registered or re-registered in British India, be inspected by a surveyor appointed as aforesaid, who shall, if satisfied that the same is in all respects such as is required by any law for the time being in force, give to the registrar a certificate to that effect; and if such certificate is obtained, but not otherwise, such space shall be deducted from the register tonnage.

(4) No such deduction shall be authorized unless there is permanently cut in a beam, and cut in or painted on or over the doorway or hatchway of every place so occupied and appropriated, the number of men which it is constructed to accommodate, with the words "Certified to accommodate seamen".

(5) Upon any complaint concerning any place so occupied and appropriated as aforesaid, any surveyor appointed as aforesaid may inspect the same, and, if he finds that any of the provisions of any law for the time being in force with respect thereto are not complied with, he shall report the fact to the registrar at the port where the ship is registered, and thereupon the register tonnage shall be altered, and the deduction aforesaid disallowed, unless and until it is certified by the same surveyor, or by some other surveyor appointed as aforesaid, that the provisions of such law as aforesaid with respect to such place are fully complied with.

11. The enactments mentioned in the second schedule are repealed to the extent specified in the fourth column thereof. [7.] Repeal.

THE FIRST SCHEDULE.

MAXIMUM FEES FOR PURPOSES CONNECTED WITH THE REGISTRY OF BRITISH SHIPS.

[*See section 8, sub-section (2).*]

1. For measurement of tonnage of British ships.

						Rs.
For a ship under 50 tons register tonnage						15
,,	,,	from	50 to	100	tons register tonnage	22
,,	,,	,,	100 to	200	,,	30
,,	,,	,,	200 to	500	,,	45
,,	,,	,,	500 to	800	,,	60
,,	,,	,,	800 to	1,200	,,	75
,,	,,	,,	1,200 to	2,000	,,	90
,,	,,	,,	2,000 to	3,000	,,	105
,,	,,	,,	3,000 to	4,000	,,	120
,,	,,	,,	4,000 to	5,000	,,	135
,,	,,	,,	5,000 tons and upwards register tonnage			150

2. For altering the name of the ship in the register book in pursuance of section 47, sub-section (4) or sub-section (5), of the Merchant Shipping Act, 1894, as amended by section 7 of this Act— & 58 Vict., 60.

Half the fee which would be payable under clause 1 of this Schedule.

3. For inspection of places in British ships which are occupied by seamen or apprentices engaged under this Act, and appropriated to their use—

For each visit to the ship . Rs. 5

Provided as follows:—

(*a*) the aggregate amount of the fees for any such inspection shall not exceed ten rupees, whatever be the number of separate visits;

(*b*) when the accommodation is inspected at the same time with the measurement of the tonnage, no separate fee shall be charged for such inspection.

	Rs.	A.
4. For inspection of a register-book	0	8
5. For re-measurement of a British ship in pursuance of section 77, sub-section (2), of the Merchant Shipping Act, 1894— & 58 Vict., 60.		
For each transverse section .	5	0

THE SECOND SCHEDULE.

ENACTMENTS REPEALED.

(*See section 11.*)

Year.	No.	Short title.	Extent of repeal.
1	2	3	4
1841	X	The Indian Registration of Ships Act, 1841.	In the title, the words "belonging to ports within the territories under the Government of the East India Company or" and the words "under a proclamation of the Governor-General of India in Council made". In the preamble the words from "that it shall be lawful" to "the same Statute", the words "be deemed British ships, or," and the words "under such proclamation as aforesaid". Sections 1 to 12 and 14 to 23 so far as they have not been repealed. In section 25, the words "certificate or" and the words "registering or". Section 26. In section 27 (inserted by Act VII of 1891, section 9), the final letter of the word "expressions" and the words "Local Governments of India" and "Government of the Presidency". The proclamation appended to the Act. The schedule.
1850	XI	The Indian Registration of Ships Act (1841) Amendment Act, 1850.	In section 3, the words and figures "owned by British subjects entitled to registry under Act X of 1841, or," the words "be registered and," and the words "and the tonnage may be marked." Section 4. Section 38.
1883	V	The Indian Merchant Shipping, Act, 1883.	
1891	VII	The Indian Registration of Ships Act (1841) Amendment Act, 1891.	Sections 2 to 7 so far as they have not been repealed.
1891	XII	The Repealing and Amending Act, 1891.	The first schedule, in so far as it relates to sections 5 and 6 of Act VII of 1891, and the second schedule, in so far as it relates to that Act.

STATEMENT OF OBJECTS AND REASONS.

The Indian Registration of Ships Act, 1841 (X of 1841), and the amending Act XI of 1850 were passed in pursuance of the Statute 3 & 4 Vict., c. 56. The provisions of that Statute were expressly saved by section 108 of the Merchant Shipping Act, 1854 (17 and 18 Vict., c. 104), but the saving was not repeated when the latter Act was recently repealed by Parliament and replaced by the Merchant Shipping Act, 1894 (57 and 58 Vict., c. 60). Section 2 of the Statute of 1894 provides that every British ship shall, unless exempted, be registered thereunder, and that, if a ship so required to be registered is not duly registered, she shall not be recognized as a British ship and shall not be entitled to any of the benefits, privileges, advantages or protection enjoyed by a British ship. Section 745, sub-section (1), clause (*e*), then declares that ships registered under the Merchant Shipping Act, 1854, or duly registered before the passing of that Act, shall be deemed to have been registered under the new Act. The result, apparently, is that, as the law now stands, registration under the Indian Acts of 1841 and 1850 effected after the passing of the Statute of 1854 is not sufficient to give a ship the status of a British ship; and that that status can be acquired only by registration in accordance with the provisions of the Statute of 1894. But by virtue of section 735 of the latter Statute, the legislature of any British possession may, by an Act confirmed by Her Majesty in Council, repeal, wholly or in part, any of its provisions and enact others in the place thereof. The necessity for legislation in exercise of the power so conferred has been brought to the notice of the Government of India, and it has been decided that it should be undertaken without further delay. The present Bill originally formed Part II of the general Merchant Shipping Bill which, though introduced in the Governor-General's Council in 1892, is still pending before the Council. In connection with that Bill various legal and technical difficulties have been raised, and it has been found impossible to proceed with it as a whole at present; but no such difficulties appear to exist in connection with the Part above referred to, and it has, therefore, been extracted and thrown into the form of a separate Bill with a view to its early introduction and passage into law.

T. RALEIGH.

The 28th June 1899.

J. M. MACPHERSON,
Secretary to the Government of India.

(Republished by order of His Excellency the Governor in Council.)

G. STOKES,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 14th July, 1899:

No. 12 OF 1899.

A Bill to provide for the conversion into British Indian currency of sums expressed in British currency in the Army Act.

WHEREAS it is provided by section 169 of the Army Act that the Governor-General in Council may declare the amount of the local currency which is to be deemed, for the purposes of the said Act, to be equivalent to any sum of British currency mentioned therein; 44 & 45 Vict., c. 58.

And whereas it is expedient, in exercise of the power so conferred, to provide for the conversion into British Indian currency of sums expressed in British currency in the said Act,

It is hereby enacted as follows:

Short title, extent and commencement.

1. (*1*) This Act may be called the Currency Conversion (Army Annual) Act, 1899.

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

(*3*) It shall come into force at once.

Rate of exchange fixed for calculating the equivalent in British Indian currency of sums of British currency mentioned in the Army Act. 44 & 45 Vict., c. 58.

2. For the purposes of the Army Act, fifteen rupees of British Indian currency shall be deemed to be the equivalent of one pound of British currency and any sum of British currency mentioned in the said Act shall be deemed to be the equivalent of a sum of British Indian currency calculated at that rate of exchange.

Duration of Act.

3. This Act shall continue in force until the thirty-first day of March, 1900.

STATEMENT OF OBJECTS AND REASONS.

In several sections of the Army Act (44 & 45 Vict., c. 58), relating to fines, etc., reference is made to sums stated in British currency, but by section 169 power is taken for the Governor-General in Council to declare the amount of the local currency which is to be deemed, for the purposes of the said Act, to be equivalent to any sum of British currency mentioned therein. By G.G.O. No. 198 of 1880, which was expressed as being issued in exercise of the authority given by the corresponding section 162 of the Army Discipline and Regulation Act, 1879 (42 & 43 Vict., c. 33), it was directed that fines for drunkenness should be levied at the exchange rate of eight pies to the penny, or, in other words, at the exchange rate of two shillings to the rupee. It appears, however, that what is probably contemplated by the Statute is not an order of the Executive Government, but one emanating from the legislature, *i.e.*, an Act of the Governor-General in Council, and it has been decided to take action in accordance with this view of the law. Further, it is, in the opinion of the Government of India, reasonable that recoveries under the Statute should be made at the rate at which the sterling pay of the British soldier serving in India is converted into the local currency, and, as the rate is fixed anew for each financial year, it is proposed to deal with the matter regularly hereafter by means of an Annual Act. For the present and up to the 31st March next the rate has been fixed at one shilling and four pence to the rupee, and this Bill has, therefore, been drawn so as to continue in force up to that date and to legalize till then the conversion, for the purposes of the Statute, of sterling sums of money at that rate.

EDWIN H. H. COLLEN.

The 11th July 1899.

J. M. MACPHERSON,
Secretary to the Government of India.

(Republished by order of His Excellency the Governor in Council.)

G. STOKES,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

I.B.-3

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 14th July 1899:

No. 13 of 1899.

A Bill to provide for the protection of certain telegraphic press messages.

WHEREAS it is expedient to provide for the protection of certain telegraphic press messages; It is hereby enacted as follow:

Short title, extent and commencement.

1. (*1*) This Act may be called the Telegraphic Press Messages Act, 1899.

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

(*3*) It shall come into force on the first day of , 1899.

Prohibition as regards re-publication of certain telegraphic press messages.

2. Subject to the provisions of section 5, where any person lawfully receives in British India a telegraphic press message despatched to him from any place outside India, and publishes the same, or permits the same to be published, in any newspaper or other printed paper published and circulated in British India, no other person shall, without the consent, express or implied, of such first-mentioned person, or his agent duly authorized in this behalf, publish, or cause to be published, in any newspaper or other printed paper such message, or the substance thereof, or any extract therefrom, until after a period of thirty-six hours from the time of first publication in British India:

Provided that nothing in this section shall be deemed to prohibit the publication of any such message after the expiration of sixty hours (exclusive of public holidays within the meaning of the Negotiable Instruments Act, 1881) from the time of the receipt thereof as aforesaid.

XXVI of 1881.

Explanation 1.—The publication of any part of a telegraphic press message or of the substance thereof, or (excepting the publication of any similar message in like manner sent) of the intelligence therein contained, or any comment upon, or any reference to, such intelligence shall be deemed to be a publication for the purposes of this Act.

Explanation 2.—A telegraphic press message despatched and received as aforesaid, which is transmitted by the person receiving the same to any newspaper published and circulated in British India, is a telegraphic press message within the meaning of this Act, although it is also transmitted to persons who pay or subscribe for the same.

Penalties.

3. (*1*) Whoever, in contravention of section 2, publishes any matter, or causes any matter to be published, shall be punishable with fine which may extend to one hundred rupees.

(*2*) Whoever, having been convicted of an offence under this section, is again so convicted, shall be punishable with fine which may extend to five hundred rupees.

Presumptions in prosecutions.

4. In any prosecution under this Act, the production of any document which purports to be a telegraphic message from some place outside India, received either directly or through some other person who has received the same directly, and which has been delivered to some person entitled to receive the same by a telegraph officer, as defined by the Indian Telegraph Act, 1885, shall be *primâ facie* evidence that the message published as hereinbefore prescribed is a telegraphic press message within the meaning of this Act; and proof that any person is the owner, or is, or is acting or appears to be acting as, the editor or manager of a newspaper or other printed paper in which there has been any publication in contravention of the provisions of this Act, shall be *primâ facie* evidence that such person has caused such unlawful publication.

XIII of 1885.

Conditions as to publication of telegraphic press messages.

5. (*1*) The provisions of this Act shall not apply to any telegraphic press message unless the same is printed and published under the heading "By Foreign Telegraph" and states the day and hour of its receipt.

(*2*) Every such statement as aforesaid shall be *primâ facie* evidence of the time of receipt of the telegraphic press message to which it relates.

Construction of references to time.

6. For the purposes of this Act, all references to time shall be construed as referring to "Madras Time".

7. Nothing in this Act shall apply to any document published by, or under the authority of, the Government.

Saving as to publication by the Government.

STATEMENT OF OBJECTS AND REASONS.

On several occasions in the course of the last twenty-seven years the Government of India have received representations as to the expediency of securing some measure of protection for foreign telegraphic press messages received in British India. In 1885 it was decided to provide for the matter in a Bill to amend the law of copyright, the introduction of which was at that time contemplated; but it was eventually decided that general legislation should not be initiated in India until the subject of copyright had been dealt with comprehensively for the whole of Her Majesty's dominions by Parliament.

Attention has again been drawn to the particular question of the protection of telegraphic news, and it seems to the Government of India that legislation regarding it is called for and that there is no necessity to postpone it any longer. The great importance to the Indian Public of a first-rate service of telegraphic news cannot be denied; it is undoubted that enterprise in that direction is being checked because the existing law recognizes no right of property in published telegrams and the systematic piracy of expensive foreign press messages has been the result; and the need for legislation has lately been recognized and acted upon by the colonial legislatures of New Zealand, Australia, the Cape of Good Hope, Hong Kong and Ceylon. In these circumstances it has been decided to introduce the present Bill, which has been framed somewhat on the model of the most recent of the colonial enactments alluded to, namely, that passed into law in Ceylon last year and entitled "The Telegram Copyright Ordnance, 1898."

C. M. RIVAZ.

The 5th July 1899.

J. M. MACPHERSON,
Secretary to the Government of India.

(Republished by order of His Excellency the Governor in Council).

G. STOKES,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 14th July 1899:

No. 14 OF 1899.

[NOTE.—The italics indicate the alterations suggested in the existing Chapter VIII of the Transfer of Property Act, 1882.]

A Bill to amend the Transfer of Property Act, 1882.

IV of 1882. WHEREAS it is expedient to amend the Transfer of Property Act, 1882; It is hereby enacted as follows:

Short title and commencement. 1. (*1*) This Act may be called the Transfer of Property Act, 1899; and

(*2*) It shall come into force at once.

IV of 1882. Substitution of new Chapter for Chapter VIII, Act IV, 1882. 2. For Chapter VIII of the Transfer of Property Act, 1882, the following Chapter shall be substituted, namely:

"CHAPTER VIII.

"OF TRANSFERS OF ACTIONABLE CLAIMS.

"*General.*

[130.] Actionable claim. "130. (*1*) A claim which the Civil Courts recognize as affording grounds for relief is actionable, whether a suit for its enforcement is or is not actually pending or likely to become necessary.

(*2*) *Every actionable claim may be transferred subject to the restrictions and conditions imposed by Chapter II and by this Chapter.*

[131: *Cf.* 36 & 37 Vict., c. 66, s. 25 (6).] Transfer of debts. "131. No transfer of any debt or any beneficial interest in moveable property shall have any operation against the debtor or against the person in whom the property is vested, *unless the transfer is in writing and unless and until* express notice of the transfer is given to him, *save where* he is a party to *the* transfer; and every dealing by such debtor or person (not being a party to, or not having received express notice of, *the* transfer) with the debt or property shall be valid as against such transfer.

Exception.—Nothing in this section applies to the transfer of a marine or fire policy of insurance or to a mortgage effected by deposit of deeds or securities.

Explanation.—In this section the expression "any debt or any beneficial interest" includes any accruing, conditional or contingent debt or interest.

Illustrations.

(i) A owes money to B, who transfers the debt to C. B then demands the debt from A, who, having no notice of the transfer, pays B. The payment is valid, and C cannot sue A for the debt.

(ii) A effects a policy on his own life with an Insurance Company and assigns it by endorsement to a Bank in payment of a past debt. The Bank gives notice to the Insurance Company. If A dies, the Bank is entitled to receive the amount of the policy and to sue on it without the concurrence of A's executor.

[132.] Notice to be in writing signed. "132. Every such notice shall be in writing, signed by the *transferor or transferee*, or by his agent in this behalf.

[133.] Debtor to give effect to transfer. "133. On *receipt of* such notice, the *transfer* shall *take* effect, *and all rights and remedies of the transferor shall vest in the transferee.*

[137.] Liability of transferee of actionable claim. "134. The person to whom *an actionable claim* is transferred, shall take it subject to all the liabilities, *defences and priorities* to which the transferor was subject in respect thereof at the date of the transfer.

Illustrations.

(i) A debenture is issued in fraud of a public company to A. A sells and transfers the debenture to B, who has no notice of the fraud. The debenture is invalid in the hands of B.

(ii) A, the holder of a policy of insurance, assigns it to B for value. Before notice of the assignment is received, A has contracted a debt of Rs. 300 with the Insurance Company. The Company can set off this debt against the transferee.

[134.] Warranty of solvency of debtor. "135. Where the transferor of a debt warrants the solvency of the debtor, the warranty, in the absence of a contract to the contrary, applies only to his solvency at the time of the transfer, and is limited, where the transfer is made for consideration, to the amount or value of such consideration.

[138.] "136. Where a debt is transferred for the purpose of securing an existing or future debt, the debt so transferred, if recovered by either the transferor or transferee, is applicable, first, in payment of the costs of such recovery: secondly, in or towards satisfaction of the amount for the time being secured by the transfer; and the residue, if any, belongs to the transferor.

Mortgaged debt.

[V of 1866, s. 15.] "137. Every assignee, by endorsement or other *writing*, of a policy of marine insurance or of a policy of insurance against fire, in whom the property in the subject insured shall be absolutely vested at the date of the assignment, shall have transferred and vested in him all rights of suit as if the contract contained in the policy had been made with himself.

Assignment of rights under marine or fire policy of insurance.

[139.] "138. Nothing in *the foregoing sections* of this Chapter applies to *stocks or shares or to* instruments *which are for the time being by law or custom negotiable or to any mercantile document of title to goods.*

Saving of negotiable instruments, etc.

[*Cf.* 52 & 53 Vict., c. 45, s. 1 (4); 56 & 57 Vict., c. 71, s. 82.] *Explanation.—The expression "mercantile document of title to goods" includes a bill of lading, dock warrant, warehouse-keeper's certificate and delivery order, and any other document used in the ordinary course of business as proof of the possession or control of goods, or authorizing or purporting to authorize either by endorsement or by delivery, the possessor of the document to transfer or receive goods thereby represented.*

"Restrictions on sale of actionable claims which are in controversy.

[135.] "139. (*1*) Where an actionable claim *which is in controversy*, is sold, he, against whom it is made, is wholly discharged by paying to the buyer the price and incidental expenses of the sale, with interest on the price from the day that the buyer paid it.

Discharge of person against whom claim is sold.

(*2*) Nothing in *sub-section* (*1*) applies—

(*a*) where the sale is made to the co-heir to, or the co-proprietor of, the claim sold;

(*b*) where it is made to a creditor in payment of what is due to him;

(*c*) where it is made to the possessor of a property subject to the actionable claim;

(*d*) where the judgment of a competent Court has been delivered affirming the claim, or where the claim has been made clear by evidence and is ready for judgment.

[136.] "140. No Judge, *legal practitioner*, clerk, bailiff or other officer connected with Courts of Justice can buy any actionable claim *which is in controversy and could be enforced by suit in* the Court *where* he exercises his functions."

In capacity of officers connected with Courts of Justice.

3. So much of the Policies of Insurance (Marine and Fire) Assignment Act, 1866, as is unrepealed, and so much of the Indian Short Titles Act, 1897, as relates thereto, are hereby repealed.

V of 1866. XIV of 1897.

Repeal.

STATEMENT OF OBJECTS AND REASONS.

Chapter VIII of the Transfer of Property Act, 1882 (IV of 1882), aims at dealing comprehensively with the difficult question of the assignment of choses in action and includes an excursion into the law of champerty and maintenance. The attempt has not been altogether successful. Many difficulties in the construction and practical application of the chapter have arisen; its provisions have been the subject of numerous and conflicting rulings of the various High Courts; and the necessity for legislation has been made clear. The present Bill has been drawn with the object of removing the defects which have, from time to time, been detected and its details will be found fully explained in the annexed NOTES ON CLAUSES.

2. It has been suggested that a special provision on the subject of champerty and maintenance should be included in the Bill; but, if such legislation is to be undertaken, it is thought that it should take the form of an amendment of the Indian Contract Act, 1872 (IX of 1872)—the addition, possibly, of an *Explanation* to section 23, which avoids contracts opposed to public policy.

The 12th July 1899. T. RALEIGH.

NOTES ON CLAUSES.

Clause 2 of Bill.

Proposed new section 130, *Act IV of* 1882.—Probably section 130, as it stands in the present Act, may be taken as a fair working definition of the term *chose in action* as used in English law. The obvious intention of the Act was to make all choses in action transferable as property, that is to say, transferable subject to the conditions and restrictions imposed by Chapter II, and particularly by sections 6, 7, 9 and 10. But, regard being had to recent differences of opinion, it is proposed to make the point clear by the addition of a second sub-section.

Proposed new sections 131 *and* 132.—Sections 131 and 132 of the existing Act are obviously founded upon section 25, clause (6), of the Supreme Court of Judicature Act, 1873 (36 and 37 Vict., c. 66); but successive amendments of the Bill while under consideration seem to have led to the reversal of each rule of the English law.

In the first place, the Indian section is negative in its terms, while the English section is positive. The result is that the former prescribes a compulsory form of transfer for the specific class of actionable claims to which it relates, whereas the latter merely provides that certain consequences shall follow if this form of transfer be adopted.

In the second place, the English section applies to all debts and other legal choses in action, but the Indian section applies only to debts and beneficial interests in moveable property. It is not clear what rule would apply in India to an actionable claim relating to both moveable and immoveable property; nor is there any specific provision as to actionable claims in respect of immoveable property. Further, it is not apparent why written notice to the debtor should not be required in the latter case. And, again, it is uncertain, on the construction of the section, where the term "beneficial interest" is to cover a charge. The English section is confined to absolute assignments.

In the third place, the English enactment requires the transfer itself to be in writing; but the Indian Act is silent on the point, and, therefore, by virtue of section 9, the transfer need not be in writing.

In the fourth place, the English Act requires express notice in writing to be given to the debtor. The Indian Act provides for three alternatives—

express notice, the fact that the debtor is aware of the transfer, or the fact that he is a party to the transfer. The Indian Act then curiously goes on to provide that, where express notice is given, it must be given by the transferor; whereas in practice, of course, notice is given by the transferee in order to complete his title. As to the last point, see *Ragho* v. *Narayan* (1895), I.L.R., 21 Bom., at *p.* 62.

It is thought best to legislate on the lines of the English Act so as to restore uniformity in the law of the two countries in so far as the same subject-matter is dealt with, and these new sections have been drafted with that object.

Proposed new section 133.—It is difficult to understand section 133 in its present form. The intention apparently was to adapt the English provision above referred to, which is to the effect that, on notice to the transferee, the transfer is effective "to pass and transfer the legal right to such debt or chose in action from the date of such notice, and all legal and other remedies for the same, and the power to give a good discharge for the same without the concurrence of the assignor". The reference to international law seems out of place in its present context, as municipal law is always construed subject to the provisions of international law, and the latter, if it is to be dealt with at all, should be dealt with separately, as in Chapter XVI of the Negotiable Instruments Act, 1881 (XXVI of 1881). The provision as now drafted will perhaps sufficiently reproduce the English law on the point, while avoiding any reference to the distinction between legal and equitable remedies.

Proposed new section 134.—The provisions of section 137 of the existing Act have been made general so as to apply to all actionable claims. The phrase "subject to all the liabilities" appears to have been adopted as the equivalent of the English phrase "subject to all equities entitled to priority over the right of the assignee", and, as it may be thought desirable to avoid the technical term "equities", the words "all the liabilities, defences and priorities" have now been used instead.

Proposed new section 136.—Section 136 of the present Act is here reproduced unaltered. It is of doubtful accuracy, but does not seem to have given rise to any difficulty.

Proposed new section 137.—This reproduces the only unrepealed section of the Policies of Insurance (Marine and Fire) Assignment Act, 1866 (V of 1866). Inasmuch as the provisions of that enactment constitute an exception to the rule laid down in section 131, they ought to find a place in this chapter. The original section provided for the transfer of marine and fire policies "by endorsement or otherwise", which probably means "by endorsement or other like means", *i.e.*, "by endorsement or other writing".

Proposed new section 138.—The present section 139 simply excepts negotiable instruments from the provisions of the chapter. If the restrictions on the sale of actionable claims be confined to controverted claims, the only provisions that need be excepted are those of the proposed new sections 130 to 137. But, as regards those new sections, the exceptions contained in the present section 139 require considerable extension. In section 13 of the Negotiable Instruments Act, 1881, the definition of "negotiable instrument" includes only bills, notes and cheques, and does not include the ever increasing class of negotiable instruments which the usage of the money market recognizes as such—see *Chalmers on Bills of Exchange*, Ed. 5, pp. 312—327. So, again, a saving is required for mercantile documents of title to goods, such as bills of lading, etc., which form a class of quasi-negotiable instruments. The definition embodied in the *Explanation* is taken from the English Factors Act, 1889, and is adopted also in the English Sale of Goods Act, 1893.

Proposed new sections 139 and 140.—These provisions, which correspond with sections 135 and 136 of the present Act and owe their origin to the French and Canadian Codes, have given rise to much difficulty. It is, indeed, almost impossible to give effect to them without construing the expression "actionable claim" in a restricted sense. For example, where a business is transferred or converted into a company, the book-debts are sold in a lump, and, as these must consist of good, bad and doubtful debts, a lump sum has to be fixed, and it is impossible to say what has been paid in respect of each. It has been suggested that the provision should be confined—

(1) to actionable claims, where the cause of action has matured (which would cover the case of all book-debts), or

(2) to disputed actionable claims.

The latter seems to be the right suggestion, and it has been adopted in the Bill. The object is to prevent trafficking in actual or impending litigation, and probably the words "which is in controversy" will meet the object as far as it can be met.

If the restriction be confined to the sale of actionable claims which are in controversy, there appears to be no reason why their transfer to a creditor should be allowed. Possibly the assignee of a bankrupt might be allowed to sell such a claim, but the policy of this is very doubtful. It is for consideration whether clause (*b*) of the present section 135 should not be omitted. The latter words of clause (*d*) of that section are not easily understood; for how can it be said that a claim has been made clear by evidence when judgment on it has not been given? This is a question which only the Court about to give judgment could answer, and these words should perhaps also be omitted.

In reproducing the present section 136, the words "legal practitioner" have been substituted for the words "pleader, mukhtar." The provision ought clearly to apply to all legal practitioners alike.

Clause 3 of Bill.

This repealing clause is consequential on the reproduction in the proposed new section 137, as explained above, of so much of Act V of 1866 as is extant in the Statute-book.

J. M. MACPHERSON,
Secretary to the Government of India.

(Republished by order of His Excellency the Governor in Council.)

G. STOKES,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 28th July 1899:

No. 15 OF 1899.

A Bill to consolidate the law relating to Prisoners confined by order of a Court.

WHEREAS it is expedient to consolidate the law relating to prisoners confined by order of a Court; It is hereby enacted as follows:

PART I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Prisoners Act, 1899.

(*2*) It extends to the whole of British India, inclusive of British Baluchistan, the Santal Parganas and the Pargana of Spiti; and

(*3*) It shall come into force at once.

[New.]

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Court" includes a Coroner and any officer lawfully exercising civil, criminal or revenue jurisdiction and;

[See IX of 1894, s. 3 (*1*) (*o*).]

(*b*) "prison" includes any place which has been declared by the Local Government, by general or special order, to be a subsidiary jail.

PART II.

GENERAL.

[V of 1871, s. 3.]

Officers in charge of prisons to detain persons duly committed to their custody.

3. The officer in charge of a prison shall receive and detain all persons duly committed to his custody, under this Act or otherwise, by any Court, according to the exigency of any writ, warrant, or order by which such person has been committed, or until such person is discharged or removed in due course of law.

[*Ibid*, s. 6.]

Officers in charge of prisons to return writs, etc., after execution or discharge.

4. The officer in charge of a prison shall forthwith, after the execution of every such writ, order or warrant as aforesaid other than a warrant of commitment for trial, or after the discharge of the person committed thereby, return such writ, order or warrant to the Court by which the same was issued or made, together with a certificate, endorsed thereon and signed by him, showing how the same has been executed, or why the person committed thereby has been discharged from custody before the execution thereof.

PART III.

PRISONERS IN THE PRESIDENCY-TOWNS.

[*Ibid*, s. 3.]

Warrants, etc., to be directed to Police-officers.

5. Every writ or warrant for the arrest of any person issued by the High Court in the exercise of its ordinary, extraordinary or other criminal jurisdiction shall be directed to and executed by a Police-officer within the local limits of such jurisdiction.

[*Ibid*, s. 4.]

Power for Local Governments to appoint Superintendents of Presidency prisons.

6. The Local Government may appoint officers who shall have authority to receive and detain prisoners committed to their custody under this Part.

Explanation.—Any officer so appointed, by whatever designation he may be styled, is hereinafter referred to as "the Superintendent."

[*Ibid*, s. 7.]

Delivery of persons sentenced to imprisonment or death by High Court.

7. Where any person is sentenced by the High Court in the exercise of its original criminal jurisdiction to imprisonment or to death, the Court shall cause him to be delivered to the Superintendent together with its warrant, and such warrant shall be executed by the Superintendent and returned by him to the High Court when executed.

[*Ibid*, s. 8.] 8. Where any person is sentenced by the High Court in the exercise of its original criminal jurisdiction to transportation or penal servitude, the Court shall cause him to be delivered for intermediate custody to the Superintendent, and the transportation or penal servitude of such person shall be deemed to commence from such delivery.

Delivery of persons sentenced to transportation or penal servitude by High Court.

[*Ibid*, s. 10.] 9. Where any person is committed by the High Court, whether in execution of a decree or for contempt of Court or for any other cause, the Court shall cause him to be delivered to the Superintendent, together with its warrant of commitment.

Delivery of persons committed by High Court in execution of a decree or for contempt.

[*Ibid*, s. 11.] 10. Where any person is sentenced by a Presidency Magistrate to imprisonment, or is committed to prison for failure to find security to keep the peace or to be of good behaviour, the Magistrate shall cause him to be delivered to the Superintendent, together with his warrant.

Delivery of persons sentenced by Presidency Magistrates.

[*Ibid*, s. 12.] 11. Every person committed by a Magistrate, Justice of the Peace, or Coroner for trial by the High Court in the exercise of its original criminal jurisdiction shall be delivered to the Superintendent, together with a warrant of commitment, directing the Superintendent to produce such person before the Court for trial; and the Superintendent shall, as soon as practicable, cause such person to be taken before the Court at a criminal session thereof, together with the warrant of commitment, in order that he may be dealt with according to law.

Delivery of persons committed for trial by High Court.

[*Ibid*, s. 13, as amended by XII of 1891. XIV of 1882.] 12. The High Court may, pending the hearing, under section 350 of the Code of Civil Procedure, of any application for a declaration of insolvency, cause the judgment-debtor concerned to be delivered to the Superintendent, subject to the provisions as to release on security of section 349 of the said Code, and the Superintendent shall detain the said judgment-debtor in safe custody until he is redelivered to an officer of the High Court for the purpose of being taken before it in pursuance of its order, or until he is released in due course of law.

Custody pending hearing by High Court under section 350 of the Code of Civil Procedure of application for insolvency.

[*Ibid*, s. 14, as amended by VII of 1894, s. 3.] 13. (*1*) Every person arrested in pursuance of a writ, warrant or order of the High Court in the exercise of its original civil jurisdiction, or in pursuance of a warrant of any Civil Court established in a Presidency-town under any law or enactment for the time being in force, or in pursuance of a warrant issued under section 5, shall be brought without delay before the Court by which, or by a Judge of which, the writ, warrant or order was issued, awarded or made, or before a Judge thereof, if the said Court, or a Judge thereof, is then sitting for the exercise of original jurisdiction.

Delivery of persons arrested in pursuance of warrant of High Court or Civil Court in Presidency-town.

(*2*) If the said Court, or a Judge thereof, is not then sitting for the exercise of original jurisdiction, such person arrested as aforesaid shall, unless a Judge of the said Court otherwise directs, be delivered to the Superintendent for intermediate custody, and shall be brought before the said Court, or a Judge thereof, at the next sitting of the said Court, or of a Judge thereof, for the exercise of original jurisdiction in order that such person may be dealt with according to law; and the said Court or Judge shall have power to make or award all necessary orders or warrants for that purpose.

PART IV.

Prisoners outside the Presidency-towns.

[*Ibid*, s. 1, last paragraph, added by VII of 1894, s. 1.] 14. In this Part all references to prisons or to imprisonment or confinement shall be construed as referring also to Reformatory Schools or to detention therein.

References in this Part to prisons, etc., to be construed as referring also to Reformatory Schools.

[*Ibid*, s. 16, as amended by VII of 1894, s. 4.] 15. (1) Officers in charge of prisons outside the Presidency-towns may give effect to any sentence or order or warrant for the detention of any person passed or issued by any Court or tribunal acting, whether within or without British India under the general or special authority of Her Majesty or of the Governor-General in Council or of any Local Government, or, with the previous sanction of the Governor-General in Council in each case, to any sentence or order or warrant for the detention of any person passed or issued by any Court or tribunal of any Native Prince or State in India.

Power for officers in charge of prisons to give effect to sentences of certain Courts.

(*2*) Where a Court or tribunal of such a Native Prince or State has passed a sentence which cannot be executed without the concurrence of an officer of the British Government, and such sentence has been judicially considered on the merits and confirmed by any such officer specially authorised in that behalf such sentence, and any order or warrant issued in pursuance thereof, shall be deemed to be the sentence, order or warrant of a Court or tribunal acting under the authority of the Governor-General in Council.

[*Ibid*, s. 17.] 16. A warrant under the official signature of an officer of such Court or tribunal as is referred to in section 15 shall be sufficient authority for holding any person in confinement, or for sending any person for transportation, in pursuance of the sentence passed upon him.

Warrant of officer of such Court to be sufficient authority.

[*Ibid*, s. 18.] 17. (*1*) Where an officer in charge of a prison doubts the legality of a warrant or order sent to him for execution under this Part, or the competency of the person whose official seal and signature are affixed thereto to pass the sentence and issue the warrant or order, he shall refer the matter to the Local Government, by whose order on the case he and all other public officers shall be guided as to the future disposal of the prisoner.

Procedure where officer in charge of prison doubts the legality of warrant sent to him for execution under this Part.

(*2*) Pending a reference made under sub-section (*1*), the prisoner shall be detained in such manner and with such restrictions or mitigations as may be specified in the warrant or order.

[*Ibid*, s. 19, as amended by VII of 1894, s. 5.] 18. The Governor-General in Council or the Local Government may, by general or special order, authorize the reception, detention or imprisonment in any place in British India, or in any place under such Government, as the case may be, for any period not exceeding the periods specified in their respective sentences, of persons sentenced within the territories of any Native Prince or State in India to imprisonment or transportation, for any act which would, if done in British India, have constituted—

Imprisonment in British India in certain cases of persons sentenced in Native States in India.

(*a*) an offence under any of the sections or Chapters of the Indian Penal Code specified in the first schedule, or XLV of 1860.

(*b*) an attempt to commit any such offence as aforesaid, or

(*c*) abetment of the commission of any such offence as aforesaid, or

(*d*) any other offence which the Governor-General in Council may, by notification in the *Gazette of India*, specify in this behalf:

Provided that such sentences have been pronounced after trial before a tribunal of which the presiding Judge, or, if the Court consisted of more than one Judge, at least one of such Judges, was an officer of the British Government authorized to act as such Judge by the Native Prince or State or by the Governor-General in Council.

[*Ibid*, s. 20.] 19. The officer of the British Government so authorized as aforesaid shall forward with every prisoner a certificate of his conviction, and a copy of the proceedings held at the trial, that the same may be forthcoming for reference at the place where the sentence of imprisonment or transportation is carried into effect.

Certificate of conviction and copy of proceedings.

[V of 1893, ss. 1, 2 and 3.] 20. (*1*) Where a British Court, exercising, in or with respect to territory beyond the limits of British India, jurisdiction which the Governor-General in Council has in such territory,—

Execution in British India of certain capital sentences not ordinarily executable there.

(*a*) has sentenced any person to death, and,

(*b*) being of opinion that such sentence should, by reason of there being in such territory no secure place for the confinement of such person or no suitable appliances for his execution in a decent and humane manner, be executed in British India, has issued its warrant for the execution of such sentence to the officer in charge of a prison in British India,

such officer shall, on receipt of the warrant, cause the execution to be carried out at such place as may be prescribed therein in the same manner and subject to the same conditions in all respects as if it were a warrant duly issued under the provisions of section 381 of the Code of Criminal Procedure, 1898.

V of 1898.

(*2*) The prisons of which the officers in charge are to execute sentences under any such warrants as aforesaid shall be such as the Governor-General in Council or a Local Government authorized by the Governor-General in Council in this behalf may, by general or special order, direct.

(*3*) Every such tribunal as is referred to in the proviso to section 18 shall be deemed to be a British Court for the purposes of this section:

Provided that every warrant issued under this section by any such tribunal shall, if the tribunal consists of more than one Judge, be signed by a Judge who is an officer of the British Government authorized in the manner provided by the said section.

PART V.

Persons under Sentence of Penal Servitude.

[V of 1871, s. 21.] 21. (*1*) Every person under sentence of penal servitude may be confined in such prison within British India as the Governor-General in Council, by general order, directs, and may, during such time, be kept to hard labour and, until he can conveniently be removed to such prison, be imprisoned, with or without hard labour, and dealt with in all other respects as persons under sentence of rigorous imprisonment may, for the time being, by law be dealt with.

Persons under sentence of penal servitude how to be dealt with.

(*2*) The time of such intermediate imprisonment, and the time of removal from one prison to another, shall be taken and reckoned in discharge or part discharge of the term of the sentence.

[*Ibid*, s. 22.] 22. Every enactment now in force in British India with respect to persons under sentence of transportation, or under sentence of imprisonment with hard labour, shall, so far as is consistent with this Act, be construed to apply to persons under sentence of penal servitude.

Enactments respecting persons under sentence of transportation or imprisonment with hard labour applied to persons under sentence of penal servitude.

[*Ibid*, s. 23.] 23. (*1*) The Governor-General in Council may grant to any person under sentence of penal servitude a license to be at large within British India or in such part thereof as is in such license expressed, during such portion of his term of penal servitude and upon such conditions as the Governor-General in Council may think fit.

Power to grant license to person sentenced to penal servitude.

(*2*) The Governor-General in Council may revoke or alter any license granted under sub-section (*1*).

[*Ibid*, s. 24.] 24. So long as any license granted under section 23, sub-section (*1*), continues in force and unrevoked, the licensee shall not be liable to imprisonment or penal servitude by reason of his sentence, but shall be allowed to go and remain at large according to the terms of the license.

Licensee to be allowed to go at large.

[*Ibid*, s. 25.] 25. In case of the revocation of any such license as aforesaid, any Secretary to the Government of India may, by order in writing, signify to any Justice of the Peace or Magistrate that the license has been revoked, and require him to issue a warrant for the arrest of the licensee, and such Justice or Magistrate shall issue his warrant accordingly.

Apprehension of convict where license revoked.

[*Ibid*, s. 26.] 26. A warrant issued under section 25 may be executed by any officer to whom it is directed or delivered for that purpose in any part of British India, and shall have the same force in any place within British India as if it had been originally issued or subsequently endorsed by the Justice of the Peace or Magistrate or other authority having jurisdiction in the place where it is executed.

Execution of warrant.

[*Ibid*, s. 27.] 27. (*1*) When the licensee, for whose arrest a warrant has been issued under section 25, is arrested thereunder, he shall be brought, as soon as conveniently may be, before the Justice or Magistrate by whom the warrant was issued, or before some other Justice or Magistrate of the same place, or before a Justice or Magistrate having jurisdiction in the district in which the licensee has been arrested.

Licensee when arrested to be brought up for recommitment.

(*2*) Such Justice or Magistrate as aforesaid shall thereupon make out a warrant under his hand and seal for the recommitment of the licensee to the prison from which he was released under the license.

[*Ibid*, s. 28.] 28. When a warrant has been issued under section 27, sub-section (*2*), the licensee shall be recommitted accordingly, and shall thereupon be liable to be kept in penal servitude for such further term as, with the time during which he may have been imprisoned under the original sentence and the time during which he may have been at large under an unrevoked license, is equal to the term mentioned in the original sentence.

Recommitment.

[*Ibid*, s. 29.]

Penalty for breach of condition of the license.

29. If a license is granted under section 23 upon any condition specified therein, and the licensee—

(*a*) violates any condition so specified, or

(*b*) goes beyond the limits so specified, or

(*c*) knowing of the revocation of the license, neglects forthwith to surrender himself, or conceals himself, or endeavours to avoid arrest,

he shall be liable upon conviction to be sentenced to penal servitude for a term not exceeding the full term of penal servitude mentioned in the original sentence.

PART VI.

Removal of Prisoners.

[*Ibid*, s. 1, last paragraph, added by VII of 1894, s. 1.]

References in this Part to prisons, etc., to be construed as referring also to Reformatory Schools.

30. In this Part, all references to prisons or to imprisonment or confinement shall be construed as referring also to Reformatory Schools or to detention therein.

[*Ibid*, s. 30, enacted by VII of 1894, s. 6.]

Removal of prisoners from one prison to another in the same Province.

31. Where any person is, or has been, sentenced to imprisonment or transportation by any Court, or, in default of giving security for keeping the peace or maintaining good behaviour, has been committed to, or is detained in, prison under section 123 of the Code of Criminal Procedure, 1898, the Local Government or (subject to its orders and under its control) the Inspector-General of Prisons may order his removal during the period for which he has been sentenced to imprisonment or transportation or the security has been ordered to be given, as the case may be, from the prison in which he is confined to any other prison within the Province.

V of 1898.

[*Ibid*, s. 31, substituted by X of 1886, s. 25.]

Lunatic prisoners how to be dealt with.

32. (*1*) Where it appears to the Local Government that any person detained or imprisoned under any order or sentence of any Court is of unsound mind, the Local Government may, by a warrant setting forth the grounds of belief that the person is of unsound mind, order his removal to a lunatic asylum or other place of safe custody within the Province, there to be kept and treated as the Local Government directs during the remainder of the term for which he has been ordered or sentenced to be detained or imprisoned, or, if on the expiration of that term it is certified by a medical officer that it is necessary for the safety of the prisoner or others that he should be further detained under medical care or treatment, then until he is discharged according to law.

(*2*) Where it appears to the Local Government that the prisoner has become of sound mind, the Local Government shall, by a warrant directed to the person having charge of the prisoner, if still liable to be kept in custody, remand him to the prison from which he was removed, or to another prison within the Province, or, if the prisoner is no longer liable to be kept in custody, order him to be discharged.

XXXVI of 1858.

(*3*) The provisions of section 9 of the Lunatic Asylums Act, 1858, shall apply to every person confined in a lunatic asylum under sub-section (*1*) after the expiration of the term for which he was ordered or sentenced to be detained or imprisoned; and the time during which a prisoner is confined in a lunatic asylum under that sub-section shall be reckoned as part of the term of detention or imprisonment which he may have been ordered or sentenced by the Court to undergo.

(*4*) In any case in which a Local Government is competent under sub-section (*1*) to order the removal of a prisoner to a lunatic asylum or other place of safe custody within the Province, the Governor-General in Council may order his removal to any lunatic asylum or other place of safe custody in any part of British India; and the provisions of this section respecting the custody, detention, remand and discharge of a prisoner removed by order of a Local Government shall, so far as they can be made applicable, apply to a prisoner removed by order of the Governor-General in Council.

[*Ibid*, s. 32, enacted by VII of 1894 s. 7.]

? Removal of prisoners from territories under one Local Government to territories under another.

33. When any person is or has been sentenced to imprisonment or transportation by any Court, or, in default of giving security for maintaining good behaviour, has been committed to or is detained in prison under section 123 of the Code of Criminal Procedure, 1898, the Governor-General in Council may order his removal during the period for which he has been sentenced to imprisonment or transportation or the security has been ordered to be given, as the case may be, from the prison in which he is confined to any other prison in British India.

V of 1898.

PART VII.

Persons under Sentence of Transportation.

[*Ibid*, s. 33 substituted by IX of 1882, s. 2.]

Appointment of places for confinement of persons under sentence of transportation and removal thereto.

34. The Governor-General in Council may appoint places within British India to which persons under sentence of transportation shall be sent; and the Local Government, or some officer duly authorized in this behalf by the Local Government, shall give orders for the removal of such persons to the places so appointed, except when sentence of transportation is passed on a person already undergoing transportation under a sentence previously passed for another offence.

PART VIII.

Discharge of Prisoners.

[*Ibid*, s. 35.] 24 & 25 Vict., c. 104.

Release of recognizance, by order of High Court, of prisoner recommended for pardon.

35. Any Court established under the Indian High Courts Act, 1861, may, in any case in which it has recommended to Her Majesty the granting of a free pardon to any prisoner, permit him to be at liberty on his own recognizance.

PART IX.

Provisions for requiring the Attendance of Prisoners and obtaining their Evidence.

Attendance of Prisoners in Court.

[VIII of 1897, s. 30.]

References in this Part to prisons, etc., to be construed as referring also to Reformatory Schools.

36. In this Part, all references to prisons or to imprisonment or confinement shall be construed as referring also to Reformatory Schools or to detention therein.

[XV of 1869, s. 4.]

Power for Civil Courts to require appearance of prisoner to give evidence.

37. Subject to the provisions of section 41, any Civil Court may, if it thinks that the evidence of any person confined in any prison within the local limits of its appellate jurisdiction, if it is a High Court, or, if it is not a High Court, then within the local limits of the appellate jurisdiction of the High Court to which it is subordinate, is material in any matter pending before it, make an order in the form set forth in the second schedule, directed to the officer in charge of the prison.

[*Ibid*, s. 5.]

District Judge in certain cases to countersign orders made under section 37.

38. (*1*) Where an order under section 37 is made in any civil matter pending—

(*a*) in a Court subordinate to the District Judge, or

(*b*) in a Court of Small Causes outside a Presidency-town,

it shall not be forwarded to the officer to whom it is directed, or acted upon by him, until it has been submitted to, and countersigned by—

(i) the District Judge to which the Court is subordinate, or

(ii) the District Judge within the local limits of whose jurisdiction the Court of Small Causes is situate.

(*2*) Every order submitted to the District Judge under sub-section (*1*) shall be accompanied by a statement, under the hand of the Judge of the subordinate Court or Court of Small Causes, as the case may be, of the facts which in his opinion render the order necessary, and the District Judge may, after considering such statement, decline to countersign the order.

[*Ibid*, s. 3.]

Power for certain Criminal Courts to require attendance of prisoner to give evidence or answer to charge.

39. Subject to the provisions of section 41, any Criminal Court not inferior to the Court of a Magistrate of the first class, may, if it thinks that the evidence of any person confined in any prison within the local limits of its appellate jurisdiction, if it is a High Court, or, if it is not a High Court, then within the local limits of the appellate jurisdiction of the High Court to which it is subordinate, is material in any matter pending before it, or, if a charge of an offence against such person is made or pending, make an order in the form set forth in the second or third schedule, as the case may be, directed to the officer in charge of the prison.

[*Ibid*, s. 6.]

Order to be transmitted through Magistrate of the district or sub-division in which person is confined.

40. Where any person, for whose attendance an order as in this Part provided is made, is confined in any district other than that in which the Court making or countersigning the order is situate, the order shall be sent by the Court by which it is made or countersigned, to the District or Sub-divisional Magistrate within the local limits of whose jurisdiction the person is confined, and that Magistrate shall cause it to be delivered to the officer in charge of the prison in which the person is confined.

[*Ibid*, s. 7, first and second paragraph.]

Procedure where removal is desired of person confined in Presidency-town or more than one hundred miles from place where evidence is required.

41. (*1*) Where a person is confined in a prison within a Presidency-town, or in a prison more than one hundred miles distant from the place where any Court, subordinate to a High Court, in which his evidence is required, is held, the Judge or presiding officer of the Court in which the evidence is so required, shall, if he thinks that such person should be removed under this Part for the purpose of giving evidence in such Court, and if the prison is within the local limits of the appellate jurisdiction of the High Court to which such Court is subordinate, apply in writing to the High Court, and the High Court may, if it thinks fit, make an order in the form set forth in the second schedule, directed to the officer in charge of the prison.

(*2*) The High Court making an order under sub-section (*1*) shall send it to the District or Sub-divisional Magistrate within the local limits of whose jurisdiction the person named therein is confined, and that Magistrate shall cause it to be delivered to the officer in charge of the prison in which the person is confined.

[*Ibid*, s. 8, first paragraph.]

Persons confined beyond limits of appellate jurisdiction of High Court.

42. Where a person is confined in a prison beyond the local limits of the appellate jurisdiction of a High Court, any Judge of such Court may, if he thinks that such person should be removed under this Part for the purpose of giving evidence in any criminal matter in such Court or in any Court subordinate thereto, apply in writing to the Local Government of the territories within which the prison is situate, and the Local Government may, if it thinks fit, direct that the person be so removed, subject to such rules regulating the escort of prisoners as the Governor-General in Council may prescribe.

[*Ibid*, s. 9.]

Prisoner to be brought up.

43. Upon delivery of any order under this Part to the officer in charge of the prison in which the person named therein is confined, that officer shall cause him to be taken to the Court in which his attendance is required, so as to be present in the Court at the time in such order mentioned, and shall cause him to be detained in custody in or near the Court until he has been examined or until the Judge or presiding officer of the Court authorizes him to be taken back to the prison in which he was confined.

[*Ibid*, s. 10.]

Power to Government to exempt certain prisoners from operation of this Part.

44. The Governor-General in Council or the Local Government may, by notification in the *Gazette of India* or the local official Gazette, as the case may be, direct that any person or any class of persons shall not be removed from the prison in which he or they may be confined; and thereupon, and so long as such notification remains in force, the provisions of this Part, other than those contained in sections 46 to 48, shall not apply to such person or class of persons.

[*Ibid*, s. 11.]

Officer in charge of prison when to abstain from carrying out orders.

45. In any of the following cases, that is to say,—

(*a*) where the person named in any order made under section 37, section 39 or section 41 appears to be, from sickness or other infirmity, unfit to be removed, the officer in charge of the prison in which he is confined, shall apply to the District or Sub-divisional Magistrate within the local limits of whose jurisdiction the prison is situate, and if such Magistrate by writing under his hand, declares himself to be of opinion that the person named in the order is, from sickness or other infirmity, unfit to be removed; or

(*b*) where the person named in any such order is under committal for trial; or

(*c*) where the person named in any such order is under a remand pending trial or pending a preliminary investigation; or

(*d*) where the person named in any such order is in custody for a period which would expire before the expiration of

the time required for removing him under this part and for taking him back to the prison in which he is confined;

the officer in charge of the prison shall abstain from carrying out the order, and shall send to the Court, from which the order has been issued, a statement of the reason for so abstaining:

Provided that such officer as aforesaid shall not so abstain where—

(i) the order has been made under section 37; and

(ii) the person named in the order is confined under committal for trial, or under a remand pending trial or pending a preliminary investigation, and does not appear to be, from sickness or other infirmity, unfit to be removed; and

(iii) the place, where the evidence of the person named in the order is required, is not more than five miles distant from the prison in which he is confined.

Commissions for Examination of Prisoners.

[*Ibid.*, s. 12.] Commissions for examination of prisoners.

46. In any of the following cases, that is to say,—

(*a*) where it appears to any Civil Court that the evidence of a person confined in any prison within the local limits of the appellate jurisdiction of such Court, if it is a High Court, or if it is not a High Court, then within the local limits of the appellate jurisdiction of the High Court to which it is subordinate, who, for any of the causes mentioned in section 11 or section 45, cannot be removed, is material in any matter pending before it; or

(*b*) where it appears to any such Court as aforesaid that the evidence of a person confined in any prison so situate and more than ten miles distant from the place at which such Court is held, is material in any such matter; or

(*c*) where the District Judge declines, under section 38, to countersign an order for removal;

the Court may, if it thinks fit, issue a commission, under the provisions of the Code of Civil Procedure, for the examination of the person in the prison in which he is confined.

XIV of 1882.

[*Ibid*, s. 13.] Commissions for examination of prisoners beyond limits of appellate jurisdiction of High Court.

47. Where it appears to a High Court that the evidence of a person confined in a prison beyond the local limits of its appellate jurisdiction is material in any civil matter pending before it or before any Court subordinate to it, the High Court may, if it thinks fit, issue a commission, under the provisions of the Code of Civil Procedure, for the examination of the person in the prison in which he is confined.

XIV of 1882.

[*Ibid*, s. 14.] Commission how to be directed.

48. Every commission for the examination of a person issued under section 46 or section 47 shall be directed to the District Judge within the local limits of whose jurisdiction the prison in which the person is confined is situate, and the District Judge shall commit the execution of the commission to the officer in charge of the prison, or to such other person as he may think fit.

Service of Process on Prisoners.

[*Ibid*, s. 15, as partially repealed by X of 1877.] Process how served on prisoners.

49. When any process directed to any person confined in any prison is issued from any Criminal or Revenue Court, it may be served by exhibiting to the officer in charge of the prison the original of the process and depositing with him a copy thereof.

[*Ibid*, s. 16.] Process served to be transmitted at prisoner's request.

50. (*1*) Every officer in charge of a prison upon whom service is made under section 49 shall, as soon as may be, cause the copy of the process deposited with him to be shown and explained to the person to whom it is directed, and shall thereupon endorse upon the process and sign a certificate to the effect that such person as aforesaid is confined in the prison under his charge and has been shown and had explained to him a copy of the process.

(*2*) Such certificate as aforesaid shall be *primâ facie* evidence of the service of the process, and, if the person to whom the process is directed, requests that the copy shown and explained to him be sent to any other person and provides the cost of sending it by post, the officer in charge of the prison shall cause it to be so sent.

Miscellaneous.

[*Ibid*, s. 2.] Application of Part in certain cases.

51. (*1*) For the purposes of this Part the Courts of Small Causes established in the Presidency-towns and the Courts of Presidency Magistrates shall be deemed to be subordinate to the High Court of Judicature at Fort William, Madras or Bombay, as the case may be.

[*Ibid*, s. 7, third paragraph, as substituted by XI of 1889, s. 98.]

(*2*) For the purposes of this Part, every prison in Lower Burma shall be deemed to be within the local limits of the appellate jurisdiction of the Judicial Commissioner, and the Recorder of Rangoon may issue orders under section 37 or section 39, and may issue a commission under sections 46 to 48 for the examination of any person confined in any prison in Lower Burma.

[*Ibid*, s. 8, second paragraph, as substituted by XI of 1889, s. 98.]

(*3*) To obtain the removal of a person confined in a prison outside 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 section 42, and the other provisions of that section shall, as far as they can be made applicable, apply.

[*Ibid*, s. 17.] Deposit of costs.

52. No order in any civil matter shall be made by a Court under any of the provisions of this Part until the amount of the costs and charges of the execution of such order (to be determined by the Court) is deposited in such Court:

Provided that, if upon any application for such order it appears to the Court to which the application is made, that the applicant has not sufficient means to meet the said costs and charges, the Court may pay the same out of any fund applicable to the contingent expenses of such Court, and every sum so expended may be recovered by the Government from any person ordered by the Court to pay the same, as if it were costs in a suit recoverable under the Code of Civil Procedure.

XIV of 1882.

[*Ibid*, s. 18.] Power to make rules under this Part.

53. (*1*) The Local Government, and in cases arising under section 42, the Governor-General in Council, may make rules—

(*a*) for regulating the escort of prisoners to and from Courts in which their attendance is required;

(*b*) for regulating the amount to be allowed for the costs and charges of such escort; and

(*c*) for the guidance of officers in all other matters connected with the enforcement of this Part.

[*Ibid*, s. 19.]

(*2*) All rules made under sub-section (*1*) shall be published in the local official Gazette or the *Gazette of India*, as the case may be, and shall, from the date of such publication, have the same force as if enacted by this Act.

[*Ibid*, s. 20.] Power to declare who shall be deemed officer in charge of prison.

54. The Local Government may declare what officer shall, for the purposes of this Part, be deemed to be the officer in charge of a prison.

[New.] Repeals.

55. The enactments mentioned in the fourth schedule are hereby repealed to the extent specified in the last column thereof.

THE FIRST SCHEDULE.

(*See section 18.*)

Section or Chapter of Indian Penal Code.	Description of Offence.
Section 206 ..	Fraudulent removal or concealment of property to prevent its seizure as forfeited or in execution.
Do. 208 ..	Fraudulently suffering decree for sum not due.
Do. 224 ..	Resistance or obstruction by a person to his lawful apprehension.
Chapter XII ..	Offences relating to coin and Government stamps.
Sections 302 to 304 ..	Murder and culpable homicide.
Do. 305 and 306.	Abetment of suicide.
Section 311 ..	Being a thug.
Sections 312 to 316 ..	Causing miscarriage.
Section 317 ..	Exposure and abandonment of child.
Sections 323 to 333 ..	Voluntarily causing hurt.
Section 347 ..	Wrongful confinement to extort property or constrain to illegal act.
Do. 348 ..	Wrongful confinement to extort confession or compel restoration of property.
Sections 363 to 369 ..	Kidnapping and abduction.
Do. 370 and 371.	Buying or disposing of any person as a slave and habitually dealing in slaves.
Do. 372 and 373.	Buying and selling of minor for purposes of prostitution.
Section 376 ..	Rape.
Do. 377 ..	Unnatural offences.
Sections 379 to 382 ..	Theft.
Do. 384 to 389 ..	Extortion.
Do. 392 and 394 to 402.	Robbery and dacoity.
Do. 403 and 404.	Criminal misappropriation of property.
Do. 406 to 409 ..	Criminal breach of trust.
Do. 411 to 414 ..	Receiving stolen property.
Do. 435 and 436.	Mischief by fire or explosive substance.
Do. 437 and 438.	Mischief with intent to destroy or make unsafe decked vessel or one of twenty tons burden.
Section 439 ..	Intentionally running vessel aground or ashore with intent to commit theft, etc.
Do. 440 ..	Mischief after preparation for causing death or hurt.
Do. 453 ..	Lurking house-trespass and housebreaking.
Do. 456 ..	Lurking house-trespass and housebreaking by night.
Sections 465 to 469 ..	Forgery.
Section 471 ..	Using as genuine a forged document.
Sections 472 to 476 ..	Counterfeiting seals and devices of marks used for authenticating documents.
Section 477 ..	Fraudulent cancellation, destruction, etc., of will, authority to adopt or valuable security.

XLV of 1860.

THE SECOND SCHEDULE.

(*See sections 37 and 39.*)

Court of .

To the officer in charge of the (*state name of prison*).

You are hereby required to produce now a prisoner in , under safe and sure conduct before the Court of at on the day of next by of the clock in the forenoon of the said day, there to give evidence in a matter now pending before the said Court, and after the said has then and there given his evidence before the said Court or the said Court has dispensed with his further attendance, cause him to be conveyed under safe and sure conduct back to the prison.

The day of .

A. B.

(Countersigned) *C. D.*

THE THIRD SCHEDULE.

(*See section 39.*)

Court of .

To the officer in charge of the (*state name of prison*).

You are hereby required to produce , now a prisoner in , under safe and sure conduct before the Court of at on the day of next by of the clock in the forenoon of the same day, there to answer a charge now pending before the said Court, and after such charge has been disposed of or the said Court has dispensed with his further attendance, cause him to be conveyed under safe and sure conduct back to the said prison.

The day of .

A. B.

THE FOURTH SCHEDULE.

(*See section 55.*)

Year.	No.	Title.	Extent of repeal.
1869	XV	The Prisoners' Testimony Act, 1869.	The whole Act.
1871	V	The Prisoners Act, 1871.	The whole Act, except section 15.
1882	IX	The Prisoners Act Amendment Act, 1882.	The whole Act.
1886	X	The Indian Criminal Law Amendment Act, 1886.	Section 25.
1889	XI	The Lower Burma Courts Act, 1889.	Section 98.
1891	XII	The Repealing and Amending Act, 1891	So much as relates to Act V of 1871.
1893	V	The Foreign Jurisdiction (Capital Sentences) Act, 1893.	The whole Act.
1894	VII	The Prisoners Act (1871) Amendment Act, 1894.	The whole Act.
1897	VIII	The Reformatory Schools Act, 1897.	Section 30.

Statement of Objects and Reasons.

The object of this Bill is merely to consolidate the several Acts relating to prisoners confined by order of a Court which are now to be found in

different parts of the Statute-book, and so to replace a number of separate enactments by a single Act, expressed more simply and intelligibly. Only a few explanatory remarks seem to be called for, and these will be found in the *Notes on Clauses* annexed.

T. RALEIGH.

The 27th June 1899.

Notes on Clauses.

The first seven Parts reproduce Act V of 1871 and the Acts relating to the confinement of prisoners, and the remaining Part contains the provisions of Act XV of 1869 which deal with the production of prisoners in Court for the purpose of giving evidence and the service of process upon them while in confinement.

Clause 2.—Act V of 1871 refers somewhat indiscriminately to "prisons" and "jail". The former word has been adhered to throughout the Bill.

Clause 18.—The wording of section 19 of Act V of 1871 is somewhat equivocal, and doubts have in practice been felt as to whether it requires a special order in the case of each prisoner. The necessity for this is not apparent, and the opportunity has been taken to remove all doubt on the point by making it clear that a general order is admissible.

The original section has, it will be observed, been considerably shortened and, it is thought, simplified. All the offences specifically described in the earlier part of the section are covered by the sections mentioned in the schedule to the Foreign Jurisdiction and Extradition Act, 1879 (XXI of 1879), to which reference is made in a later part of it, and this tautology has been avoided in the Bill. It is believed that, with one exception, the clause now proposed exactly reproduces the law contained in the old section. The exception consists in the circumstance that, while section 19 refers to the abetment of suicide by burning or burying alive only, clause 18 of the Bill, read with the first schedule, refers instead to sections 305 and 306 of the Indian Penal Code, *i.e.*, to the abetment of suicide in any form.

Section 34 of Act V of 1871, giving power to make rules as to convicts, has not been reproduced, as power has been already taken in the Prisons Act, 1894 (IX of 1894), to make rules providing for all matters referred to in that section.

Clause 44.—The reference to "the Gazette" in section 10 of Act XV of 1869 has here been amplified. Where the Government of India is concerned, it is the *Gazette of India* that should be alluded to; where a Local Government, the local official Gazette.

Clause 53.—It is altogether supererogatory to declare, as does section 19 of Act XV of 1869, that rules made thereunder "shall be deemed to have the force of law." The language has, therefore, here been altered so as to provide that all rules duly made under the proposed Act "shall have the same force as if enacted" thereby. The effect of the provision so expressed will be apparent if the decision of the House of Lords in *Institute of Patent Agents* v. *Lockwood* (1894), L.R. App. Cas. 347, be referred to.

J. M. MACPHERSON,
Secy. to the Govt. of India.

(Republished by order of His Excellency the Governor in Council.)

G. STOKES,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

FORT ST. GEORGE GAZETTE SUPPLEMENT.

TUESDAY EVENING, SEPTEMBER 12, 1899.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 25th August 1899:

No. 18 of 1899.

A Bill further to amend the Presidency Banks Act, 1876.

XI of 1876.

WHEREAS it is expedient further to amend the Presidency Banks Act, 1876; It is hereby enacted as follows:

Short title and commencement.

1. (*1*) This Act may be called the Presidency Banks Act, 1899; and

(*2*) It shall come into force at once.

XI of 1876.

Further amendment of section 36, Act XI, 1876.

2. To section 36, clause (*a*), sub-clause (*4*) of the Presidency Banks Act, 1876, as amended by section 4 of the Presidency Banks Act, 1879, the following shall be added, namely:

V of 1879.

"or the Trustees for the Improvement of the City of Bombay under the authority of the City of Bombay Improvement Act, 1898."

Bom. Act IV of 1898.

STATEMENT OF OBJECTS AND REASONS.

In connection with the scheme for the improvement of the City of Bombay which has recently obtained legislative recognition through the passing into law of the City of Bombay Improvement Act, 1898 (Bom. Act IV of 1898), the Directors of the local Presidency Bank have represented to the Government of India that they might, with advantage, be empowered to lend money to the Board of Trustees appointed under that Act, and to purchase, and make advances and open cash credits upon, securities issued by the Trustees, as they are already, by section 36 of the Presidency Banks Act, 1876 (XI of 1876), authorized to do in the case of debentures and other securities issued under the authority of the legislature by Municipal Committees and Port Commissioners. In view of the provision made by the Act of 1898 for the payment of interest and the establishment of a sinking fund towards the liquidation of any loan raised by the Trustees, and having regard to the fact that the sanction of the Government of India will have to be obtained before the Trustees can borrow at all in furtherance of the scheme, the Governor-General in Council is satisfied that there is no reason why the power asked for should not be conferred as suggested by the Directors: and the object of this Bill is to make the necessary further amendment in the Act of 1876.

C. E. DAWKINS.

The 17th August 1899.

J. M. MACPHERSON,
Secy. to the Govt. of India.

(Republished by order of His Excellency the Governor in Council.)

G. STOKES,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

A Bill further to amend the Indian Coinage Act, 1870, and the Indian Paper Currency Act, 1882.

XXIII of 1870. XX of 1882.

WHEREAS it is expedient further to amend the Indian Coinage Act, 1870, and the Indian Paper Currency Act, 1882; It is hereby enacted as follows:

Short title and commencement.

1. (*1*) This Act may be called the Indian Coinage and Paper Currency Act, 1899; and

(*2*) It shall come into force at once.

XXIII of 1870.

Substitution of new section for section 12, Act XXIII, 1870.

2. For section 12 of the Indian Coinage Act, 1870, the following section shall be substituted, viz.:

Gold coins a legal tender.

"12. Gold coins, whether coined at Her Majesty's Royal Mint in England, or at any Mint established in pursuance of a Proclamation of Her Majesty as a branch of Her Majesty's Royal Mint, shall be a legal tender in payment or on account at the rate of fifteen rupees for one sovereign:

33 & 34 Vict., c. 10.

"Provided that such coins have not been called in by any Proclamation made in pursuance of the Coinage Act, 1870, or have not lost weight so as to be of less weight than that for the time being prescribed for like coins by or under the said Statute as the least current weight."

XX of 1882.

Addition to section 11, clause (*a*), Act XX, 1882.

3. To section 11, clause (*a*) of the Indian Paper Currency Act, 1882, the following words and figures shall be added, namely:

"or in gold coin which is legal tender under the Indian Coinage Act, 1870."

XXIII of 1870.

STATEMENT OF OBJECTS AND REASONS.

It was explained in Council, when leave was asked to postpone this Bill, that it was desirable to await the terms of the Proclamation which is being drafted in London with the view of constituting an Indian Mint a branch of the Royal Mint for the purpose of coining gold, before proceeding with legislation in this country. The Government of India had been led to expect the Proclamation some time since; but are now advised that there may be further delay in its issue owing to technical and legal questions.

But it is considered advisable, in view of the announcement of policy made by the Government, to proceed now with so much of the proposed legislation as is necessary to make the sovereign full legal tender in India at a fixed rate. By this legislation the Government of India will be giving effect to the policy initiated by it in 1893, when the Indian Mints were closed to the free coinage of silver, with the object of establishing a gold standard. The amendment is framed to carry out the most important of the recommendations of the Currency Committee which has recently reported. These recommendations have been accepted generally by Her Majesty's Government and by the Secretary of State in Council. They are entirely concurred in by the Government of India, and may be summarized as follows:

The Indian Mints should continue to be closed against the unrestricted coinage of silver and they should be opened to the receipt of gold; the gold coin current and legal tender in the United Kingdom should also be declared legal tender in India, at the rate of fifteen rupees to a sovereign, that is at the rate of 1*s.* 4*d.* the rupee, and such gold coins should be coined in the Indian Mints. The Bill contains the modifications in the Indian Coinage Act of 1870 and the Paper Currency Act of 1882 which are necessary to give the recommendations as regards making gold coins legal tender, at the rate of fifteen rupees to a sovereign, the force of law.

C. E. DAWKINS.

The 5th September 1899.

J. M. MACPHERSON,
Secy. to the Govt. of India, Legislative Dept.

(Republished by order of His Excellency the Governor in Council.)

G. STOKES,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 13th October 1899:

No. 22 OF 1899.

[The marginal references are to the sections of Act I of 1882, as amended by Acts XII of 1891, VII of 1893 and V of 1897.]

A Bill to consolidate and amend the law relating to Emigration to the labour-districts of Assam.

WHEREAS it is expedient to consolidate and amend the law relating to emigration to the labour-districts of Assam; It is hereby enacted follows:

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Assam Labour and Emigration Act, 1900.

(*2*) It extends—

(*a*) to the *Provinces* of Bengal (*including the Santhál Parganas*), the North-Western Provinces, Oudh and Assam, the Central Provinces and the district of Ganjam *in the Province of Madras*; and

(*b*) to such other *parts* of the *Province of Madras* as the *Local Government* may, with the previous sanction of the Governor-General in Council, by notification in the *Fort St. George Gazette*, direct.

(*3*) It shall come into force—

(*i*) in the territories mentioned in clause (*a*) *of sub-section* (*2*), at once; and

(*ii*) in any territories to which it may be extended by a notification under clause (*b*) *of the said sub-section*, on such day as may be specified in that behalf in the notification.

Definitions.

2. (*1*) In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Assistant Inspector" means an Assistant Inspector of Labourers appointed under this Act:

(*b*) "contractor" means a contractor licensed under this Act:

(*c*) "dependant" includes any woman (not being a labourer), any child and any aged or incapacitated relative or friend accompanying any labourer with the consent of a contractor, sub-contractor, recruiter, local agent or garden-sardar:

(*d*) "emigrate" denotes the departure of any native of India (not being a native of a labour-district) of the age of sixteen years or upwards from any part of the territories in which this Act may for the time being be in force, for the purpose of labouring for hire in a labour-district otherwise than as a domestic servant:

(*e*) "employer" means the chief person for the time being in charge of any estate upon which labourers or more than fifty other persons are employed:

(*f*) "estate" means the land upon which any labourers or more than fifty other persons have been engaged to labour:

(*g*) "Inspector" means an Inspector of labourers appointed under this Act:

(*h*) "labour-contract" means a contract entered into under this Act, to labour for hire in a labour-district otherwise than as a domestic servant:

(*i*) "labour-district" means any of the districts of Lakhimpur, Sibsagar, Nowgong, Darrang, Kamrup, Goalpara, Cachar and Sylhet *in the Province of Assam*:

(*j*) "labourer" means any person bound by a labour-contract, and includes any person registered as such under section *34* or section *73*:

(*k*) "local agent" means a local agent licensed under this Act:

(*l*) "Magistrate" means a District Magistrate, Sub-divisional Magistrate *or* other person appointed by the Local Government to perform the functions of a Magistrate under this Act:

(*m*) "recruiter" means a recruiter licensed under this Act:

(*n*) "sub-contractor" means a sub-contractor licensed under this Act:

(*o*) "Superintendent" means a Superintendent of Emigration appointed under this Act: and

(*p*) "Registering-officer" means a Registering officer appointed under this Act.

X of 1872. (*2*) All words defined in the Indian Contract Act, 1872, and used in this Act *shall be deemed to* have the meanings respectively assigned to them by that Act.

[5.] 3. (*1*) The Local Government may, with the previous sanction of the Governor-General in Council, by notification in the local official Gazette, prohibit all *persons from recruiting, engaging, inducing or assisting any native of India, or any specified class of natives of India, to emigrate from the whole or any specified part of the Province to any labour-district, or any specified portion of any labour-district, either absolutely or otherwise than in accordance with the provisions of this Act.*

Local Government may prohibit recruitment, etc., for emigration to any labour-district or part thereof either absolutely or otherwise than under Act.

[7.] (*2*) Save as provided by *sub-section* (*1*), nothing in this Act shall be deemed to prohibit *the recruitment of* natives of India *for emigration to* the labour-districts otherwise than *in accordance with* the provisions of this Act.

[8.] 4. (*1*) The Local Government may appoint so many persons as it thinks necessary to be Superintendents of Emigration, Registering-officers, Embarkation Agents, Debarkation Agents, Inspectors of Labourers, Assistant Inspectors of Labourers and Medical Inspectors, under this Act respectively, and, with respect to any such officer, may, subject to the control of the Governor-General in Council, declare the local area situate in the *Province* within which he shall exercise the powers and perform the duties conferred and imposed upon him by this Act or any rule thereunder.

Appointment of Officers.

(*2*) Every person so appointed shall be deemed *to be* a public servant within the meaning of the Indian Penal Code.

XLV of 1860.

CHAPTER II.

Labour-contracts generally.

[9, §§ 1, 2 and 3.] 5. (*1*) Every labour-contract shall be in writing *in the form set forth in the first schedule*, and shall be executed *as hereinafter provided* in duplicate on substantial paper.

Essentials of labour-contract.

(*2*) Every *labour*-contract shall specify—

(*a*) the names of the labourer and his employer;

(*b*) the term for which the labourer is to labour:

(*c*) *the* monthly wages in money *of the labourer* and the price at which rice is to be supplied to him;

(*d*) the labour-district in which, and, if the labourer so requests, the estate on which, *the labourer* is to labour.

(*3*) No *labour*-contract shall be made for a term exceeding four years or, if the contract is entered into under the provisions of section *120*, for a term exceeding one year, commencing from the date of its execution.

(*4*) *No labour-contract* shall stipulate for a less rate of monthly wages for a completed daily task regulated in accordance with the provisions of this Act than *six* rupees in the case of a man and *five* rupees in the case of woman.

[9, § 4.] 6. No contract made *otherwise than* in accordance with the provisions of section 5 shall be enforceable under this Act as a labour-contract against the labourer entering into it.

Labour-contracts not enforceable unless made in accordance with section 5.

[9A.] 7. Unless *his labour*-contract contains a specific obligation to *that* effect, no labourer shall be bound by *it* to undertake any work involving underground labour in mines.

In absence of specific obligation, underground labour not obligatory.

[10.] 8. Unless *his* labour-contract specifies the particular estate on which *he* is to labour, *a* labourer shall be deemed to have contracted to labour on any estate in charge of the employer for whom he has contracted to labour, and situate in the labour-district specified in the contract:

Where contract does not specify estate, labourer to be deemed to have contracted to labour on any estate in charge of employer and situate in labour-district.

Provided that no labourer shall, without his consent, be separated from his dependants (if any) or from any other labourer, *being his or her* wife, husband, son or daughter.

[11.] 9. Notwithstanding anything to the contrary in the Indian Contract Act, 1872, any person of the age of sixteen years or upwards *may* enter into a labour-contract:

IX of 1872.

Persons of sixteen years of age may contract to emigrate.

Provided that no woman may enter into a labour-contract without the consent of her husband or lawful guardian (if any).

[11A.] 10. (*1*) *Where* the Local Government, after such inquiry as it thinks sufficient, is of opinion that any labourer was recruited or conveyed to a labour-district, or compelled or induced to enter into a labour-contract, by any coercion, undue influence, fraud or misrepresentation, or that any such irregularity has occurred in connection with his recruitment or the execution of his contract as makes it just to rescind his contract, the Local Government may, by order in writing, direct the labour-contract of the labourer to be cancelled.

Power of Local Government to cancel contract for wrongful recruitment.

(*2*) On receipt of an order *made under sub-section* (*1*), the Superintendent, Inspector or Magistrate shall cancel the *labour*-contract referred to *in the order*, and shall thereupon make an endorsement that it has been so cancelled on the labourer's copy of the *labour*-contract, or, if *that copy* is not forthcoming, shall give to the labourer a certificate to *the like* effect.

[11B.] 11. Where the labour-contract of a labourer is or has been cancelled under section 10, the Local Government may, *in* its discretion and on the application of the labourer concerned, cancel the labour-contract of any labourer, being the wife, husband, father, mother, son or daughter of the labourer whose labour-contract is or has been cancelled, who may have entered into a labour-contract at the same place with the same employer or, in the case of *a* labour-contract cancelled in the labour-districts, may be employed on any estate belonging to the same employer.

Power to cancel contract of labourer related to labourer whose contract is cancelled.

[11C.] 12. Subject to any orders which the Local Government may *make* in this behalf, the Superintendent, Inspector or Magistrate may send back to his native district any labourer, together with his dependants (if any), whose *labour*-contract has been cancelled under section 10, and may recover the whole or any part of the expenses incurred in so sending him back as follows, namely:

Repatriation of labourers whose contracts cancelled for wrongful recruitment.

(*a*) *in the case of labourer at a depot, from the contractor at whose depot the labourer is;*

(*b*) *in the case of a labourer at any other place on the journey to a labour-district, from the employer by whom the certificate of the garden-sardar concerned was granted, or from the local agent of the employer; and,*

(*c*) *in the case of a labourer* in a labour-district, from the employer on whose estate the labourer *is* under contract to labour.

[11D.] 13. (*1*) *Where* a labourer is sent back to his native district under section 12, the Superintendent, Inspector or Magistrate may provide an escort or make such other arrangements as *he* may *think* necessary for ensuring that *the* labourer is actually conveyed to *his native* district.

Escort for repatriated labourer.

(*2*) Any expenditure incurred in providing such escort or making such arrangements *as aforesaid* may be recovered as part of the amount expended in sending *the* labourer back to his native district.

CHAPTER III.

Recruitment by Contractors, Sub-contractors and Recruiters.

Contractors and sub-contractors.

[12.] 14. Any Superintendent specially empowered in this behalf by the Local Government may grant to such persons as he thinks fit licenses to be contractors within the whole or any part of the local area for which *the* Superintendent has been appointed; *and* may also, on the application of any contractor, grant to such persons as he thinks fit licenses to be sub-contractors, on behalf of *the* contractor, within the whole or any part of the local area for which *the* contractor is licensed.

Licensing of contractors and sub-contractors.

[13.] 15. Every license *granted under section 14* shall be in such form, and subject to the payment of such fee, not exceeding, in the case of a contractor, one hundred rupees, and, in the case of a sub-contractor, fifty rupees, as the Local Government may, by rule, prescribe.

Fee for, and form of, contractor's and sub-contractor's licenses.

[14.] 16. (*1*) No license shall be granted *under section 14* for a longer period than one year from the date thereof, and, if the licensee fails to comply with any of the provisions of this Act or the rules thereunder, or is guilty of any other misconduct, *his* license may be cancelled by the Superintendent who granted the same.

Duration of contractors' and sub-contractors' licenses and cancellation thereof.

(*2*) A contractor or sub-contractor may, within one month from the date of any order of a Superintendent cancelling his license *under sub-section* (*1*), appeal against the order to the Local Government, *and* the *decision* of the Local Government *thereon* shall be final.

[15.] 17. Every contractor shall, in addition to the special duties *imposed upon him by this Act*, afford such information to the Superintendent and furnish him with such returns and reports as *the Superintendent* may, subject to any rules *made* by the Local Government in this behalf, require.

Duties of contractors.

[16.] 18. No sub-contractor shall be licensed to act on behalf of more than one contractor.

Sub-contractor to act on behalf of only one contractor.

[17.] 19. A contractor or sub-contractor may act as a recruiter, and shall, when so acting, be subject to all the provisions *of this Act* relating to recruiters.

Contractor or sub-contractor acting as recruiter.

[18.] 20. (*1*) Every contractor shall be liable for the acts and defaults as a sub-contractor or recruiter of an person licensed to be a sub-contractor or recruiter on his behalf, and all payments which, under this Act or any rule thereunder, any person *so licensed* is *required* to make, *may, in case of default, be recovered from the contractor concerned.*

Liability of contractors for sub-contractors' and recruiters' acts and defaults.

(*2*) The Superintendent may cancel the license of any contractor where the license of any person so licensed on behalf *of the contractor* is liable to be cancelled under this Act.

(*3*) Nothing in this section shall be deemed to render a contractor criminally liable for any act or default on the part of any person *so* licensed on his behalf.

[19.] 21. Every contractor shall establish and maintain, at such places as the Local Government may direct, suitable depots for the reception and lodging, previous to their despatch to the labour-districts, of labourers engaged by him or by sub-contractors or recruiters licensed on his behalf, and shall provide at his own expense all necessary food, clothing and medical treatment for *any* labourers *so engaged* during their stay at *the* depots.

Contractor to establish depots.

[20.] 22. (*1*) No depot shall be used for the reception and lodging of labourers until it has been inspected and approved of by the Superintendent and the Medical Inspector.

Inspection and supervision of depots.

(*2*) Every depot shall be under the supervision of the Superintendent, the *District* Magistrate or such other officer as the Local Government may appoint in this behalf, and shall be open at all times to inspection by the Superintendent, the *District* Magistrate or such officer *as aforesaid*, and the Medical Inspector.

(*3*) Where the Superintendent considers that any depot is unhealthy, or has become unsuitable for the purpose for which it was established, he may, by order in writing, prohibit the use of *the* depot for the reception and lodging of labourers.

[21.] 23. In addition to the depots hereinbefore provided for, the Local Government may establish separate hospital-depots for the reception of labourers suffering from dangerously infectious or contagious diseases.

Establishment of hospital-depots.

[22.] 24. (*1*) Where *a* hospital-depot is established under section 23, the Local Government may require any contractor having a depot in the neighbourhood of *the* hospital-depot to contribute to the expense of the establishment and maintenance of the hospital-depot such reasonable sum as it may direct, *and may recover the same* from *the* contractor.

Contractor to contribute towards establishment and maintenance of hospital-depot.

(*2*) Every hospital-depot *established under section 23* shall be under the charge of a medical officer appointed by the Local Government.

(*3*) Any Medical Inspector may direct the transfer of any labourer from a depot established within the local limits of his jurisdiction to a hospital-depot established *under section 23* within *the said* local limits.

Recruiters.

[23.] 25. Any Superintendent empowered in this behalf by the Local Government may, on the application of a contractor or of any sub-contractor acting on behalf of a contractor, grant to such persons as he thinks fit licenses to be recruiters on behalf of *the* contractor within the whole or any specified part of the local area for which *the* contractor has been licensed:

Licensing of recruiters.

Provided that no person shall be granted a license under this section to be a recruiter on behalf of more than one contractor or to act as such within the local limits of more than one district.

[24.] 26. Every license *granted under section 25* shall be in such form, and subject to the payment of such fee, not exceeding sixteen rupees, as the Local Government may, by rule, prescribe.

Form of, and fee for, recruiter's license.

[25.] 27. No license shall be granted *under section 25* for a longer period than one year from the date thereof; and, if the licensee fails to comply with any of the provisions of this Act or the rules thereunder, or is guilty of any other misconduct, *his* license may be cancelled by the Superintendent who granted the same.

Duration of recruiter's license.

[26. 28. Every recruiter shall hold a certificate in writing authorizing him to act as such and signed by the contractor or sub-contractor on whose application he was licensed.

Recruiter to hold certificate from contractor or sub-contractor.

[27.] 29. (*1*) No recruiter shall in any local area engage or attempt to engage any person as a labourer unless *his* license bears the countersignature of a Magistrate having jurisdiction throughout *that* local area.

Magistrate's counter-signature of recruiter's license.

(*2*) No Magistrate shall countersign a recruiter's license unless and until he has satisfied himself by such inquiry as he thinks fit that the licensee is not, by character or from any other cause, unfitted to be a recruiter under this Act, that he holds the certificate *prescribed by* section 28, and that sufficient and proper accommodation has been provided in a suitable place and is available for such labourers, or persons intending to become labourers, as may be collected by *him* pending their removal to a depot.

[28.] 30. (*1*) Every Magistrate shall have, for the supervision, inspection and regulation of *any* place within the local limits of his jurisdiction *in which* accommodation is provided *under section 29, sub-section (2)*, the same powers as are by this Act conferred on the Superintendent in respect of depots.

Magistrate to supervise accommodation.

(*2*) *The* District or Sub-divisional Magistrate may authorize any Magistrate subordinate to him, or any officer of police above the rank of sub-inspector, to visit and inspect such places *as aforesaid* at any time; and all recuiters or other persons in charge of such places *as aforesaid* shall afford to subordinate Magistrates and officers of police so authorized every facility for *visiting and inspecting them.*

[29.] 31. (*1*) Where any Magistrate who has countersigned a recruiter's license, afterwards finds reason to think that the licensee is, by character or from any other cause, unfitted to be a recruiter under this Act, or that the accommodation provided under section *29, sub-section (2)*, has become insufficient or improper or has ceased to be available, or that the place in which it is provided has become unsuitable, he may require the licensee to produce his license and may cancel his countersignature thereon, or he may impound the license and send it for cancellation to the Superintendent who granted the same.

Cancellation of Magistrate's countersignature in certain cases.

(*2*) Every Magistrate refusing to countersign a recruiter's license or cancelling his countersignature thereon shall at once report *his* refusal or cancellation and the grounds thereof to the Superintendent who granted *the* license.

Procedure before arrival at depots.

[30.] 32. (*1*) Every recruiter who desires to engage any person as a labourer, shall appear with *the* person before such medical officer as the Local Government may appoint *in this behalf* within the local limits of the jurisdiction of the Magistrate by whom *the* recruiter's license was countersigned, or, if no medical officer has been *so* appointed, before such medical officer as the Registering-officer before whom *the* person is taken for registration as hereinafter provided, may direct.

Intending labourer to be taken for examination to medical officer.

(*2*) The medical officer shall thereupon examine *the* person, and shall, if satisfied that he is in a fit state of health to proceed to the labour-district in which he intends to labour, *and is not incapacitated, by reason of any obvious bodily defect or infirmity, for labour in the labour-districts*, give him a certificate to that effect.

[31.] 33. Every person who obtains a certificate under section *32*, together with any persons about to proceed to a labour-district as his dependants, shall thereupon be brought by the recruiter before the Registering-officer having jurisdiction within the local area for which *the* recruiter is licensed, *or before such other Registering-officer as the Local Government may appoint for that local area.* The recruiter shall, at the same time, produce and show his license to *the* Registering-officer.

If certified to be fit, intending labourer to be brought before Registering-officer.

[32.] 34. (*1*) The Registering-officer shall thereupon inspect the certificate given under section *32* and the license of the recruiter, and, if he finds that *the* certificate has been duly given and that the recruiter is duly licensed, shall then examine *the* person *brought before him under section 33* with reference to his intended labour-contract, and explain the same to him.

Examination and registration of intending labourer.

(*2*) *Where* it appears that *the* person *so brought before the Registering-officer* is competent to enter into *the intended labour*-contract, and understands the same as regards the locality, the period and nature of the service, and the rate of wages and the price at which rice is to be supplied to him, that the terms thereof are in accordance with law, that he has not been induced to agree to enter thereinto by any coercion, undue influence, fraud, misrepresentation or mistake, and that he is willing to fulfil the same, the Registering-officer shall register, in a book to be kept for the purpose, such particulars regarding him and the persons (if any) whom he wishes to have registered as his dependants, as the Local Government may, by rule, prescribe; and the labourer and his dependants (if any) shall thereupon be deemed to be registered under this Act.

[*New.*] 35. (*1*) *Where the Registering-officer refuses to register a person as a labourer under this Act, he shall report his refusal to the District or Sub-divisional Magistrate or other officer appointed by the Local Government in this behalf, and such Magistrate or officer as aforesaid may make such arrangements as he may think necessary for ensuring the return of the person and his dependants (if any) to their homes and for their proper housing and support in the interval. In the case of any male under the age of sixteen years or of any female recruited in circumstances which appear to be suspicious, the arrangements may include the provision of an escort home.*

Arrangements to be made for return to home of intending labourer whose registration is refused.

(*2*) *Any expenditure incurred under sub-section (1) may be recovered from the contractor or recruiter concerned, or both.*

[33.] 36. The Registering-officer shall furnish to *every* person registered *under section 34, sub-section (2)*, a certified copy written on substantial paper of *the* particulars *referred to therein.*

Copy of registration to be given to labourer.

[34.] 37. Every *Registering*-officer registering a person unfler section *34, sub-section (2)*, shall forthwith forward a certified copy of *the* particulars *referred to therein* and the original certificate of the medical officer regarding *the person* to the Superintendent having jurisdiction over the depot to which *the* person is to proceed.

Copy of registration and medical certificate to be sent to Superintendent.

[35.] 38. For every person produced before a Registering-officer for the purpose of being registered *under section 34, sub-section (2)*, the recruiter shall pay to the *Registering*-officer such fee, not exceeding one rupee, as the Local Government may, by rule, *prescribe.*

Fee for registration.

[36.] 39. No recruiter shall remove or attempt to remove any person to a depot, or induce or attempt to induce him to go to a depot, or to leave the local limits of the jurisdiction of the Registering-officer before whom *he* ought to be brought under section *33*, or aid or attempt to aid him in going to a depôt, or leaving any such local limits *as aforesaid*, unless and until *he* has been registered under section *34, sub-section (2)*.

Recruiter when to remove person to depot.

[37.] 40. (*1*) Every labourer shall after he has been registered under section *34, sub-section (2)*, be conveyed with all convenient despatch by the recruiter by whom he has been engaged, to the depot established by the contractor on whose behalf *the* recruiter has been licensed.

Conveyance of labourer to depot.

(*2*) *Every* labourer shall, while proceeding to the depot, be accompanied throughout the journey either by the recruiter himself, or by a competent person deputed by him with the approval of the Registering-officer by whom *the* labourer has been registered.

(*3*) The Registering-officer shall give to *every* person so deputed a certificate, under his signature, stating that he has been deputed for the journey to the depot.

[38.] 41. Every recruiter or person deputed by him *under section 40, sub-section (2)*, shall, throughout the journey to the depot, provide *the* labourer and his dependants (if any) with proper and sufficient food and lodging.

Recruiter to provide food and lodging for labourer on journey.

Procedure at contractors' depots.

[39.] 42. Within twenty-four hours after *the arrival of* a labourer at a depot, the contractor by whom *the* depot is maintained, or the person in charge thereof, shall give to the Superintendent within the local limits of whose jurisdiction *the* depot is situate, a notice in writing, in such form and containing such particulars as the Local Government may, by rule, prescribe, of *the* arrival *of the labourer.*

Contractor to report arrival of labourer.

[40.] 43. (*1*) The Medical Inspector shall, as soon as may be after *the arrival of a* labourer at *a* depot, examine *the* labourer and his dependants (if any) to ascertain that they are in a fit state of health to undertake the journey to the labour-district to which they intend to proceed, *and, in the case of the labourer, that he is also not incapacitated, by reason of any obvious bodily defect or infirmity, for labour in the labour-districts.*

Duties of Medical Inspector.

(*2*) The Medical Inspector shall give a certificate to the Superintendent stating whether he is or is not satisfied *that* the labourer and his dependants (if any) *are in a fit state of health* to undertake *the* journey, *and, in the case of the labourer, that he is also not incapacitated as aforesaid.*

[41.] 44. *Where* the Medical Inspector gives a certificate of fitness under section *43, sub-section (2)*, with respect to any labourer, and there is, in the opinion of the Superintendent, no valid reason why *the* labourer should not enter into *the intended* labour-contract, *the* labourer and the employer with whom he intends to contract, or the agent of *the* employer, shall, *after the lapse of three, and* within thirty, days after *the date of* the arrival of the labourer at the depot, execute *the* labour-contract in the presence of the Superintendent:

On grant of certificate of fitness, labourer to enter into labour-contract.

Provided that no labour-contract shall be executed as aforesaid except in the district in which the labourer was recruited, or at such other place within the Province as the Local Government may direct.

[42.] 45. (*1*) Before *any* labourer executes *a labour*-contract, *under section 44*, the Superintendent shall personally explain it to him, and shall, after the same has been executed by *him* and *by* his employer or the agent of *his* employer, attest *the labour*-contract and certify at the foot thereof that he has personally explained the same to the labourer.

Contract to be explained to labourer by Superintendent, and abstract and copies to be made.

(*2*) An abstract of every *labour*-contract *so executed* shall be entered in a register to be kept by the Superintendent for the purpose; and, after the abstract has been so entered, one copy of the *labour*-contract shall be given to the labourer and the other to his employer or the agent of his employer.

[42-A.] 46. *Where* the employer with whom any labourer intends to contract, or the *local* agent *of the* employer, has given notice to the Superintendent that, before any labour-contract is entered into by him or on his behalf with any labourer, the labourer shall be examined by a competent medical man and certified by him to be in a fit state of health and able in point of physical condition to reside and labour for hire in the labour-district in which the estate of *the* employer is situate, the Superintendent shall not permit *the* labourer to execute a labour-contract, until such *medical* certificate *as aforesaid* has been produced and shown to him.

Power for employer to require further medical certificate as to fitness to labour previous to contract.

[42-B.] 47. *Where* the employer or his *local* agent has directed that *the* examination *referred to in section 46* shall be made by a medical officer in the service of *the* Government, such officer *as aforesaid* making the examination shall be entitled to receive from the employer or the agent such fee for each labourer so examined as the Local Government may *direct.*

Medical officer when entitled to fee for examination under section 46.

[43.] 48. In *any of* the following cases, namely:

Power to cancel contract and order payment of expenses of return of labourer in certain cases.

(*a*) where the Medical Inspector, on making the examination required by section 48, *sub-section (1)*, or at any subsequent time during the stay at the depot of a labourer, finds that *the* labourer is or has become unfit to undertake the journey to the labour-district to which he intends

to proceed, *or that the labourer is incapacitated, by reason of any obvious bodily defect or infirmity, for labour in the labour-districts*, and the Superintendent considers that *the* labourer has not dishonestly represented himself as fit to undertake *the* journey ; or

(*b*) where the Superintendent finds that any such irregularity has occurred in the recruitment or treatment by the recruiter of *a* labourer as makes it just to refuse to permit a labour-contract to be executed or to rescind *a labour*-contract *which has been* executed ; or

(*c*) where the contractor on whose behalf or by whom *a* labourer has been registered, does not, *after the lapse of three, and* within thirty, days after *the date of* the arrival of *the* labourer at the depot, tender to him a labour-contract for execution under section 44, or the employer or his agent refuses or neglects to execute *the* contract as required by that section ;

the Superintendent may cancel the labour-contract executed by *the* labourer, and in that *event* or if no labour-contract has been executed, may order the contractor at once to pay *the* labourer such reasonable sum as *the Superintendent may think* necessary to enable *the labourer* to return to the place at which he was registered *or to his native district, as to the Superintendent may seem fit*, and such further sum by way of compensation as the Superintendent thinks reasonable ; and may take *such* other steps *as he may* think necessary for the conveyance of *the* labourer to such place *as aforesaid*.

[44.] 49. (*1*) Any labourer who, from his state of health, is, in the opinion of the Medical Inspector, unfit to undertake *the* return journey, shall be entitled to be fed, lodged, clothed and (if necessary) medically treated at the depot at the expense of the contractor by whom *the* depot is maintained, until he is reported by the Medical Inspector to be fit to undertake *the* return journey.

Labourer when to be lodged, etc., at depot till he can return home.

(*2*) *Where the* contractor negligently or wilfully omits to provide food, lodging, clothing or medical treatment for *the* labourer, the Superintendent may order the contractor at once to pay such reasonable sum as *the Superintendent may think* necessary to provide such food, lodging, clothing or medical treatment *as aforesaid*.

[45.] 50. *Where* an order is made under section 48 with reference to a labourer, any person registered as his dependant, or any *other* labourer, being *his or her* wife, husband, son or daughter may claim—

Like provisions in case of dependants and relatives.

(*a*) to be conveyed, at the expense of the contractor, with *the* labourer to the *same* place *as the labourer ;* and,

(*b*) if *the* labourer is unable to travel, to be fed, lodged, clothed and (if necessary) medically treated in the depot at the expense of the contractor until *the* labourer is able to travel ;

and the Superintendent may include such expenses *as aforesaid* in an order made under section 48 or section 49 with respect to *the* labourer.

(2) 51. *Where*, upon the arrival of a labourer at a depot, it appears that during the journey to the depot *the* labourer or any person registered as his dependant has suffered ill-treatment at the hands of the recruiter or person deputed by *the recruiter* to accompany *the* labourer, or that *the* recruiter or such person *as aforesaid* has failed to provide the labourer or any person registered as his dependant with proper and sufficient food and lodging, the Superintendent may order the contractor by whom *the* depot is maintained, to pay *the* labourer a reasonable sum by way of compensation.

Compensation to labourer for ill-treatment on the journey.

[52.] 52. *Where* the Medical Inspector has reason to think that any person registered as the dependant of a labourer is not in a fit state of health to undertake the journey to the labour-district to which the labourer intends to proceed, the Medical Inspector shall so certify to the Superintendent to whom notice of the arrival of *the* labourer was given. The provisions of sections 48 and 49 shall thereupon apply to *the* dependant as if he were a labourer, and the Superintendent may make such orders regarding him as he may make under those sections with regard to a labourer.

[47.] Procedure when dependant declared unfit to proceed to labour-district.

[53.] 53. *In any such case as is provided for by section 52*, *the* labourer to whom *the* dependant is attached, shall *further* be entitled, if he or she so wishes, and if he or she *is* the husband, wife, son or daughter of *the* dependant, to receive from the contractor at whose depot he or she arrived, such reasonable sum as the *Superintendent may think* necessary to enable him or her to return to the place where he or she was registered, *or to his or her native district, as to the Superintendent may seem fit*. If *the* labourer so returns, then any other persons registered as his or her dependants, and any other labourer, being *his or her* wife, husband, son or daughter shall also be entitled to receive a like sum from *the* contractor.

[48.] Labourer and relatives entitled to be returned with dependant.

[54.] 54. On *the* failure of *a* contractor for *the space of* twenty-four hours to comply with an order of the Superintendent to pay any sum *required* to be paid under section 48, section 49, section 50, section 51, section 52 or section 53, the Superintendent may pay the same to or on behalf of the labourer or dependant *concerned, and may recover it*, with interest thereon at the rate of twelve per cent. per annum, *from the contractor*.

[49.] Failure of contractor to pay sums ordered to be paid under sections 48 to 53.

[55.] 55. (*1*) All labourers despatched from a contractor's depot to a labour-district shall during their journey *to the labour-district* be accompanied by a person appointed by *the* contractor.

[50.] Provisions for way-bill.

(*2*) *Every* person *appointed under sub-section* (*1*) shall take with him a way-bill in such form and containing such particulars and instructions as the Local Government may prescribe ; he shall present *the* way-bill at all such places and to all such officers as may be thereupon indicated ; and he shall carry out all instructions therein contained for his guidance.

CHAPTER IV.

Recruitment by Garden-sardars and Local Agents.

Garden-sardars.

[56.] 56. (*1*) An employer may grant to any *garden-sardar* a certificate authorizing him, *in* such local area *within the limits of a single district* as may be specified in *the* certificate, to enter into labour-contracts with persons desirous of becoming labourers upon any estate of which *the* employer is in charge.

[51.] Employer may grant certificate to garden-sardar.

(*2*) *Where* any labourer is granted a certificate under sub-section (*1*), his employment under *the* certificate shall be deemed to be employment under his labour-contract.

[57.] 57. (*1*) Every certificate *granted to a garden-sardar under section 56, sub-section* (*1*), shall be in such form and shall contain such particulars as the *Chief Commissioner of Assam* may prescribe in this behalf.

Form and particulars to be contained in such certificate.

(*2*) Any employer granting a certificate to a graden-sardar *under section 56, sub-section* (*1*), may, before *the* certificate is accepted and signed as hereinafter provided, specify therein the name of the local agent (if any) to whom *the* garden-sardar is to report himself for orders, the time within which he is to return to *his* employer, and *such* other instructions for his *guidance as* he may think *fit*.

[58.] 58. Every certificate *granted to a garden-sardar under section 56, sub-section* (*1*), shall be accepted and signed by the garden-sardar in the presence of the Inspector or *of* a Magistrate having jurisdiction over the place where the employer granting *the* certificate resides.

Certificate to be accepted and signed in presence of Inspector or Magistrate.

[59.] 59. *The* Inspector or Magistrate shall inquire into the facts stated in *the* certificate ; and, upon being satisfied of the truth of the *facts so stated*, shall, unless it appears to him that the person so accepting and signing *the* certificate is, by character or from any other cause, unfitted to be a garden-sardar, countersign and date *the* certificate.

Inspector's or Magistrate's countersignature certificate.

[60.] 60. (*1*) On the application of the employer by whom any certificate so countersigned has been granted to a garden-sardar, the Inspector or Magistrate may, without requiring the appearance of the garden-sardar or making the inquiry prescribed by section 59, countersign a fresh certificate to be granted by *the* employer to *the* garden-sardar in renewal of any existing certificate.

Provision for grant of fresh certificate.

(*2*) Every fresh certificate *granted under sub-section* (*1*), shall be forwarded by the Inspector or Magistrate countersigning it to the *District* Magistrate of the district in which the garden-sardar to whom it is granted, is employed ; and *the* garden-sardar shall, on receiving notice from such *District* Magistrate *as aforesaid*, appear before him and accept and sign *the* fresh certificate in his presence.

[61.] 61. No certificate granted to a garden-sardar *under this Chapter* shall come into force unless and until it has been accepted and signed by the garden-sardar and countersigned by the Inspector or Magistrate *having jurisdiction over the place where the employer granting the certificate resides, and also by the District Magistrate of the district in which the garden-sardar is authorized by the certificate to enter into labour-contracts*, and no certificate *so granted* shall continue in force for a longer period than one year from the date of its countersignature.

Certificate when to come into force, and duration thereof.

[62.] 62. (*1*) Every garden-sardar shall provide sufficient and proper accommodation in a suitable place for such labourers, or persons intending to become labourers, as may be collected by him pending their removal to a labour-district.

Accommodation to be provided by garden-sardar.

(*2*) The *District or Sub-divisional* Magistrate, or a Magistrate subordinate to him, or an officer of police above the rank of sub-inspector authorized by him in this behalf, shall visit and inspect *the* accommodation *so provided ;* and *every* garden-sardar or other person in charge of a place *in which accommodation is so provided*, shall afford to such Magistrate, Subordinate Magistrate or officer of police *as aforesaid* every facility for *visiting and inspecting it*.

(*3*) In every such place *as aforesaid* the garden-sardar providing the accommodation shall make such sanitary arrangements as the Local Government may prescribe.

[63.] 63. (*1*) Where a garden-sardar *commits a breach of* any of the provisions of this Act or the rules thereunder, or is guilty of any other misconduct, any Magistrate, Superintendent or Inspector, within the local limits of whose jurisdiction *the* garden-sardar is employed, may cancel his certificate.

Cancellation of certificates in certain cases.

(*2*) *Whenever a certificate is cancelled under this section, notice of the fact shall be given by the Magistrate, Superintendent or Inspector cancelling it to the Inspector or Magistrate in whose presence it was accepted and signed by the garden-sardar under section 58 or section 60, and, whenever such a certificate is cancelled by the employer, notice of the fact shall be given by him to such Inspector or Magistrate as aforesaid, and also to the District Magistrate of the district in which the garden-sardar was by the certificate authorized to enter into labour-contracts.*

Local agents.

[59.] 64. Any Superintendent authorized in this behalf by the Local Government may, on the application of an employer, grant licenses to persons to be local agents for the purpose of representing *the* employer within such local area and for such period as *the* employer may desire :

Licensing of local agents.

Provided that no contractor shall be licensed as a local agent.

[60.] 65. A local agent may within such local area *as aforesaid* represent his employer in all matters connected with the engagement of labourers ; and shall furnish such information and make such returns as the Local Government may, by rule, *prescribe*.

Powers and duties of local agents.

[61.] 66. (*1*) *Any* Superintendent authorized *under section 64* may, on the application of an employer other than the employer on whose application a local agent has been licensed, *by* order in writing, permit *the local* agent to become the local agent of *the other* employer within the local area for which he was licensed.

Representation by one local agent of more than one employer.

(*2*) *Any* Superintendent making *an* order *under sub-section* (*1*) shall forthwith send a copy thereof to the Magistrate of the district in which *the local* agent resides ; and *that* Magistrate shall, on the application of the *local* agent, insert in his license the name of *the other* employer.

[62, § 1.] 67. Any Superintendent authorized *under section 64* may, with the consent of all the employers of a local agent, grant a special license to *the local* agent, permitting him to engage on behalf of any employer specified in *the* special license, but without the intervention of a garden-sardar, persons to be labourers.

Special licenses for local agents.

[62, § 2, first part.] 68. Every *local* agent engaging persons to be labourers *shall bring* them for registration before a Registering-officer and require them when so registered to execute labour-contracts.

Action to be taken by local agents in engaging labourers.

[62, § 2, second part.] 69. *Every local agent engaging persons to be labourers* shall, for the purposes of this Act, be deemed to be a garden-sardar *to whom a certificate has been granted under this Chapter*.

Local agents engaging labourers to be deemed to be garden-sardars.

[63.] 70. Where any garden-sardar to whom a certificate has been granted under this *Chapter* by an employer, commits any offence punishable under this Act, any local agent of *the* employer may prosecute the *garden*-sardar for that offence.

Prosecution of garden-sardars by local agents.

[64. 71. (*1*) The *District* Magistrate of any district within which a local agent acts as such, may, by order *in writing*, cancel the license of *the* local agent, if the employer so requires or if it is shown to the satisfaction of the *District* Magistrate that the local agent has—

Cancellation of licenses of local agents.

(*a*) employed any contractor's recruiter to engage on his behalf persons to be labourers; or

(*b*) permitted persons engaged as labourers by or on behalf of any contractor to use the accommodation provided for the persons engaged as labourers by any garden-sardar under *the* local agent's control; or

(*c*) allowed any garden-sardar under his control to transfer persons engaged as labourers by *the garden*-sardar to contractors or to their recruiters or to any employer other than the employer by whom *the garden*-sardar's certificate was granted; or

(*d*) himself taken over persons engaged as labourers by any garden-sardar with intent to despatch them to any employer other than the employer by whom *the garden*-sardar's certificate was granted.

(*2*) *A local agent may*, within three months next after the date of *any* order *of a District Magistrate cancelling his license under sub-section (1) appeal against the order to the Local Government*, and the decision of the Local Government thereon shall be final.

Procedure to be followed by garden-sardars.

[65.] 72. Every garden-sardar who desires to engage any person as a labourer, shall appear with *the* person, together with any *others* about to proceed to a labour-district as *his* dependants, before the Registering-officer having jurisdiction within the local area specified in the certificate of *the garden*-sardar.

Garden-sardar and labourer to appear before Registering-officer for registration.

[66.] 73. (*1*) The Registering-officer shall thereupon inspect the certificate of the garden-sardar, and, if he finds that *the* certificate is in force, shall examine, with reference to the intended labour-contract, the person *brought before him under section 72 whom it is desired to engage as a labourer*, and explain the *intended labour*-contract to *him*.

Examination and registration of persons engaged by garden-sardar.

(*2*) *Where* it appears that *the* person *so brought before the Registering-officer* is competent to enter into *the intended labour*-contract and understands the nature of the same as regards the locality, period and nature of the service, and the rate of wages and the price at which rice is to be supplied to him that the terms thereof are in accordance with law, that he has not been induced to agree to enter thereinto by any coercion, undue influence, fraud, misrepresentation or mistake, and that he is willing to fulfil the same, the Registering-officer shall register, in a book to be kept for the purpose, such particulars regarding him and his dependants (if any) as the Local Government may, by rule, prescribe; and the labourer and his dependants (if any) shall thereupon be deemed to be registered under this Act.

[67.] 74. (*1*) *Where* it appears to *the Registering*-officer that any *person brought before him under section 72* is not in a fit state of health to undertake the journey to the labour-district to which he intends to proceed, *or, in the case of a labourer, that he is incapacitated, by reason of any obvious bodily defect or infirmity, for labour in the labour-districts*, the *Registering*-officer may, before registering *him under section 73, sub-section (2)*, if himself a medical man, medically examine *him*, or, if not himself a medical man, send *him* to a medical man for *medical* examination.

Medical examination.

(*2*) If upon *medical* examination *any* person *so brought before a Registering-officer* is declared unfit to undertake the journey to *the labour-district or, in the case of a labourer, incapacitated, by reason of any obvious bodily defect or infirmity, for labour in the labour-districts*, the *Registering*-officer may refuse to register *him*.

[68.] 75. For every person *brought* before a Registering-officer *under section 72* for the purpose of being registered as a labourer, the garden-sardar who appears with him, shall pay to the Registering-officer such fee, not exceeding one rupee, as the Local Government may direct.

Fee to be paid for every labourer produced for registration.

[69.] 76. (*1*) Where a person has been registered under section 73, *sub-section (2)*, he shall, *after the lapse of three and* within fifteen, days *after* the *date* on which he was so registered, execute a labour-contract with the employer with whom he intends to contract.

Labour-contract to be executed.

(*2*) *The labour*-contract shall be signed in the presence of the Registering-officer by *the* person *so registered* and, on behalf of the employer, by the garden-sardar who appears with *him* before *the Registering*-officer. The *Registering*-officer shall satisfy himself that the *labour*-contract is in accordance with any instructions specified in the certificate of the garden-sardar; *and*, if *he* is so satisfied, shall, before the labourer signs the *labour*-contract, personally explain it to him and, after it has been executed as aforesaid, attest *it* and certify at the foot thereof that he has personally explained to the labourer.

(*3*) An abstract of every *labour*-contract *executed under this section* shall be entered in a register to be kept for the purpose by the Registering-officer, and, of the two copies *thereof*, one shall then be given to the labourer and the other to the garden-sardar or the local agent.

(*4*) *Where* any garden-sardar, without reasonable cause, refuses or neglects to execute a *labour*-contract with a labourer as required by *sub*-section (*2*) *after the lapse of three, and* within fifteen, days *after* the *date* on which *the labourer* was registered *under section 73, sub-section (2)*, the registering-officer may order *the garden*-sardar to pay to the labourer such reasonable compensation, not exceeding twenty rupees, as *the Registering*-officer *may* think fit.

[70.] 77. *Where* the employer *of a garden-sardar* has, in the instructions specified in the certificate of the garden-sardar, directed that *every* labourer engaged by him shall before registration be examined by a competent medical man and certified by him to be in a fit state of health to undertake the journey to the labour-district to which *he* intends to proceed, *and physically and constitutionally fit for labour in the labour districts*, no Registering-officer shall register as a labourer any person appearing before him with *the garden*-sardar until such *medical* certificate as aforesaid has been produced and shown to him.

Procedure when employer requires medical examination previous to registration.

[71.] 78. *Where* the employer *of a garden-sardar* has, in the instructions specified in the certificate of the garden-sardar, directed that *the* examination *referred to in section 77* shall be made by a medical officer in the service of *the* Government, such officer *as aforesaid* making the examination shall be entitled to receive from the local agent or *garden*-sardar such fee, for each labourer so examined as the Local Government may *direct*.

Medical officer when entitled to fee for examination under section 77.

[72.] 79. Unless and until a person engaged as a labourer has been registered under section 73, *sub-section (2)*, no garden-sardar shall remove or attempt to remove him to a labour-district, or induce or attempt to induce him to go to a labour-district, or to leave the local area specified in the certificate of *the* garden-sardar, or aid or attempt to aid him in proceeding to a labour-district, or in leaving any such local area *as aforesaid*.

Garden-sardar when to remove labourer to labour-district.

[73.] 80. (*1*) A garden-sardar shall either himself accompany labourers engaged by him throughout their journey from the place in which the labour-contract was entered into, to the labour-district wherein they have contracted to labour, or shall send with them some competent person appointed by him with the approval of the local agent of his employer, or, if his employer has no local agent, with the approval of the officer by whom *the* labourers were registered.

Garden-sardar to accompany labourers or send competent person with them.

(*2*) When the number of labourers (exclusive of dependants) proceeding on their journey to *a* labour-district is more than twenty, for every twenty labourers so in excess, or for any number of labourers less than twenty so in excess, one additional garden-sardar or person so appointed by him shall accompany the labourers so proceeding.

[74.] 81. A garden-sardar may, subject to the instructions specified in his certificate, engage any number of persons as labourers; and, subject to the provisions of section 80, any number of labourers may be despatched at the same time to the labour-districts.

No restriction on number of persons engaged by garden-sardar.

[75.] 82. A garden-sardar may, with the previous consent in writing of the local agent of the employer by whom his certificate was granted, or, if *the* employer has no local agent, with the previous consent in writing of *the* employer, be appointed under section 80 as a competent person to accompany labourers other than those engaged by him.

Appointment in certain cases of garden-sardar to accompany labourers not engaged by him.

[76.] 83. (*1*) Every garden-sardar or person appointed by him as aforesaid who accompanies labourers to the labour-districts, shall present to the officer by whom *the* labourers have been registered, a way-bill in such form and containing such particulars and instructions as the Local Government may prescribe.

Provision for way-bill.

(*2*) *Every such garden-sardar or other person as aforesaid* shall also present *the* way-bill at all such places and to all such officers as may be thereupon indicated; and shall carry out all instructions therein contained for his guidance.

[77.] 84. Every garden-sardar or person appointed by him as aforesaid who accompanies labourers to the labour-districts, shall provide *the* labourers and their dependants (if any) with proper and sufficient food and lodging throughout the journey.

Garden-sarder to provide food and lodging for labourers and dependants on journey.

[78. 85. *Where* it appears to any Magistrate, on the complaint of a labourer at any place on the journey, that *the labourer* or any person registered as his dependant has suffered ill treatment during the journey at the hands of the garden-sardar or person appointed by *the garden-sardar* accompanying *the* labourer, or that *the garden*-sardar or person *so appointed* has failed to provide *the* labourer or any of his dependants with proper and sufficient food and lodging, or has wilfully abandoned *the* labourer or any of his dependants, *the* Magistrate may either order the *garden*-sardar or person so appointed to pay to *the* labourer a reasonable sum by way of compensation, or may cancel the labour-contract entered into by *the* labourer and order *the garden*-sardar or person *so appointed* to pay to *the* labourer such reasonable sum as *the Magistrate may think* necessary to enable him with his dependants (if any) to return to the place at which he was registered, *or to his native district, as to the Magistrate may seem fit.*

Power for Magistrate in certain cases to award compensation or cancel contract.

[79 86. On *the* failure for the *space of* twenty-four hours *of* any garden-sardar or person appointed by him as aforesaid to comply with an order *made* under section 85 to pay any sum, the Magistrate may pay the same to or on behalf of *the* labourer *concerned, and may recover it*, with interest *thereon* at the rate of twelve per cent. per annum, from the employer by whom the certificate of *the* garden-sardar was granted, or from the local agent of *the* employer.

Procedure on failure of garden-sardar to comply with order.

[80.] 87. Any Magistrate or Embarkation Agent may, if himself a medical man, *medically* examine, and, if not himself a medical man, send for *medical* examination by, a medical man, any labourer or dependant who, while on the journey to the district to which he intends to proceed, appears to *the* Magistrate or *Embarkation* Agent, *as the case may be*, not to be in a fit state of health to proceed thereto.

Medical inspection of labourers *en route*.

[81. 88. (*1*) *Where any* labourer or dependant is, on examination *under section 87*, declared not to be in a fit state of health to undertake the journey to the labour-district to which he intends to proceed, the Magistrate or Embarkation Agent may order *the labourer or dependant* to be detained at such place as he *may think proper* until in a fit state of health to undertake *the* journey.

Detention and return of labourer declared when *en route* to be unfit to travel.

(*2*) *In any such case as is provided for by sub-section (1), the labourer or dependant, when in a fit state of health to undertake the journey*, shall, if the garden-sardar or person appointed by *the garden-sardar* accompanying *him*, or the employer by whom the certificate of *the garden*-sardar was granted, or his local agent, *so wishes*, be forwarded to *the labour*-district, *or, if otherwise, to his native district or the place where he was registered, as to the Magistrate or Embarkation Agent may seem fit.*

(*3*) While any labourer or dependant is detained *under sub-section (1)*, he shall be entitled to be fed, lodged, clothed and (if necessary) medically treated at the *expense* of the employer with whom *the* labourer, or the labourer to whom *the* dependant is attached, has contracted to labour.

[82. 89. (*1*) Where an order under section 88 has been made with reference to any labourer, any person registered as his dependant, and any *other* labourer being *his or her* wife or husband, shall be entitled,—

Dependants of labourer when to be fed, etc.

(*a*) until *the* labourer is in a fit state of health to undertake *the* journey, to be fed, lodged, clothed and (if necessary) medically treated at the place where *the* labourer is detained, and at the cost of the employer with whom *the* labourer has contracted to labour, and

(*b*) to be sent back to *the same* place (*if any*) *as the labourer*.

(*2*) Where an order has been made *under sub-section* (*1*) with reference to any dependant, the labourer to whom *the dependant* is attached, shall thereupon, until *the* dependant is in a fit state of health to undertake the journey to the labour-district, be entitled, if the labourer so wishes, and, if he or she *is* the husband, wife, son or daughter of *the* dependant, to be fed, lodged, clothed and (if necessary) medically treated at the place where *the* dependant is detained and at the cost of the employer with whom *the* labourer has contracted to labour; and *the* labourer shall, if he or she so wishes and if he or she is the husband, wife, son or daughter of *the* dependant, be sent back to *the same* place (*if any*) *as the dependant*.

(*3*) *Where a* labourer is entitled and claims to be so fed, lodged, clothed and (if necessary) medically treated, or to be so sent back, any person registered as his or her dependant, and any other labourer, being the wife or husband of *the* labourer, shall be entitled, as the case may be,—

(*a*) to be fed, lodged, clothed and (if necessary) medically treated at the place where *the* dependant is detained, and at is in of *the* employer until *the* dependant the cost a fit state of health to undertake the journey to the labour-district, or

(*b*) to be sent back to the *same* place *as the labourer*.

[83.] 90. *Where a* garden-sardar or person appointed by *a garden-sardar* accompanying any labourer or dependant fails to provide *the* labourer or dependant with food, lodging, clothing and medical treatment, or to send him back as required by section *88* or section *89*, the Magistrate or Embarkation Agent may order *the garden*-sardar or person *so appointed* to pay such sum as *the Magistrate or Embarkation Agent, as the case may be, may think* necessary to provide food, lodging, clothing and medical treatment, or to defray the cost of the return-journey of *the* labourer or dependant; and, on failure for *the space of* twenty-four hours of *the garden*-sardar or person *so appointed* to comply with *the* order, *the Magistrate or Embarkation Agent, as the case may be*, may pay the sum specified in the order to or on behalf of *the* labourer or dependant, *concerned, and may recover it, with interest thereon at the rate of twelve per cent. per annum, from the employer by whom the certificate of the garden-sardar was granted, or from the local agent of the employer.*

Payment of expenses of detention and return-journey of labourer.

91. (*1*) *Where a* labourer whose labour-contract has been executed by a garden-sardar on behalf of his employer, is brought to Calcutta on his way to the *labour*-district in which he has contracted to labour, any person empowered to act as the agent or representative of *the* employer may require *the* labourer to appear before the Superintendent for the cancellation of *his labour*-contract.

Agent in Calcutta may procure order from Superintendent cancelling the labour contract on payment of expense of return.

(*2*) If, *when the labourer appears under sub-section (1), such* reasonable sum as *the Superintendent may think* necessary to enable *the* labourer and his dependants (if any) to return to *the native district of the labourer or to* the place at which he was registered, *as to the Superintendent may seem fit*, and such further sum (if any) by way of compensation as the Superintendent *may* think reasonable, *are* paid to *the* labourer in his presence, the Superintendent may declare the *labour*-contract cancelled, and, in that *event*, shall make an endorsement to *the like* effect on the labourer's copy of the *labour*-contract, and attest *the endorsement* with his signature.

92. (*1*) Where the Superintendent declares the [85.] labour-contract of any labourer to be cancelled, any other labourer who is the wife, husband, father, mother, son or daughter of the labourer and *has* entered into a labour-contract at the same place with the same employer, may claim to have her or his labour-contract cancelled at the same time.

Cancellation of contracts of relatives.

(*2*) *Where a* claim is made under sub-section (1), the Superintendent shall declare the labour-contract of the claimant to be cancelled, and shall order the agent or representative of the claimant's employer to pay to the claimant such reasonable sum as *the Superintendent may think* necessary to enable him and his dependants (if any) to return to the *same* place *as the labourer*.

(*3*) On *the* failure for *the space of* twenty-four hours of the agent or representative to comply with *an* order *made under sub-section* (*2*), the Superintendent may pay the sum specified in the order to or on behalf of the claimant *concerned, and may recover the same, with interest thereon at the rate of twelve per cent. per annum, from the employer by whom the certificate of the garden-sardar was granted, or from the local agent of the employer.*

CHAPTER V.

Recruitment Under Special Provisions.

[New.] 93. *The Local Government may, with the previous sanction of the Governor-General in Council, by notification in the local official Gazette, declare that specially employed garden-sardars, not being garden-sardars holding certificates granted under Chapter IV, may in the province engage persons on behalf of their employers and assist persons so engaged to emigrate subject to the following provisions, namely:*

Special provisions as to recruitment through garden-sardars.

(a) The employers shall grant each garden-sardar specially employed by him under this section a permit in writing, signed and dated, specifying the name of the garden-sardar and the district in which alone the garden-sardar may engage persons on behalf of his employer and assist them to emigrate.

(b) The employer shall in the permit certify that the garden-sardar named therein is a person employed on his estate, and shall specify the nature of his employment and the period of his residence on the estate.

(c) Every permit shall be presented by the garden-sardars named therein in person for countersignature to the Inspector of Labourers or to the Magistrate having jurisdiction in the local area in which the estate is situate, and shall not be valid or have effect unless and until it is so countersigned.

(d) The Inspector or Magistrate may refuse to countersign any permit, for any reason, to be recorded in writing, which he may think sufficient, and shall refuse to countersign a permit unless he is satisfied that the garden-sardar named therein is bonâ fide *employed on the estate of his employer and is a fit person to engage persons and assist them to emigrate.*

(e) When a permit is duly countersigned, the garden-sardar named therein may proceed to the recruiting district and there himself engage persons on behalf of his employer and assist them to emigrate subject only to the provisions of this section and to those of the Assam Emigrants' Health Act, 1900.

— of 1900.

(f) Every garden-sardar so authorized shall, within three days of his arrival in the recruiting district, in person or in writing, report his arrival and the place at which he intends principally to reside, to the District or Sub-divisional Magistrate, and shall, at least three days before his departure from the recruiting district, similarly report his intended departure and furnish a list, in such form as the Local Government may prescribe, containing the names and descriptions of the persons whom he has engaged and is assisting to emigrate.

(g) Every garden-sardar shall either himself accompany all persons so engaged by him to the labour-district in which the estate of his employer is situate, or send them there in charge of another garden-sardar holding a permit under this section from the same employer to engage persons in the same recruiting district.

(h) No permit shall have effect for more than six months from the date of countersignature by the Inspector or Magistrate as aforesaid.

(i) Any permit granted under this section may be cancelled in the recruiting district by the District or Sub-divisional Magistrate for any reason, to be recorded in writing, which he may think sufficient. The fact of cancellation shall be endorsed by such Magistrate as aforesaid on the permit, and the permit shall thereupon become invalid and cease to have effect.

[New.] 94. *The Local Government may, by notification in the local official Gazette, declare, in the case of any specified recruiting agency or association of employers for purposes of recruitment, formed and conducted in accordance with rules approved by the Local Government,—*

Special provisions as to recruitment through approved agencies or associations.

(a) that garden-sardars working in the Province under the control of such agency or association as aforesaid and not being garden-sardars holding certificates granted under Chapter IV, may, subject to such conditions as may be prescribed in the notification and to the provisions of the Assam Emigrants' Health Act, 1900, engage persons and assist them to emigrate; and

— of 1900.

(b) that, in the case of garden-sardars holding certificates under Chapter IV and working in the Province under such control as aforesaid, any of the requirements of that Chapter may be dispensed with or relaxed in such manner as may be prescribed in the notification.

[New.] 95. *The Local Government may, with the previous sanction of the Governor-General in Council, by notification in the local official Gazette, suspend, in whole or in part, or vary, the operation of section 93 or section 94, or of any notification or order issued thereunder.*

Suspension, etc., of recruitment under section 93 or 94.

CHAPTER VI.

Transport by River.

Passenger-vessels.

[96.] 96. Nothing in this Chapter shall apply to the transport by sea of natives of India to the labour-districts.

Transport by sea to labour-districts.

[87.] 97. (*1*) No master shall receive more than twenty passengers, being natives of India, on board his vessel for the purpose of transporting them to a labour-district, unless a license to carry passengers in *his* vessel has been granted to him *under this Chapter* by an Embarkation Agent duly empowered in that behalf by the Local Government.

Vessels to carry more than twenty passengers to be ordinarily licensed.

(*2*) The Local Government may, by notification in the *local* official Gazette, exempt from the provisions of this section any vessel or class of vessels.

[88.] 98. (*1*) The master or owner of any vessel who desires to obtain a license under this *Chapter* to carry passengers in *his* vessel, shall make a written application for a license to an Embarkation Agent empowered as aforesaid.

Application for license.

(*2*) Every application *made under sub-section* (*1*) shall state such particulars respecting the vessel as the Local Government may, by rule, prescribe.

[89.] 99. *Where the* Embarkation Agent *to whom an application is made under section 98, sub-section* (*1*), is of opinion that the vessel is in all respects suitable for carrying passengers being natives of India to a labour-district, he shall give to the master of the vessel a license to carry passengers therein, specifying the number of passengers, being natives of India, who may be received on board.

Grant of license.

[90.] 100. Such fee, not exceeding sixteen rupees, as the Local Government may, with reference to the size of *the* vessel, by rule, direct shall be paid for every license *granted under section 99, and* no license *so granted* shall be in force for more than one voyage:

Fee for license.

Provided that *a license* may, with the previous sanction of the Local Government, *be granted under the said section* to the master of any vessel for any term not exceeding one year, on payment of such fee, not exceeding one hundred rupees, and on such conditions, as the Local Government may, by rule, *prescribe*.

[91.] 101. Any Embarkation Agent may, in accordance with such rules as the Local Government may *make* in this behalf, direct, by order in writing, that, on any particular voyage or part of a voyage, any master licensed *under this Chapter* shall not receive on board his vessel more than a specified number of passengers, being natives of India, which number shall be less than the number specified in the license granted to *the* master.

Embarkation Agent may limit number to be received on board on any particular voyage.

[92.] 102. In computing the number of persons on board a vessel, two children under the age of ten years shall, for the purposes of this *Chapter*, be reckoned as one person only.

Two children under ten to be counted as one person.

[93.] 103. Every master *licensed under this Chapter* shall keep such lists, submit such returns, and make such reports in regard to the passengers carried in his vessel, as the Local Government may, by rule, prescribe.

Master to make returns.

[94.] 104. Every master *licensed under this Chapter* shall have on board his vessel carrying labourers and their dependants such supplies of provisions and clothing, and such medical and other officers, cooks and attendants, as the Local Government may, by rule, prescribe.

Provisions, clothing, medical and other officers, cooks, etc.

[95.] 105. No medical officer shall be appointed to any vessel in respect of which a license is granted *under this Chapter*, unless he holds a license granted by such authority as the Local Government may appoint in that behalf; and any medical officer so licensed shall be forthwith removed from his appointment on the requisition of any officer empowered by the Local Government to make such a requisition.

Medical officer to be licensed.

Departure of passenger-vessels and procedure during voyage.

[96.] 106. Where it appears to an Embarkation Agent that the departure of a vessel in respect of which a license is granted *under this Chapter*, is unduly delayed beyond the date fixed by the order of a Superintendent or of the Local Government, or notified by advertisement in the public Press, for such departure, he may order the master of the vessel to proceed on his voyage at once.

Embarkation Agent may order departure of vessel if delay occurs.

[97.] 107. (*1*) No master licensed *under this Chapter* shall proceed on a voyage with his vessel carrying labourers until he has received from the Embarkation Agent the way-bills relating to all labourers on board.

Master to receive way-bills from Embarkation Agent.

(*2*) The Embarkation Agent and the master of the vessel shall together personally ascertain that the number of labourers on board corresponds with the number entered in the way-bills.

(*3*) The Embarkation Agent shall send a copy of *every* way-bill *granted under sub-section* (*1*), to the Magistrate of the labour-district to which *the* labourers *on board* are proceeding.

[98.] 108. No master *licensed under this Chapter* shall cause or permit any labourer finally to leave his vessel at any place other than that mentioned in the way-bill as the destination of *the* labourer:

Labourers not finally to leave vessel at any place other than that mentioned in way-bill.

Provided that *nothing in* this section shall be deemed to prevent the master of a vessel from permitting labourers to disembark at any place on the voyage so long as *the* disembarkation is not intended, or known to be likely, to be final, nor to prevent the final disembarkation of any labourers or the transfer of labourers with their dependants to another vessel in case of accident or unavoidable necessity:

Provided, also, that every such accident or necessity *as aforesaid* shall forthwith be reported by the master to the Embarkation Agent by whom he was licensed, and to the nearest Magistrate in the district within which *the* accident has occurred or *the* necessity has arisen.

[99.] 109. (*1*) Every master licensed *under this Chapter* shall stop his vessel carrying passengers, being natives of India, at such places, being places where a Magistrate is stationed, and shall, unless the Magistrate permits him to depart earlier, remain at each such place for such time, not exceeding six hours of daylight, as the Local Government may direct.

Master to stop his vessel at certain places where there is a Magistrate.

(*2*) *The* master shall, on arriving at a such place *as aforesaid*, immediately report to the Magistrate the number of the crew and other persons on board, the general state of their health, and the number of deaths (if any) which have occurred among the persons who embarked on board his vessel.

[100.] 110. (*1*) *Any* Magistrate may, while a vessel in respect of which a license is granted *under this Chapter*, is within the local limits of his jurisdiction, go on board *the* vessel and inspect *it* and all persons, being natives of India, on board.

Power for Magistrates to inspect vessels.

(*2*) The master and officers of *any* such vessel *as aforesaid* shall afford to *the* Magistrate every facility for inspection, and give him all such information as he may reasonably require respecting the labourers or other persons on board, the deaths (if any) which have occurred on board, and any other facts *affecting* the health of the passengers.

[101.] 111. Any Magistrate may, while a vessel *in respect of which a license is granted under this Chapter*, is within the local limits of his jurisdiction, regulate the communication between *the* vessel and the land and prohibit all persons from leaving *the* vessel and all persons on land from proceeding on board.

Power for Magistrates to regulate communication between vessels and land

[102, first part.] 112. (*1*) Any Magistrate may, if he has reason to believe that any passengers, being natives of India, on board a vessel within the local limits of his jurisdiction *in respect of which a license is granted under this Chapter*, are, or are likely to be, affected with any dangerously infectious or contagious disease, detain *the* vessel and *depute* the civil medical officer of the district or *any* other qualified medical officer to inspect such passengers *as aforesaid* and to report on their health, stating whether any or what measures are requisite for the removal or prevention of *the dangerously infectious or contagious* disease.

Power for Magistrates to detain vessels for inspection and to detain sick native passengers.

(*2*) *On receiving the* report *of the medical officer so deputed*, the Magistrate may order any such passenger *as aforesaid who is* suffering from any *dangerously infectious or contagious* disease, to be disembarked and detained for medical treatment.

[103.] 113. (*1*) *Where*, on receiving the report of *a* medical officer *deputed under section 112, sub-section* (*1*), it appears to a Magistrate that a labourer or any dependant of a labourer, though not suffering from a *dangerously infectious or contagious* disease, is not in a fit state of health to proceed to the labour-district in which *the* labourer has contracted to labour, he may order *the* labourer or dependant to be detained, and shall cause all necessary arrangements to be made for *his* accommodation, support and medical treatment.

Detention of sick labourers by Magistrate.

[104.] (*2*) *Any expenditure* incurred under *sub*-section (*1*), with interest *thereon* at *the rate of* six per cent. per annum, *may be recovered from the employer of the labourer concerned.*

[102 second part.] 114. (*1*) *Where*, in the opinion of a medical officer *deputed under section 112, sub-section* (*1*), it is dangerous to the health of the general body of the passengers to allow *the* vessel to proceed until measures have been taken to cleanse and disinfect her, the Magistrate may detain the vessel for a further period, not exceeding three days, for the purpose of carrying out *those* measures.

Power for Magistrate to detain vessel to be cleansed and disinfected.

(*2*) *Any expenditure incurred under sub-section* (*1*) *may be recovered from the master or owner of the vessel.*

[105.] 115. (*1*) Where it appears to a Magistrate making an inspection of a vessel in respect of which a license is granted *under this Chapter*, that the number of passengers on board, being natives of India, is larger than the number specified in *the* license or than the number specified in an order of an Embarkation Agent made under section 101, he may remove the excess number and detain them until another opportunity of forwarding them to their destination is found.

Measures to be taken if excess number of native passengers is found on board.

(*2*) *Any expenditure incurred in* maintaining passengers *detained under sub-section* (*1*) and *in* forwarding them to their destination may be recovered from the master or owner of *the* vessel.

[106.] 116. Where *it appears to* a Magistrate making an inspection of a vessel in respect of which a license is granted *under this Chapter*, that any of the provisions of this Act or of any rule thereunder have not been complied with in respect of *the* vessel, he shall report the *fact* to the Embarkation Agent by whom *the* license was granted; and, if he considers it necessary to do so, he may detain the vessel until such provisions *as aforesaid* have been so complied with as to make it possible for the voyage to be further prosecuted with safety and reasonable comfort to the emigrants.

Infraction of the Act and rules to be reported.

[107.] 117. (*1*) The Local Government may make rules *to* regulate—

Power to make rules regulating disembarkation and other matters.

(*a*) the disembarkation of labourers and their dependants, and their inspection and accommodation on arrival at their destinations:

(*b*) the detention of labourers *and their* dependants at debarkation-depots:

(*c*) the forwarding of labourers to their destinations and the closing and return of way-bills by employers.

(*2*) *Any expenditure* incurred *in pursuance of any* rules *made under sub-section* (*1*), with interest *thereon* at the rate of twelve per cent. per annum, *may* be recovered from the employers of *the* labourers *concerned.*

[108.] 118. The *District or Sub-divisional* Magistrate may authorize any subordinate Magistrate, medical officer or officer of police above the rank of sub-inspector to exercise the powers and authorities conferred, and to perform the duties imposed, on a Magistrate under sections 109 to 116.

Deputation of other officer to discharge the functions of a Magistrate under sections 109 to 116.

CHAPTER VI.

Provisions as to the Labour-Districts.

Annual rate payable by employers.

[109.] 119. (*1*) Every employer shall, on the first day of January and the first day of July in each year, pay in respect of each labourer then in his employ such rate, not exceeding an annual sum of one rupee, as the Local Government may, by notification in the *local* official Gazette, direct.

Annual rate payable by employer.

[110.] (*2*) *On the failure of an* employer or the space of one month after the receipt of a notice in such form and served in such manner as the Local Government may prescribe, to pay any sum due under *sub*-section (*1*), *the same may* be recovered from *him.*

Local labour-contracts.

[111.] 120. (*1*) Any employer may enter into a labour-contract for a term, not exceeding one year commencing from the date of the execution of the *labour*-contract, with any native of India within the labour-district in which the estate *to* which *the labour*-contract *refers*, is situate.

Labour-contracts executed in labour-districts between employer and native direct.

(*2*) Where an employer has *under sub-section* (*1*) executed a *labour*-contract within a labour-district, he shall, within one month from the date of the execution of *the labour*-contract, forward it in duplicate to the Inspector within the local limits of whose jurisdiction the estate is situate. On receipt of the *labour*-contract so forwarded, the Inspector shall enter an abstract thereof in a register to be kept by him for the purpose, and shall then give one copy of the *labour*-contract to the labourer and the other to his employer.

[111-A.] 121. When, for the first time after the registration, *under section 120, sub-section* (*2*), of *labour*-contract with a labourer, the Inspector visits the estate on which *the* labourer is employed, the employer shall cause *the* labourer to appear before the Inspector, for the purpose of having his contract verified, and *the* labourer may thereupon apply to the Inspector to cancel *his labour*-contract; and, if *the labourer* shows cause sufficient, in the opinion of the Inspector to justify the cancellation *of his labour-contract*, the Inspector shall cancel the *same* and shall thereupon make an endorsement that it has been cancelled on the labourer's copy of the *labour*-contract, or, if *that* copy *is* not forthcoming, shall give to the labourer a certificate to *the like* effect.

Verification and cancellation of such contracts.

[111-B.] 122. The Inspector or Magistrate may, either on the application of the employer or the labourer or of his own motion, require the employer to cause any labourer who has entered into a *labour*-contract under section 120 and is employed upon any estate within the local limits of the jurisdiction of the Inspector or Magistrate, to appear before him for the purpose of having his *labour*-contract verified; and, if *the* labourer applies to the Inspector or Magistrate to cancel his *labour*-contract and shows cause sufficient, in the opinion of the Inspector or Magistrate, to justify *its* cancellation, the Inspector or Magistrate shall cancel the *same* as provided by section 121.

Power of Inspector or Magistrate to require labourer who has executed such contract to appear before him.

[112.] 123. (*1*) Notwithstanding the provisions of section 120, an employer may enter into a labour-contract with any native of India in a labour-district for a term not exceeding four years commencing from the date of the execution of the *labour*-contract, if he appears, either in person or by agent, with *the* native *of India* before the Inspector or Magistrate within the local limits of whose jurisdiction the estate *to* which *the labour-contract refers*, is situated.

Labour-contracts executed within labour district before Inspector or Magistrate.

(*2*) *The* Inspector or Magistrate shall thereupon explain the labour-contract to *the* native *of India*, and shall, if satisfied that he is competent to enter into and understands the same, call upon him and the employer or his agent to execute it in his presence; and, if they execute it, shall attest *the* execution with his signature.

(*3*) An abstract of every labour-contract *executed under this section* shall be entered in a register to be kept by the Inspector or Magistrate for the purpose; and one copy of *the labour*-contract shall then be given to the labourer and the other to his employer or the agent *of his employer*.

(*4*) In respect of every labour-contract an abstract whereof is registered under section 120 or under this section, the employer who executes *the labour*-contract in person or by agent, shall pay to the Inspector or Magistrate such fee, not exceeding one rupee, as the Local Government may *direct*.

Employers' returns and Magistrates' inspections.

[113.] 124. (*1*) Every employer shall keep such registers of all labourers and other persons employed on the estate of which he is in charge, in such form, and shall make to the Inspector within the local limits of whose jurisdiction *the* estate is situate, such periodical returns in writing, as the Local Government may, by rule, prescribe.

Registers to be kept and returns made by employers.

(*2*) The Inspector may examine *the* registers *so kept* and muster all labourers and other persons employed on any estate within *the said* local limits, and may verify the accuracy of the entries in *the* registers, or in any prescribed periodical return.

[114.] 125. Any Inspector or Magistrate, or any person authorized by either of them in writing in this behalf, may enter and inspect all lands and houses wholly or partially used by or for labourers, or by or for any other natives of India employed on any estate, and may require that all such labourers or *other* natives, *of India as aforesaid*, or any particular class or classes or individual or individuals of them, shall be brought before him, and that a copy of the labour-contract of any labourer shall be produced, and may make any inquiries which he thinks proper touching the condition or treatment of such labourers or other natives *of India as aforesaid* or any of them; and the employer shall be bound to comply with *every* requisition and to answer *every* inquiry *so made* to the best of his ability.

Power for Inspectors, etc., to inspect lands and houses and to make requisitions and inquiries.

Regulation of labour.

[115.] 126. (*1*) Every employer shall prepare a schedule specifying the daily task to be executed by each labourer employed on the estate of which *the* employer is in charge, and may, from time to time, alter any schedule so prepared.

Schedule of daily tasks to be prepared.

(*2*) One copy of every schedule *prepared under sub-section* (*1*) shall be filed in a book, which shall be open to the examination of the Inspector, and *translations thereof, in such languages as the Chief Commissioner of Assam may direct*, shall be *affixed* in some conspicuous place accessible to the labourers to whom the schedule relates.

(*3*) The minimum payment for each daily task shall be the quotient resulting from dividing the monthly wage of the labourer concerned by the number of working days in the current month. The number of working days in *a* month shall be ascertained by deducting the number of Sundays from the whole number of days in the month.

[116.] 127. (*1*) No labourer shall be bound to labour more than six days in one week, or more than six consecutive hours, or more than nine hours in one day.

Limitations on tasks.

(*2*) Every labourer shall, for one day in each week, receive wages as for a full task done, without being required to labour for the same.

(*3*) *Every* employer shall, on six days in each week, provide for each labourer work sufficient to enable him to earn at least his minimum daily wage; *and*, failing such due provision of work, the labourer shall, if he can show that he was able and willing to labour for the same, be entitled to claim his minimum daily wage.

[117.] 128. (*1*) *Where* the Inspector considers that any schedule of daily tasks, or any part thereof, is unreasonable, he may, by order in writing, direct that *such* reduction *as is* specified in the order be made *in the scheduled daily* tasks.

Provisions for revision of schedule by Inspector subject to appeal to Committee.

(*2*) The employer shall at once make *the* reduction *so ordered*, but may, if dissatisfied with the order of the Inspector, by notice in writing, require the Inspector to *summon a* Committee *to inquire into the schedule*.

(*3*) Every Committee *summoned under sub-section* (*2*) shall consist of—

(*a*) the Inspector,

(*b*) some person to be nominated by the employer whose schedule is to be *inquired into*; and,

(*c*) if practicable, a medical officer.

(*4*) Where the employer fails to nominate a person within seven days after being thereunto requested in writing by the Inspector, the Inspector, instead of the employer so failing, may nominate a person.

(*5*) Where the Committee consists only of the Inspector and of a person nominated by the employer or Inspector, the Inspector shall have the casting vote.

[118.] 129. (*1*) *Where the* Committee, or a majority thereof, is of opinion that the *scheduled* daily tasks or any of them are unreasonable, *the Committee* shall *order them to be* modified and reduced in such manner as *it may* think fit.

Committee to revise schedule.

(*2*) The employer shall thereupon alter *the* schedule accordingly, and copies *and translations* of the *same* so altered shall be filed and *affixed* in the manner *provided by* section 126, and shall, as between him and the labourers concerned, take the place of the former schedule.

[119.] 130. (*1*) Notwithstanding anything contained in any schedule *of daily tasks*, the Inspector may order that any specified labourer, who is, in his opinion, unable from weakness to earn by his labour the sum of one anna and a half per diem, according to the schedule, shall receive, in lieu of actual earnings, subsistence-allowance at the rate of one anna and a half per diem, or diet on a scale to be approved by *the* Inspector.

Provision for weakly labourers.

(*2*) *Any* subsistence-allowance *ordered under sub-section* (*1*) *may* be recovered *from the employer of the labourer concerned*.

Incapacity for labour.

[120.] 131. (*1*) The Inspector within the local limits of whose jurisdiction a labourer is employed, may release *the* labourer, for such period as he thinks fit, from performing his labour-contract, if he is, in the *opinion* of the Inspector, temporarily unfitted, by reason of sickness, or *any* other sufficient cause, for the performance thereof.

Inspector may suspend contract of any labourer temporarily unfitted for labour.

(*2*) Every release *granted under sub-section* (1) shall be endorsed by the Inspector on the labour-contract, and the time during which the release continues, shall not be reckoned as part of the term for which the labourer is bound to serve.

(*3*) Every labourer *released as aforesaid* shall during *the* release, receive such subsistence-allowance from his employer as the Inspector *may* think sufficient.

[121.] 132. (*1*) *Where* any labourer is compelled, *by reason of sickness*, to absent himself from work, he shall receive from his employer for each day *on which he is so absent*, subsistence-allowance *at the rate* of one anna and a half, or, if in hospital, sick-diet on a scale to be approved by the Inspector.

Labourer absent from sickness.

(*2*) *Where the period during which a labourer is so absent*, exceeds the total number of thirty days in any one year, and the employer, as soon as *that* number is exceeded, gives the labourer a notice

in writing to that effect, each day of absence in excess of *that* number shall be added to the term of the labour-contract, unless the labourer refunds to the employer the sum of one anna and a half for each day so in excess.

(*3*) The Inspector shall, from time to time, when visiting the estate, on the application of the employer, and may also at any other time, on the application of either the employer or *a* labourer, endorse on the labour-contract of the labourer, after such inquiry as *he* may *think* necessary, the number of days so to be added to the term thereof:

Provided that an employer who omits to apply for *such* endorsement *as aforesaid at the time* when the Inspector is actually visiting the estate, shall, in the absence of sufficient reasons to the contrary shown to the satisfaction of the Inspector, be debarred from applying afterwards for endorsement in so far as days of absence which occurred prior to the date of the Inspector's last visit, are concerned.

[122.] 133. (*1*) *Where* in the opinion of the Inspector, a labourer is permanently incapacitated for the performance of his labour-contract or any material part thereof, the Inspector shall certify to that effect in writing and deliver *the* certificate to the employer of *the* labourer or *to the* agent *of the employer*, and from the date of *the* certificate, the labour-contract of *the* labourer shall wholly determine.

Discharge of labourer permanently incapacitated.

(*2*) Every labourer whose labour-contract so determines, shall be entitled to receive from his employer such sum, not exceeding three months' wages, as the Inspector may award.

(*3*) *Every* sum *so awarded* and any *such* subsistence-allowance *as is provided for by* section 132 *or section* 133 *may* be recovered *from the employer of the labourer concerned*.

Accommodation for Labourers.

[123.] 134. Every employer shall be bound to provide for the labourers employed on the estate of which he is in charge, such house-accommodation, water-supply and sanitary arrangements as the Local Government may, by rule, *prescribe*.

House-accommodation, water-supply and sanitary arrangements for labourers.

[124.] 135. (*1*) Where the food-grain commonly used by any class of labourers is not procurable by *them* at reasonable prices in the local markets near the estate on which *they* are employed, *their* employer shall be bound to supply them *therewith* at a reasonable price.

Supply of food-grain for labourers.

(*2*) The Local Government may, by notification in the *local* official Gazette, *declare* either generally or for each district or part of a district, what shall, for the purposes of this section, be deemed to be a reasonable price.

[125.] 136. (*1*) Subject to *such* rules *as* the Local Government *may make* in this behalf, any Inspector may, by order in writing,—

Provisions for rationing.

(*a*) direct that, on any specified estate within the local limits of his jurisdiction, all labourers or any specified class of labourers shall be furnished by their employers with rations, cooked or uncooked, on such scale *and* for such period, not exceeding three months from the date of their arrival on the estate, as may be specified in *the* order;

(*b*) *direct that* any specified labourer *shall be exempt* from the effect of any general order *so made*, if he is satisfied that *the* labourer is able to earn a full wage and desires to provide himself with proper and sufficient food;

(*c*) direct that any specified labourer shall be furnished with rations for any term not exceeding six months, and renew *that direction* for a like term.

(*2*) The cost of each labourer's ration furnished to him in accordance with any *direction given* under sub-section (*1*) shall be calculated at current rates as determined by the Inspector, and shall be deducted from any wages earned by the labourer during the period for which *the direction* is in force.

[126.] 137. *Where*, in the opinion of the Inspector, an employer does not provide such hospital accommodation in a suitable place available to the labourers employed upon the estate of which he is in charge, or does not make such provision for the medical treatment of *his* labourers, as the Local Government may direct, the Local Government may require *the* employer to contribute to the support of a central hospital to be established, or to the pay of a medical officer to be appointed, such sum, proportionate to the number of labourers so employed, as it thinks fit.

Provision for hospital accommodation and medical attendance.

[127.] 138. (*1*) Any Inspector or Assistant Inspector, who is himself a Magistrate, may, with respect to any estate situate within the local limits of his jurisdiction, inquire whether the employer in charge of *the* estate has provided for his labourers house-accommodation, water-supply, sanitary arrangements, food-grains and rations in accordance with *any* rules *made* by the Local Government *under section 134*.

Enquiry whether employer has failed to provide accommodation, etc., as required by the rules.

(*2*) At the instance of any Inspector or Assistant Inspector a similar inquiry may be made by a Magistrate.

(*3*) Every inquiry *under this section* shall be *made* at some place on, or within ten miles of, the estate to which it relates, and shall be conducted and dealt with as if it were an inquiry *by* a Magistrate under the Code of Criminal Procedure, 1898. V of 1898.

Localities unfit for the residence of labourers.

[128.] 139. (*1*) *Where*, in the opinion of the Inspector, an estate or portion of an estate situate within the local limits of his jurisdiction is, at any time, by reason of climate, situation or condition, unfit for the residence of labourers, or of any particular class of labourers, he shall give notice, in writing, of *his* opinion to the *District* Magistrate, *who* shall forthwith, by order in writing, summon a Committee to inquire into the matter.

Report by Inspector and inquiry by Committee.

(*2*) The *District* Magistrate may also of his own motion summon a Committee, *where*, either from his own observation or upon the report of an Inspector, Magistrate or medical officer, he is of opinion that an estate or portion of an estate is, for any of the reasons aforesaid, unfit for the residence of labourers or of any particular class of labourers.

(*3*) *Every* Committee *summoned under this section* shall consist of—

(*a*) the *District* Magistrate;

(*b*) the Inspector;

(*c*) the *civil* medical officer of the district; and,

(*d*) if practicable, one or more employers of labourers.

(*4*) *Where* the *District* Magistrate is unable to procure the service on *the* Committee of any employer of labourers, he may, with the previous

sanction of the Commissioner of the division appoint one or more persons qualified to serve on *the* Committee.

[128 A.] Inquiry by Committee by order of Local Government.

140. *Where* it appears to the Local Government, upon the report of an Inspector, Magistrate or medical officer,—

(*a*) that an estate or portion of an estate is, for any of the reasons given in section 139, unfit for the residence of labourers or of any particular class of labourers; or

(*b*) that the percentage of mortality of labourers or of any particular class of labourers employed on an estate or on portion of an estate is such as would justify the institution of an inquiry by a medical officer under section *143*,

the Local Government may direct the *District* Magistrate to summon a Committee under section *139*; and the *District* Magistrate shall forthwith proceed to summon a Committee accordingly.

[129, § 1.] Proceedings of Committee.

141. *Every* Committee *summoned under section 139 or section 140* shall, as soon as may be, inquire into the healthiness of the estate or portion to which the order appointing *it* relates, and shall hear and record such information on the subject as the owner of *the* estate or portion, or the employer in charge thereof, or the Inspector, may desire to place before it.

[129 §§ 2, 3 and 4.] Finding of Committee and consequences.

142. (*1*) Where *the* Committee, or *a* majority thereof, is of opinion that *the* estate or portion, or any part of *the* estate or portion, is unfit for the residence of labourers generally, or of any particular class of labourers, *the Committee* shall record a finding to that effect.

(*2*) Where *a* finding has been recorded *under sub-section* (*1*), no labourer, or no labourer of the particular class to which *the* finding relates, as the case may be, shall be bound by any labour-contract to labour on the estate or portion, or part of *the* estate or portion, as the case may be, which is found unfit for the residence of such labourers.

(*3*) Where a labourer is released under *sub-section* (*2*) from the performance of *his* labour-contract to labour on any estate, he shall be bound to labour on any other estate belonging to his employer and situate in the same labour-district; or, where the finding relates only to a portion of an estate, on any other portion of the same estate. Where the finding relates to the whole of any estate and the employer has no other estate in the same labour-district on which the labourer may be employed, the Inspector shall cancel the labour-contract of *the* labourer, and shall thereupon make an endorsement that it has been cancelled on the labourer's copy of the contract, or, if *that* copy *is* not forthcoming, shall give to the labourer [a certificate to *the like* effect.

[129 A.] Power of Local Government to pass orders on proceedings of Committees.

143. The Local Government may call for the proceedings of any Committee summoned under section *139*, or section *140*, and, if the finding of *the* Committee is not unanimous, the Local Government may record any finding thereon which *the* Committee was competent to record, and *the* finding *so recorded by it* shall have the same effect as the finding of a Committee under section *142*.

[130 A.] Excessive mortality on estates.

144. Where it appears to the Local Government or *to* the *District* Magistrate that the number of labourers employed on an estate who have died thereon, or on any portion thereof, during the last preceding twelve months, or that the average annual number of labourers employed on an estate who have died thereon, or on any portion thereof, during the last preceding three years, bears a larger proportion to the whole number of labourers employed thereon during such period of twelve months or three years, as the case may be, than seven per cent., the Local Government, or the *District* Magistrate, may *depute* the civil medical officer of the district or *any* other qualified medical officer to inquire into and report on the following matters, *namely* :—

(*a*) the cause or causes of *the* mortality;

(*b*) the want (if any) of due care or precaution, and of the adoption of proper and available sanitary measures on the part of the owner of *the* estate or portion thereof, or *of* the employer in charge of *the* estate or portion, causing or contributing to *the* mortality;

(*c*) the fitness or otherwise of *the* estate or portion for the residence of labourers:

Provided that, when the mortality among any particular class of labourers employed on an estate or any specified portion of an estate exceeds the percentage specified in this section, the Local Government, or *the District* Magistrate, may direct an inquiry under this section limited to *that* particular class of labourers.

[131.] Medical officer to report.

145. *The* medical officer *deputed under section 144* shall, as soon as may be, inquire into *the* matters *referred to therein*, and shall hear and record such information relating *to those matters* as the owner of *the* estate or portion, or the employer in charge of the same, or the Inspector, may place before him, and shall visit and inspect *the* estate or portion, and shall make a report expressing the reasons for his opinion, and transmit the same to the Local Government together with the information so recorded and the notes of his inspection of *the* estate or portion.

[132.] Power for Local Government to declare estate unfit for residence.

146. *Where* the Local Government, after perusal and consideration of the said report, information and notes, is of opinion that *the* mortality was caused by the want, on the part of the owner of *the* estate or portion, or the employer in charge of the same, of due care or precaution, or of the adoption of proper and available sanitary measures, or that *the* estate or portion is unfit for the residence of labourers, or of any particular class of labourers, it may make a declaration in writing to that effect, *and the* declaration *so made* shall have the same effect as the finding of a Committee under section 142.

[133.] Power for Inspector to certify fitness of estate or portion found or declared to be unfit.

147. (*1*) *Where* it appears to the Inspector that any estate or smaller area, which has been found, or declared under any of the *foregoing* provisions, to be unfit for the residence of labourers or of any particular class of labourers, has become fit for the residence of labourers or *of that* class of labourers, as the case may be, he shall, with the previous sanction of the *District* Magistrate of the district in which *the* estate or area is situate, give a certificate to that effect signed by him.

(*2*) *On the grant of a certificate under sub-section* (*1*), all such labourers as are mentioned or referred to in section 142, *sub-section* (*3*), whose contracts have not been cancelled by the Inspector under that section, shall again be bound to labour on the estate or area, as the case may be, to which the certificate relates for the unexpired periods (if any) of their respective contracts.

Complaints made by labourers.

[134.] Labourer wishing to complain of personal ill-usage of breach of Act to be sent by employer to Inspector or Magistrate.

148. Where *a* labourer states to his employer, or any person acting on behalf of his employer, that he desires to make a complaint to the Inspector or to a Magistrate of personal ill-usage or breach on the part of his employer or such person *as aforesaid*, of any *of the* provisions of this Act or of any rule thereunder, the person to whom *the* statement is made, shall forthwith send *the* labourer to the Inspector or Magistrate within the local limits of whose jurisdiction the estate wherein he is employed is situate:

Provided that, *where* more than ten labourers at any one time so state their desire to make such a complaint, the person to whom the statement is made, may, instead of sending *them* to such Inspector or Magistrate *as aforesaid*, give *the Inspector or Magistrate* notice, in writing, of their complaint.

[135.] Inspector or Magistrate how to proceed in case of complaint.

149. (*1*) Where a complaint is made to an Inspector or Magistrate *under section 148*, or where an Inspector or Magistrate receives, *under that section*, notice in writing of a complaint, or *where an Inspector or Magistrate* has other reasonable grounds for believing that an employer, or person acting on his behalf, has personally ill-used, or committed any *such* breach *as is* mentioned in section 148 in respect of, a labourer, *the* Inspector or Magistrate shall, as soon as may be, proceed to some place, not more than ten miles from the principal place of business of *the* employer, situate within the local limits of his jurisdiction, and inquire into the matter complained of:

Provided that, if the place in which an Inspector or Magistrate has reasonable grounds for believing that *the* ill-usage or breach has been committed, is situate beyond the local limits of his jurisdiction, he shall, instead of inquiring into the matter himself, forthwith send information thereof in writing to the Inspector or Magistrate within the local limits of whose jurisdiction *the* ill-usage or breach has been committed.

(*2*) For the purposes of *every* inquiry *made* under *sub*-section (*1*), the Inspector or Magistrate may summon and examine any person as a witness.

[136.] Untrue or frivolous complaints.

150. (*1*) *Where*, upon *an* inquiry made *under section 149* on the complaint of a labourer, the Inspector or Magistrate is of opinion that the complaint is untrue or frivolous or vexatious, he shall dismiss the complaint; and in *that event* shall endorse on the employer's copy of the complainant's labour-contract the number of days during which the complainant has been absent from work in consequence of the inquiry, and the number of days so endorsed shall be added to the period for which the complainant contracted to labour.

(*2*) Every endorsement *made under sub-section* (*1*) shall be conclusive evidence that the complainant has absented himself from his labour voluntarily and without reasonable cause during the number of days so endorsed.

[137.] Award of compensation to employer.

151. (*1*) Where a complaint is dismissed under section 150, the Inspector or Magistrate may award to the employer any reasonable compensation on account of *the* expense incurred by him in connection with the complaint, and shall endorse the amount of the compensation *so awarded* on the complainant's copy of the labour-contract.

(*2*) The complainant shall be bound to pay the amount awarded *under sub-section* (*1*); and, in default of payment, his labour-contract shall not be deemed to have determined until he has worked off *the* amount at the rate of one day's labour for each four annas of *the same*.

[138.] Complaints disclosing grounds for further proceedings.

152. (*1*) *Where*, upon *an* inquiry *made under section 149* by a Magistrate or by an Inspector who is a Magistrate, *the* Magistrate or Inspector is of opinion that there is sufficient ground for proceeding with the case, he shall dispose of the same according to law.

(*2*) *Where* the Inspector is not a Magistrate and is of such opinion *as aforesaid*, he shall without delay send the complainant and his witnesses (if any) to the nearest Magistrate, who shall thereupon dispose of the case according to law.

[139.] Recovery of arrears of wages and compensation.

153. (*1*) *Where*, upon the complaint of a labourer, it is proved to the satisfaction of a Magistrate that the wages of *the* labourer are in arrear for two months, or *where it is proved to the satisfaction of a Magistrate that* the wages of a person whose labour-contract has determined, have been withheld for any period after determination, the Magistrate may award to *such* labourer or person *as aforesaid* the amount which appears to be then due to him, and also, by way of compensation, such further sum, not exceeding that amount, as to *the* Magistrate seems just.

(2) On the failure of an employer to pay any amount awarded under sub-section (1), the Magistrate may recover the same from the employer and pay it to the labourer or other person concerned.

[140.] Power to cancel contract on conviction of employer or accumulation of arrears of wages.

154. (*1*) Where it is proved to the satisfaction of a Magistrate—

(*a*) that an employer, or any person placed by *an employer* in authority over a labourer, has been convicted of any offence causing injury to the person or loss or damage to the property of *the* labourer, and, under the Code of Crimi- nal Procedure, *1898*, — of 1898. triable exclusively by the Court of Session; or

(*b*) that an employer or *any* person *placed by an employer in authority over a labourer* has been twice convicted of any such offence *as aforesaid* against *the* labourer and under the said Code triable by a Magistrate; or

(*c*) that the wages of a labourer are in arrear to an amount exceeding the whole of *his* wages for four months; or

(*d*) that a labourer has been compelled by his employer or by any person placed by his employer in authority over him to perform any labour while he was unfit for it, or has been subjected to ill-usage by his employer or any such person *as aforesaid*;

the Magistrate may, if he thinks fit, on the application of the labourer aggrieved, cancel the labour-contract of *the* labourer and award to him compensation not exceeding thirty rupees.

(*2*) Every cancel*lation under sub-section* (*1*) shall be certified by the Magistrate on the back of the labourer's copy of the labour-contract, or, if *that copy* is not forthcoming, by writing under the Magistrate's hand delivered to the labourer.

[140-A.] 155. Where the labour-contract of a labourer is or has been cancelled or *has* determined under section *121, section 122, section 133, or section 154*, the Inspector or Magistrate, as the case may be, may, *in* his discretion and on the application of the labourer concerned, cancel the labour-contract of any labourer employed on any estate belonging to the same employer, being *the* wife, husband, father, mother, son or daughter of the labourer whose labour-contract is or has been so cancelled or *has so* determined.

Power to cancel contract of labourer related to labourer whose contract is cancelled or determined.

Determination of labour-contracts.

[141.] 156. (*1*) Whenever a labour-contract determines, the employer shall endorse on the labourer's copy of the contract the fact of determination, or, if *that* copy *is* not forthcoming, shall give to the labourer a certificate *to the like effect*: and, *where* the employer refuses or neglects to do so, the Inspector may, on application by the labourer, make such endorsement or give such certificate *as aforesaid*.

Endorsement of determination on labour-contract.

(*2*) The employer shall give to the Inspector notice in writing of such determination *as aforesaid* within one month *after* the date thereof.

[142.] 157. (*1*) *Where* a labourer is able and desirous to redeem the unexpired term of his labour-contract, or the labour-contract of any member of his family, by payment of a sum equivalent to the value of *the* unexpired term, *the* labourer may require his employer to take him, or allow him to go, before *the* Inspector within the local limits of whose jurisdiction he *is* employed; and, on his depositing such sum *as aforesaid* with *the* Inspector, the Inspector shall give notice to the employer to show cause within one week why the labourer should not be released from his contract.

Power to redeem labour-contract.

(*2*) If no sufficient cause is shown *as aforesaid*, the Inspector shall require *the* labourer's copy of the contract to be produced, and on production thereof shall endorse thereon a certificate that he has been released under this section from *his* contract, or, if *that* copy is not forthcoming, shall deliver to the labourer a certificate under his hand to *the like* effect; and shall, in either case, hold the sum so deposited to the credit of the employer of *the* labourer.

(*3*) The value of the unexpired term of a labour-contract shall, for the purposes of this section, be deemed to be the aggregate amount of one rupee for every month of the unexpired portion of the first year, of three rupees for every such month of the second year and of five rupees for every such month of the third and fourth years of the original term of the contract.

[142-A.] 158. (*1*) *Where* the *labour*-contract of a labourer determines at a different time from that of any other labourer who is the wife or husband of *that* labourer, the Inspector or Magistrate may, on the joint application of *both* labourers, equalize the terms of their respective contracts, and may, for this purpose, add to the term of the contract which expires first, and deduct from the term of the contract which expires last, in such proportions as may appear to him to be equitable.

Power to equalize terms of contract in case of husband and wife.

(*2*) Every addition or deduction from the term of any *labour*-contract *made under sub-section* (*1*) shall be certified by *the* Inspector or Magistrate on the back of both the employer's and the labourer's copies of the contract, or, if *those copies are* not forthcoming, by writing under the Inspector's or Magistrate's hand, copies of which shall be delivered to the employer and *the* labourer.

Repatriation of labourers and others.

[142-B.] 159. (*1*) *Where* any labourer, not being a native of the labour-districts, whose *labour*-contract *has* determined under section *133*, desires to be sent back to his native district, the Inspector may, instead of awarding a sum as receivable by *the* labourer from his employer, as provided by that section, order the employer to deposit such amount, whether in excess of the three months' wages awardable under that section or otherwise, as shall, in the Inspector's opinion, be sufficient to cover the entire expenses of sending the labourer *back* to *his native* district. *The* amount shall be deposited by the employer in the Inspector's office and shall be expended by the Inspector in sending the labourer back to his native district.

Repatriation of labourer whose labour-contract has determined under section 133.

(*2*) On *the* failure *for the space of* twenty-four hours of *an* employer to *comply* with an order *made under sub-section* (*1*), the Inspector may *expend the amount specified in the order and may recover the same from the employer of the labourer concerned*

160. *Where* any person, being a native of India but not being a labourer, who has emigrated from his native district to a labour-district for the purpose of labouring for hire in any estate situate therein, or being a dependant of any person who has so emigrated, has no means of subsistence, and is, in the opinion of the Inspector or Magistrate, permanently incapacitated from earning his livelihood in a labour-district, the Inspector or Magistrate may, on the application of such person, send him back, together with his dependants (if any), to his native district, and may, subject to the control of the Local Government, charge the expenses incurred in so doing to the *Assam* Labour Transport Fund *constituted under section 219*.

Repatriation of emigrants not under contract who are physically incapacitated.

161. (*1*) Subject to any orders which the Local Government may *make* in this behalf, the Inspector or Magistrate may send back to his native district any labourer, together with his dependants (if any), whose contract has been cancelled under section *121* or *section 122* on the ground of coercion, undue influence, fraud or misrepresentation, or of any irregularity in connection with his recruitment or the execution of his contract.

Repatriation of labourers wrongfully recruited.

(*2*) *Any expenditure incurred under sub-section* (*1*) *may be recovered* from the employer on whose estate *the* labourer *concerned* was under contract to labour.

162. (*1*) *Where* it appears to the Inspector or Magistrate, on complaint made before him or otherwise, that there is reason to suppose that any native of India, not being a labourer, has been induced by any coercion, undue influence, fraud or misrepresentation to emigrate to a labour-district, the Inspector or Magistrate shall call upon the employer on whose behalf *the* person was made or induced to emigrate, or to whose estate he is being or has been conveyed, or, if the employer cannot be communicated with without undue delay, upon his agent or any one *who is* accompanying or conveying *the* person or *has forwarded or otherwise assisted him to emigrate* to any labour-district or estate, to appear before the Inspector or Magistrate and show cause why *the* person should not be sent back to his native district.

Repatriation of persons not under contract wrongfully recruited.

(*2*) *Where* the Inspector or Magistrate is of opinion, after such inquiry as he thinks sufficient, that *such* person *as aforesaid* was engaged or compelled or induced to emigrate by any such coercion, undue influence, fraud or misrepresentation as would justify his being sent back to his native district, the Inspector or Magistrate shall record a finding to *that* effect and shall send *the* person, if he so desires, together with any other persons dependant on him back to his native district.

(*3*) Subject to any orders which the Local Government may *make* in this behalf, *any expenditure incurred* under this section may be recovered from the employer on whose behalf *the* person *concerned* was induced to emigrate or to whose estate he was being or had been conveyed, or, if the employer is not known, or if there is no employer, the person *who is* accompanying or conveying *the* person *concerned* or *has forwarded or otherwise assisted him to emigrate* to any labour-district or estate.

[142-F.] 163. (*1*) *Where* a labourer or other person is sent back to his native district under section *161* or section *162*, the Inspector or Magistrate may provide an escort or make such other arrangements as *he* may *think* necessary for ensuring that *the* labourer or person is actually conveyed to *his native* district.

Arrangements may be made for escorting persons ordered to be repatriated.

(*2*) Any expenditure incurred *under sub-section* (*1*) may be recovered as part of the amount expended in sending *the* labourer or other person back to his native district.

CHAPTER VII.

Supplementary Powers.

[143.] 164. (*1*) In addition to *the* powers *hereinbefore* conferred, the Local Government may make rules *to carry out any of the purposes and objects of this Act in the Province.*

General power for the Local Government to make rules.

(*2*) *In particular and without prejudice to the generality of the foregoing power, such rules may*—

(*a*) define and regulate the powers and duties of the several officers appointed by it under this Act:

(*b*) prescribe what returns and reports shall be made under this Act by any such officers *as aforesaid* or by any contractors or local agents within the *Province* and the form in which they shall be respectively so made:

(*c*) prescribe the forms of all registers, licenses, certificates and notices required under this Act with respect to the *Province*:

(*d*) prescribe the particulars to be registered by a Registering-officer in respect of each person who is brought before him in any district *in the Province* for registration as a labourer or dependant:

(*e*) prescribe the fees to be paid for any license granted under this Act by any officer appointed by it, and for the registration of labourers or dependants in any district *in the Province*:

(*f*) prescribe the conditions upon which any officer appointed by it may grant licenses to masters of vessels carrying passengers to any labour-district; provide for the ventilation, cleanliness and water-supply of such vessels in respect of which licenses are granted hereunder by any such officer; and prescribe the lists, returns and reports to be kept and submitted by the masters of such vessels:

(*g*) prescribe the description, quantity and quality of provisions, medical drugs and other stores to be taken on board such vessels carrying labourers when such vessels are within the *Province*, and the daily allowance to be issued to each labourer and dependant during the journey through *the same*; prescribe the number of officers, cooks and other servants to be carried on board such vessels; and provide generally for the accommodation of labourers and their dependants on such vessels:

(*h*) provide for the accommodation, food, clothing and medical treatment of all labourers and dependants detained on account of sickness by order of a Magistrate at any place within any district *in the Province*:

(*i*) declare the routes through the *Province* by which labourers and their dependants shall not travel to the labour-districts:

(*j*) prescribe the house-accommodation, water-supply, sanitary arrangements and amount and kind of food-grains to be provided by employers for their labourers, and regulate the rations to be supplied to labourers under this Act in the labour-districts *in the Province*:

(*k*) provide for the hospital accommodation and medical treatment of labourers in such labour-districts, and prescribe the nature, quality and quantity of medical drugs and other stores to be provided for such labourers:

(*l*) provide for the management and regulation of contractors' depots and of hospital depots situate within the *Province* and for the support and medical treatment of labourers and their dependants passing through such depots: *and*

(*m*) prescribe the clothing to be supplied to labourers and their dependants while proceeding to the labour-districts through the *Province*.

(*3*) *In making any rule under this Act the Local Government may direct that every breach thereof shall be punishable with fine which may extend to five hundred rupees.* [145. §. 1.]

(*4*) All rules made by the Local Government under this Act shall be published in the local official Gazette, and, *on such publication*, shall have *effect as if enacted by this Act*. [145. §. 2.]

[144.] 165. The *Local Government* may further make rules to provide for the detention and inspection of vessels in respect of which licenses are granted *under this Act*, and *of* passengers, being natives of India, carried *in such vessels as aforesaid* while in transit through the *Province*.

Special power for Local Government to make rules as to detention and inspection of vessels.

CHAPTER VIII.

Penalties and Procedure.

[166.] 166. Whoever knowingly *recruits, engages*, induces or assists, or attempts to *recruit, engage*, induce or assist, any *person* to emigrate in contravention of *any of the provisions of this Act or of any* notification *for the time being in force thereunder*, shall be punishable *with imprisonment for a term which may extend to one month or* with fine which may extend to *five hundred* rupees *in respect of* every such *person, or with both*.

Recruitment, etc., in contravention of Act or notification.

[147.]

Recruiter removing, etc, unregistered person.

167. Whoever, being a recruiter,—

(*a*) removes, or attempts to remove, any person to a depot before he has been registered under section *34*, or induces or attempts to induce him to go to a depot or to leave the local limits of the jurisdiction of the Registering-officer before whom *he* ought to be brought under section *34*, or aids or attempts to aid *him* in going to a depot or in leaving any such local limits *as aforesaid* before he has been so registered; or

(*b*) induces or attempts to induce any person who has been so registered, to proceed to any place other than the depot which has been established by the contractor on whose behalf *the* recruiter is licensed, or conveys or attempts to convey him to such place;

shall be punish*able* with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees in respect of every such person.

[148.]

Recruiter not supplying proper food, etc.

168. (*1*) Whoever, being a recruiter or a person deputed by him to accompany labourers to a depot, fails to provide any labourer or any dependant whom he accompanies on the journey to the depot with proper and sufficient food and lodging, or otherwise ill-treats *the* labourer or dependant on *the* journey, shall be punish*able* with fine which may extend to fifty rupees; and, in default of payment of *the* fine within twenty-four hours, with imprisonment for a term which may extend to one month.

(*2*) The convicting Magistrate may award the whole or any portion of any fine levied under *sub*-section (*1*) as compensation to the labourer in respect of whom, or of whose dependant, *the* failure or ill-treatment has occurred.

[149.]

Labourer refusing without reasonable cause to execute contract at depot.

169. (*1*) Any labourer engaged by a recruiter who, having been registered under section *34* without reasonable cause, refuses or neglects when at the depot to execute, *in accordance with the provisions of section 44*, a labour-contract in conformity with the terms made known to him when he was registered, shall be punish*able* with fine which may extend to the amount of the expense incurred in registering him and conveying him to the depot and maintaining him therein; and, in default of payment of *the* fine, with imprisonment for a term which may extend to one month.

(*2*) Any labourer so punished may be forthwith discharged from the depot.

(*3*) Every fine levied under *sub*-section (*1*) shall be paid to the contractor, sub-contractor or recruiter by whom such expense *as aforesaid* was incurred.

[150.]

Labourer refusing to execute contract with garden-sardar.

170. (*1*) Any labourer registered under section *73* who without reasonable cause refuses or neglects to execute, *in accordance with the provisions of section 76*, a labour-contract in conformity with the terms made known to him when he was registered, shall be punish*able* with fine which may extend to twenty rupees or to the amount of the expense reasonably incurred by the garden-sardar in procuring his registration, whichever amount is least.

(*2*) Every fine levied under *sub*-section (*1*) shall be paid to the garden-sardar by whom such expense *as aforesaid* was incurred.

[151, first part.]

Garden-sardar failing to report himself, etc.

171. Whoever, being a garden-sardar,—

(*a*) fails, within fourteen days after his arrival in the local area within which he is authorized to enter into contracts under this Act, to report himself to the local agent (if any) specified in his certificate; or

(*b*) fails without sufficient cause to return to his employer within the time specified in his certificate; or

(*c*) fails to account for the money advanced to him by his employer for the purpose of engaging labourers;

shall be punish*able* with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

[151, second part.]

Garden-sardar, etc., abandoning labourers, etc.

172. Whoever, being a garden-sardar, or a person appointed under section *55* or section *80* to accompany labourers to a labour-district,—

(*a*) wilfully abandons any labourer or his dependant on the way to *the labour*-district; or

(*b*) removes or attempts to remove any person to a labour-district before he has been registered as provided by section *73*; or

(*c*) induces or attempts to induce any person to go to a labour-district or to leave the local area specified in the certificate of *the garden*-sardar before he has been so registered, or aids or attempts to aid him in proceeding to a labour-district or in leaving any such local area *as aforesaid* before he has been so registered;

shall be punish*able* with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

[152.]

Garden-sardar making over labourers to contractors, etc.

173. (*1*) *Whoever, being a* garden-sardar,—

(*a*) makes over to any contractor, sub-contractor or recruiter, or to the garden-sardar or local agent of any employer other than the employer by whom his certificate was granted, or, without authority from his employer, to any other person, any persons whom he has engaged or intends to engage as labourers; or

(*b*) places any such person *as aforesaid* in a contractor's depot or in the place of accommodation provided by a recruiter in accordance with the provisions of section *29*, *sub-section* (*2*); or

(*c*) allows any persons engaged as labourers by any contractor or sub-contractor or recruiter to share the accommodation provided by him under section *62*;

shall be punish*able* with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both, and his certificate may be impounded by the convicting Magistrate.

(*2*) Any Magistrate impounding a certificate under this section shall send it for cancellation to the Magistrate by whom it was countersigned.

[153.]

Garden-sardar failing to comply with instructions endorsed on way-bill.

174. Any garden-sardar or person appointed by him as provided by section *80*, who accompanies labourers to the labour-districts and fails to present a way-bill as required by section *83*, *sub-section* (*1*), or to carry out any of the instructions entered in *the* way-bill, shall be punish*able* with fine which may extend to twenty rupees.

Unlawful recruitment by garden-sardar.

175. *Whoever*,—

(*a*) *being a garden-sardar employed under a permit to engage emigrants and assist them to emigrate in accordance with the provisions of section 93 infringes any of the provisions of that section; or*

(*b*) *being a garden-sardar employed under the control of an agency or association to engage emigrants and assist them to emigrate in accordance with the provisions of section 94, infringes any of the conditions prescribed by or under that section;*

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees for every such infringement.

[154.]

Master receiving native passengers on board in contravention of Act.

176. (*1*) *Whoever*,—

(*a*) *being a* master not licensed under section *99*, in contravention of section *97*, *sub-section* (*1*), knowingly receives on board his vessel more than twenty passengers being natives of India; *or*

(*b*) *being a* master licensed as aforesaid, knowingly receives on board his vessel any such passengers in excess of the number specified in his license or in any order of an Embarkation Agent under section *101* for the purpose of transporting them to a labour-district;

shall be punish*able* with fine which may extend to two hundred rupees for each passenger so received.

(*2*) Nothing in this section applies to the master of a vessel exempted under section *97*, *sub-section* (*2*).

Fraudulent alteration of vessel after grant of license.

177. *Whoever*, *being a* master licensed under section *99*, with intent to defraud does or suffers to be done any act or thing whereby the state of his vessel is altered, so that *the* vessel is unfit for the accommodation of the number of passengers specified in his license or in any order made under section *101* by an Embarkation Agent, shall be punish*able* with fine which may extend to two hundred rupees.

Master not complying with section *104*.

178. *Whoever*, *being a* master licensed *under section 99*, proceeds on his voyage with his vessel carrying labourers without having complied with the provisions of section *104*, shall be punish*able* with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees.

Master not complying with order under section *106*.

179. *Whoever*, *being a* master licensed *under section 99*, fails to comply with an order of an Embarkation Agent made under section *106*, shall be punish*able* with fine which may extend to two hundred rupees for each day during which he fails to comply with *the* order after the day on which the order was received by him.

Master permitting labourer to leave vessel contrary to section *108*.

180. *Whoever*, *being a* master licensed *under section 99*, causes or permits a labourer finally to leave his vessel *in contravention of* the provisions of section *108*, shall be punish*able* with fine which may extend to two hundred rupees for each labourer so leaving his vessel.

Master wilfully omitting to stop vessel at certain places.

181. *Whoever*, *being a* master licensed *under section 99*, wilfully omits to comply with the provisions of section *109*, shall be punish*able* with fine which may extend to two hundred rupees.

[160.]

Person disobeying Magistrate's order as to communication between vessel and land.

182. *Whoever* disobeys any order made under section *111* by a Magistrate, shall be punish*able* with fine which may extend to two hundred rupees.

[161.]

Master or medical officer disobeying or neglecting to enforce rules.

183. *Whoever*, *being a* master licensed *under section 99* or a medical officer in charge of *a* vessel, wilfully omits or neglects to obey or enforce on board of *the* vessel any provision of this Act or any rule thereunder, shall be punish*able* with fine which may extend to two hundred rupees.

[162.]

Labourer deserting, etc., after registration.

184. *Whoever*, having been registered *as a labourer* under section *34* or section *73*,—

(*a*) deserts while on his journey from the district in which he has been so registered to a labour-district; or,

(*b*) without reasonable cause, refuses or neglects to proceed from the district in which he has been so registered, or to embark in any vessel when called upon to do so by an Embarkation Agent;

shall be punish*able* with imprisonment for a term which may extend to three months.

[163.]

Employer refusing or omitting to keep registers, etc.

185. *Whoever*, *being an* employer, refuses or wilfully omits to keep such registers or to make such periodical returns in writing to the Inspector as may be prescribed by any rule made *under this Act*, or who knowingly keeps an incorrect register or makes an incorrect return, or who wilfully omits to prepare, file or affix a schedule as required by section *126*, shall be punish*able* with fine which may extend to two hundred rupees.

[164.]

Employer or other person obstructing inspection under section *125*.

186. *Whoever*, *being an* employer, or acting under the orders or on the behalf *of an employer*, wilfully obstructs any entry, inspection or inquiry, or omits to comply with any requisition made under section *125*, shall for every such offence be punish*able* with fine which may extend to two hundred rupees.

[165.]

Employer or other person compelling labourer to perform labour for which he is unfit.

187. *Whoever*, *being an* employer, or acting under the orders or on the behalf *of an employer*, compels any labourer to perform any labour knowing that he is at the time unfit to perform such labour, shall be punish*able* with fine which may extend to two hundred rupees.

[166.]

Persons buying labourer's rations.

188. *Whoever* buys *any* rations which have been furnished under section *136* to a labourer, and *whoever*, *being a* labourer, sells any rations *so furnished to him*, shall be punish*able* with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees.

[167.]

Employer omitting to provide house-accommodation, etc.

189. (*1*) *Whoever*, *being an* employer, wilfully omits to provide house-accommodation, water-supply, sanitary arrangements, food-grains or rations in accordance with the provisions of this Act or any rule thereunder, shall be punish*able* with fine which may extend to five hundred rupees; and the convicting Magistrate may order him to comply with such provisions within a reasonable time to be fixed in the order.

(*2*) If the employer wilfully omits to comply with *the* order within the time so fixed, he shall be punish*able* with fine which may extend to

one hundred rupees for each day during which *the* omission continues.

(*3*) If the employer fails to pay the fine *imposed under sub-section* (2), the person on whose account he has been acting, shall be liable to pay *the same*.

[168.] 190. *Whoever*, *being an* employer, fails to provide such hospital-accommodation for, or to make such provision for the medical care and treatment of, labourers, as is required by any rule made under this Act, shall be punish*able* with fine which may extend to two hundred rupees for each week during which *the* default continues.

Employer neglecting to provide hospital-accommodation.

[169.] 191. Where any estate or portion thereof has been found under section *142*, or declared under section *146*, unfit for the residence of labourers or any class of labourers, as the case may be, every employer who, until a certificate has been given under section *147*, causes or permits such labourers or class of labourers to reside or labour upon *the* estate or portion shall be punish*able* with fine which may extend to two hundred rupees.

Employer causing labourer to reside on estate declared unfit for residence.

[170.] 192. (*1*) Every employer may, on or before the fifteenth day of each month, send to the Inspector a statement in writing containing the names of all or any of his labourers who, voluntarily and without reasonable cause, absented themselves from labour during the preceding month, and specifying the periods of absence. When any employer *so* sends any statement, he shall at the same time notify to each labourer concerned the fact that he has done so.

Unlawful absence from work.

(*2*) *Every* Inspector who receives any statement *so sent* shall, if the employer so desires, when next visiting the estate on which the labourers to whom *the* statement relates, are employed, inquire into each case of absence in the presence of the labourer concerned, and, if satisfied that the labourer has voluntarily and without reasonable cause absented himself, shall, unless the labourer consents to forfeit to his employer the sum of four annas for each day of absence, endorse *the* days of absence on the labour-contract of *the* labourer, and add them to the term of *the* contract.

(*3*) The Inspector may also, at any time other than that of his visit to the estate, on the application of either the employer or the labourer, after due inquiry, endorse the days of absence on, and add them to the term of, the labour-contract:

Provided that an employer who omits to apply for the endorsement of such days on any labourer's labour-contract when the Inspector is actually visiting the estate shall be debarred, in the absence of sufficient reasons to the contrary shown to the satisfaction of the Inspector, from applying afterwards for such endorsement so far as days of absence reported in statements sent to the Inspector previous to the date of his last visit are concerned.

[171, Expln.] *Explanation.*—Ill-treatment of *a* labourer by his employer, or failure of the employer to fulfil any condition of the labour-contract binding on the employer, *shall be deemed to be* reasonable cause within the meaning of this section.

193. *Whoever*, *being a* labourer, voluntarily and without reasonable cause, absents himself from his labour for more than seven consecutive days, or for more than seven days in any one month, shall be liable to forfeit his wages for the period of such absence, and to pay to his employer a sum not exceeding four annas for each such day of absence, and shall also be *punishable with* imprisonment for a term which may extend to fourteen days; and, in case *the* absence has extended to twenty days in any two consecutive months, *shall be punishable with* imprisonment for a term which may extend to one month.

Labourer absent without cause.

Explanation.—Ill-treatment of *a* labourer by his employer, or failure of the employer, to fulfil any condition of the labour-contract binding on the employer, *shall be deemed to be* reasonable cause within the meaning of this section.

[171 A.] 194. Every employer may, on or before the fifteenth day of each month, send to the Inspector a statement in writing in such form as the Local Government may prescribe containing the names of all or any of his labourers who have deserted from his service during the preceding month, or who, having deserted at any previous time, have been absent during the preceding month, or who, having deserted during the month or previously, have been arrested or have returned to his service during the preceding month.

Statement of deserters.

[175.] 195. (*1*) *Where* any labourer deserts from his employer's service, *the* employer, or any person acting on his behalf, may, without a warrant and without the assistance of any police officer, arrest *the* labourer wherever he may be found:

Deserter may be apprehended without warrant.

Provided that, if *the* labourer *is* found within five miles of the place where a Magistrate resides or in the service of another employer, he shall not be arrested without warrant.

(*2*) Every police-officer shall assist in arresting any such labourer if so required by the employer or person acting on his behalf.

(*3*) Whoever arrests a labourer under this section shall without delay take him to the police-station nearest to the place of the arrest; and if he fails to do so shall be punish*able* with fine which may extend to two hundred rupees.

[173.] 196. (*1*) The police-officer in charge of such station shall, on the appearance of the parties, take down in writing the statements of the labourer arrested and of the person arresting the labourer.

Procedure at police-station.

(*2*) If the labourer admits the contract and does not claim to be forwarded to a Magistrate, the police-officer may permit the person arresting the labourer to convey him to the estate on which he is under contract to labour, and shall then transmit the statements recorded and a report of his proceedings to the Magistrate within the local limits of whose jurisdiction the police-station is situated.

(*3*) If the labourer does not admit the contract or claims to be forwarded to the Magistrate, or if, for any reason, it appears to the police-officer desirable that he should be so forwarded, the police officer shall forthwith send *the* labourer, together with the statements recorded as aforesaid and a report of his proceedings, to the Magistrate within the local limits of whose jurisdiction the police-station is situated.

(*4*) If the estate on which the labourer is under contract to labour, is not situate within the local limits of the jurisdiction of the Magistrate referred to in *sub-section* (*2*) *or sub-section* (*3*), *the* Magistrate shall forward the statements and report received by him from the police to the Magistrate within the local limits of whose jurisdiction such estate is situate. He shall also, when the labourer has been sent to him by the police, either forward the labourer to, or take security for his appearance before, such *other* Magistrate *as aforesaid*.

(*5*) On receipt of such statements and report, the Magistrate within the local limits of whose jurisdiction *the* estate *is situate*, may, after making such inquiry as he considers desirable into the case, pass such order in accordance with law as he thinks proper. For the purpose of any such inquiry *the* Magistrate may, if he thinks fit, in any case in which the labourer arrested has not been sent to, or appeared before, him, require the labourer to appear before him.

[174.] 197. Where an employer or a person acting on behalf *of an empoyer* complains to a Magistrate that a labourer has deserted from *the* employer's service, *the* Magistrate may, without previously examining the complainant, issue a summons for the attendance of *the* labourer, or a warrant for his arrest, and fix a day for hearing the complaint.

Procedure on complaint of desertion.

[175.] 198. (*1*) *Whoever*, *being a* labourer, deserts from his employer's service, shall be punish*able* with imprisonment for a term which may extend to one month, or with fine which may extend to twenty rupees, or with both.

Punishment for desertion.

(*2*) For a second conviction for a like offence *the offender* shall be punish*able* with imprisonment for a term which may extend to two months, or with fine which may extend to fifty rupees, or with both.

(*3*) For a third and every subsequent conviction for a like offence *the offender* shall be punish*able* with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

[176.] 199. (*1*) *Where* it appears to *a* Magistrate trying a labourer for deserting from his employer's service that such labourer was arrested without sufficient cause, *the* Magistrate may impose a fine, which may extend to fifty rupees, on the employer or person acting on his behalf by whom, or at whose instance, *the* labourer was arrested.

Compensation for wrongful arrest.

(*2*) The Magistrate may in his sentence direct that the whole or any part of *the* fine *levied under sub-section* (*1*) be paid by way of compensation to the labourer so arrested.

[177.] 200. Where a labourer has actually suffered imprisonment for terms amounting in the whole to six months for desertion from his employer's service, the Inspector shall cancel the labour-contract of *the* labourer, and shall endorse on his copy of the contract a certificate of *the* cancellation; or, if *that* copy is not forthcoming, he shall give to the labourer a written certificate *to the like effect*.

Cancellation of contract by desertion.

[178.] 201. *Whoever*, *being a* labourer, *is* guilty of habitual drunkenness, or wilfully disregards any sanitary regulation approved by the Inspector and duly notified for the guidance of the labourers on the estate on which *the* labourer is employed, shall be punish*able* with imprisonment for a term which may extend to one week, or with fine which may extend to five rupees.

Penalty for drunkenness or neglect of sanitary regulations.

[179.] 202. (1) The employer of a labourer sentenced to imprisonment for any offence under this Act, or any person authorized to act in this behalf for *the* employer, may apply to the Magistrate, at any time previous to the expiry of *the* sentence, that *the* labourer be made over to him for the purpose of completing his labour-contract.

Portion of sentence may be cancelled on application of employer.

(*2*) On *an* application being made *under sub-section* (*1*), the Magistrate may, if he thinks fit, order that *the* labourer be made over or forwarded to his employer; and in that case *the* Magistrate shall cancel the remainder of the sentence passed on the labourer, and shall endorse on his copy of the labour-contract a certificate of *the* cancellation, or, if *that* copy *is* not forthcoming, shall give him a written certificate of *the* cancellation.

(*3*) Nothing in this section shall be deemed to affect the provisions of section 200.

[180.] 203. Every employer who obtains an order of a Magistrate for the making over or forwarding of any labourer, shall be liable to defray the expense (if any) incurred in *the* making over or forwarding *of the labourer*; and shall, before the order is issued, deposit with the Magistrate a sum sufficient in the Magistrate's opinion to defray *that* expense.

Expense of forwarding labourer to be paid by employer.

[181.] 204. (*1*) On the expiry of any sentence of imprisonment *passed on a labourer* for any offence under this Act, the Magistrate shall, subject to the provisions of section *200*, make *the* labourer over to any person appointed on the part of his employer to take charge of him; and no conviction under this Act or imprisonment *thereon* shall, save as aforesaid, operate as a release to any labourer from the terms of his labour-contract.

Conviction not to operate as a release.

(*2*) *Where* no person is present on the part of the employer to take charge of the labourer *on* the expiry of his sentence, the Magistrate shall forward *the* labourer to the principal place of business of his employer situate within the local limits of *the* Magistrate's jurisdiction.

(*3*) *Any expenditure incurred under sub-section* (*2*) *may* be recovered from *the* employer *of the labourer concerned*.

[182.] 205. Where a labourer is sentenced to imprisonment for any offence under this Act *other than an offence under section 198 or section 198*, the Magistrate shall endorse on the employer's copy of the term for which *the labourer* is *so* sentenced.

Endorsement on contract of period of unlawful absence or imprisonment for offence against Act.

[182-B.] 206. Where a labourer is sentenced to imprisonment for any time not exceeding three years for any offence other than an offence under this Act, the Court or Magistrate so sentencing him shall, if the employer or his agent so requests, endorse on the employer's copy of the labour-contract the period for which the labourer is sentenced to imprisonment, or, if *that* period exceeds the unexpired term of the labour-contract on the date of the sentence, so much of *that* period as is equal to *the* unexpired term.

Endorsement on contract of period of any other imprisonment.

[182-C.] 207. The periods endorsed under *section 205 or section 206* shall be added to the term for which the labourer contracted to serve; and *the* labourer shall not be deemed to have performed his labour-contract *until* he has served for the term specified therein in addition to the periods so endorsed.

Periods endorsed to be added to term of contract.

[183.] 208. (*1*) Whoever, knowing that a labourer is bound by his labour-contract to labour for any employer, voluntarily entices or attempts to entice *the* labourer to leave *his* employer, or harbours or employs any labourer who has, in contravention of the terms of his labour-contract, left this employer, shall be punish*able* with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

Other person enticing away, harbouring or employing labourer under labour-contract.

(*2*) The convicting Magistrate may in his discretion award to the employer with whom *the*

labourer has contracted, the whole or any part of any fine levied under *sub-section* (*1*).

[183-A.] 209. Whoever, being bound under section *120*, *sub-section* (*2*), to forward any labour-contract to the Inspector, or under section *122* to cause any labourer to appear before the Inspector or Magistrate, wilfully omits or neglects so to forward *the* labour-contract to the Inspector at or within the time specified, or to cause *the* labourer to appear before the Inspector or Magistrate within a reasonable time, shall be punish*able* with fine which may extend to two hundred rupees.

Failure to forward contract under section *120* or to cause labourer to appear under section *122*.

[184.] 210. Whoever, being bound by section *148* to send any labourer before, or to give notice of any complaint to, an Inspector or Magistrate, refuses or neglects so to send *the* labourer or to give *the* notice, shall be punish*able* with fine which may extend to two hundred rupees.

Employer or other person neglecting to send labourer before Magistrate as provided by section 148.

[185.] 211. *Whoever, being an* employer.—

Employer refusing to endorse labour-contract, etc.

(*a*) refuses or wilfully neglects to endorse the labourer's copy of his *labour*-contract as required by section *156*; or

(*b*) detains a labourer after the determination of his labour-contract; or

(*c*) fails to give to the Inspector notice in writing of such determination *as aforesaid* within one month *after* the date thereof;

shall be punish*able* with fine which may extend to two hundred rupees.

[186.] 212. *Whoever, being an* employer or *a* person acting for an employer, refuses or neglects to comply with the request of a labourer made under section *157* shall be punish*able* with fine which may extend to two hundred rupees.

Employer or other person neglecting to comply with request of labourer wishing to redeem unexpired term.

[185, § 1.] 213. *Whoever commits a breach of any of the provisions of this Act for which a penalty is not hereinbefore expressly provided, shall be punishable with fine which may extend to five hundred rupees.*

Penalty for breaches not otherwise provided for.

[187.] XLV of 1860. 214. Whoever abets within the meaning of the Indian Penal Code any offence against this Act or any rule thereunder, shall be punish*able* with the punishment provided for *the* offence.

Abetment.

215. Whoever commits any offence against this Act or any rule thereunder, shall be triable for *the* offence in any place in which he may be found, as well as in any other place in which he might be tried under any law for the time being in force.

Place of trial for offences.

CHAPTER IX.

Miscellaneous.

[illegible] but [illegible] 11 G. [illegible] and [illegible] XX [illegible] s. [illegible]

216. *Every sum recoverable under this Act from any person may be recovered, on application to a Magistrate having jurisdiction where the person is for the time being resident, by the distress and sale of any moveable property within the limits of the Magistrate's jurisdiction belonging to that person.*

Recovery of sums due under Act.

217. All arrears of wages due under any labour-contract shall be a charge upon the estate upon which the labourer to whom *the* labour-contract relates, has been engaged to labour; or, if he has engaged to labour upon any one of several estates managed by the same employer, shall be a charge upon that estate upon which *he* for the time being actually labours.

Wages due under labour-contract a charge upon estate.

[191.] 218. (*1*) Whenever an estate on which any labourer has under this Act contracted to labour, is transferred by act of parties or operation of law or devolves, the person to whom it is so transferred or on whom it devolves, shall be bound by the labour-contract of *the* labourer in the same manner and to the same extent as the person by or from whom it is transferred or devolves, would have been bound *thereby*, and shall have the same rights and remedies under *it* as such person would have had thereunder, if the estate had not been transferred or had not devolved.

Owner of estate for time being has all rights and remedies in respect of labour-contracts charged on it.

(*2*) No person who has ceased to be the owner of the estate upon which any labourer has under this Act contracted to labour, shall be liable in respect of any breach of the labour-contract of *the* labourer which occurs after he has ceased to be owner.

[192.] 219. (*1*) Subject to the power of a Magistrate under this Act or the Code of Criminal Procedure, 1898, to award fines in whole or in part as compensation to or for the benefit of any complainant or other person, the Local Government shall credit all fines, fees and rates levied and paid under this Act in the territories under its administration to a fund *to* be called the "*Assam* Labour Transport Fund".

V of 1898.

Fines, fees and rates to be credited to Assam Labour Transport Fund.

(*2*) *The Assam Labour Transport* Fund shall be at the disposal of *the* Local Government, in such manner as the Government of India may direct, for paying the salaries and allowances of all officers and establishments appointed *by it* under this Act and their pensionary and leave allowances, for meeting the cost of sending labourers and other persons back to their native districts, and generally for defraying the expenses of carrying out the purposes *and objects* of this Act and *any* rules *made by* the Local Government thereunder.

(*3*) The annual surplus accruing in *the Assam Labour Transport* Fund shall be applied to reducing the annual rate or the registration-fees leviable under this Act, and not otherwise.

[194.] 220. *Every* Assistant Inspector shall perform all such duties and exercise all such powers of an Inspector as he is authorized in writing by the Inspector to perform or exercise.

Duty of Assistant Inspector.

[195.] 221. All powers conferred by this Act on any Superintendent, Medical Inspector, Emigration Agent or other officer, may be exercised from time to time as occasion requires.

Powers of officers under this Act to be exercisable from time to time.

[4.] 222. The *Chief Commissioner of Assam* may, with the previous sanction of the Governor-General in Council, by notification in the local official Gazette, declare that any labour-district or *local* area therein shall, *on and with effect* from a day, *to be fixed* in the notification, cease to be subject to all the provisions or any specified provision of this Act; and from *the* day *so fixed* such labour-district or *local* area *as aforesaid* shall cease to be subject to the provisions of this Act or to the provision so specified, as the case may be.

Power to exempt labour-district from Act.

[6.] 223. The publication of *any* notification under *this* Act shall not affect any act done, offence committed or proceedings commenced before such publication.

Notifications not to affect prior Acts, etc.

224. *The enactments mentioned in the second schedule are hereby repealed to the extent specified in the fourth column thereof.*

Repeal.

THE FIRST SCHEDULE.

Form of Labour-contract between Labourer and Employer.

(*See section 5.*)

This contract, made under the Assam Labour and Emigration Act, 1900, between *A B* (hereinafter called *the labourer*) of the one part and * [*C D* (*agent* or *local agent* or *garden-sardar*) on behalf or] *E F* (hereinafter called *the employer*) on the other part, witnesseth that the said * [*agent* or *local agent* or *garden-sardar* on behalf of the said] employer doth hereby promise the said labourer that if he, the said labourer, do remain and labour † on the $\frac{\text{X estate}}{\text{Y estates}}$ ‡ of his said employer in the labour-district of for the term of years from the date of the execution of this contract, he, the said employer, will, from the date on which the said labourer commences to labour on *the said* $\frac{\text{estate}}{\text{estates}}$, pay or cause to be paid to the said labourer monthly wages at the rate of Rs.§ for a completed daily task regulated in accordance with the provisions of the said Act, and when such task *as aforesaid* is not completed, monthly wages calculated at the same rate in proportion to the amount of work actually done, and that during *the said* period he, the said employer, will supply to the said labourer rice at a price of Rs. per maund and will faithfully comply with all rules regarding house-accommodation, medical treatment and the supply of food grains or rations to the said labourer which the Local Government may prescribe; and this contract further witnesseth that the said labourer doth hereby, in consideration of the aforesaid promise, agree so to remain and labour for the said employer. In witness whereof the said parties to these presents have hereunto set their hands at this day of 19 .

* Parts in brackets to be omitted if the contract is made without the intervention of an agent, local agent or garden-sardar.

† State nature of labour, if the labourer is to be required to work under the ground.

‡ As the case may be.

§ State rates for various periods of contract.

Signature of Labourer and of Employer (or of his Agent, Local Agent or Garden-sardar).

Form of Description of Labourer.

Name.	Father's name.	Age.	Sex.	Caste.	Residing.			Descriptive marks.
					District.	Thana.	Village.	

J.B.-7

[*Endorsement to be filled up by Registering officer before whom the contract is executed.*]

I hereby certify that, before the said *A B* signed this contract, I personally explained it to him.

Dated at
This day of } Signed

Registering-officer or Inspector or Magistrate.

[*Endorsements on labourer's copy of contract to be filled up when the contract is determined or cancelled.*]

I hereby certify that the foregoing contract has been determined by effluxion of time.

Dated at
This day of }

Signature of Employer or Inspector.

I hereby certify that the foregoing contract has been cancelled under the provisions of section of Act .

Dated at
This day of }

Signature of Inspector or Magistrate.

THE SECOND SCHEDULE.

Enactments Repealed.

(*See section 224.*)

Year.	No.	Short title.	Extent of repeal.
1882	I	The Assam Labour and Emigration Act, 1882.	The whole.
1891	XII	The Repealing and Amending Act, 1891.	So much of section 2 and the first schedule as relates to Act I of 1882.
1893	VII	The Inland Emigration Act, 1893.	The whole.
1897	V	The Repealing and Amending Act, 1897.	So much of section 2 and of the first and second schedules as relates to Act I of 1882.

Statement of Objects and Reasons.

In this Bill it is proposed to amend the Assam Labour and Emigration Act (Act I of 1882 as amended by Act VII of 1893) in accordance with the decisions arrived at by the Government of India and the Secretary of State after considering the recommendations of the Labour Enquiry Commission of 1895 and the reports of Local Governments on the working of the Act since its amendment in 1893. The chief object with which these amendments are proposed is to give power to Local Governments, not only to prohibit emigration absolutely, but also to bring unlicensed professional recruiters and labour-contractors under official control by forbidding recruitment of any kind except in accordance with the provisions of the Act. Where a Local Government exercises this latter power, the unlicensed professional recruiter and unlicensed contractor will disappear. Intending emigrants will be registered in the district in which they are recruited, and will subsequently be placed under contract in or near the same district at such convenient centre as the Local Government may determine. It will no longer be permissible for persons to be conveyed outside the safeguards and precautions of the Act

from the jungles of the Central Provinces or Chota Nagpur to Dhubri, and there placed under contract by unlicensed recruiters or contractors as "free" emigrants. Genuinely "free" or "unassisted" emigration to Assam will, however, not be interfered with and a free emigrant on arrival there will still be able to enter into a statutory labour-contract.

2. Recruitment through certificated garden-sardars working under the supervision of a local agent will not be materially affected by the Bill. But, with the object of encouraging *sardari* recruitment, a special procedure is provided, whereby garden-sardars, on being furnished with permits from their respective employers, will be allowed to recruit outside the other provisions of the Act, and to convey their recruits outside its provisions to Assam. This procedure gives legal recognition to the existing practice by which the greater portion of the labour in Sylhet and Cachar is obtained. Further, provision is also made for facilitating recruitment through garden-sardars working under the control of approved agencies or associations of employers of labour.

3. These and other amendments of the present law are more fully detailed in the subjoined *Notes on Clauses*.

The 7th October 1899. C. M. RIVAZ.

Notes on Clauses.

Clause 3.—Section 5 of the existing Act I of 1882 takes power for the Local Government to prohibit absolutely all, or any specified class of, natives of India from emigrating from any place or places in the Province to a labour-district or part thereof; and section 7 provides that, save as aforesaid, nothing in the Act shall be deemed to interfere with free emigration outside its provisions altogether. These two sections have here been combined, and two modifications have been made in the former. In the first place, the clause is now directed against, not natives of India emigrating, but persons engaging or assisting them to emigrate, the necessary sanction for the prohibition being found in the corresponding penal clause (clause 166) of the Bill, which—like section 146 of the Act—punishes illegal recruitment. And, secondly, an alternative power is taken to forbid recruitment "otherwise than in accordance with the provisions of the Act".

Clause 5 (4).—It is proposed to raise the minimum monthly wage from Rs. 5 to Rs. 6 in the case of a man, and from Rs. 4 to Rs. 5 in the case of a woman.

Clause 9.—To section 11 of the Act, which declares that nothing in the Indian Contract Act, 1872, shall prevent a person of the age of sixteen years or upwards from entering into a labour-contract, has been added the proviso that no woman may enter into such a contract without the consent of her husband or guardian, if she be married or under lawful guardianship.

Clause 12.—In the present Act provision is made separately in each case for recovering expenditure incurred on behalf of, and moneys declared to be due from, employers of labour and others, and the procedure indicated is sometimes that prescribed for the recovery of arrears of land-revenue, sometimes distress and sale of moveable property, and sometimes recourse to the Civil Courts. It is now proposed to adopt in all cases the process of recovery, on application to a Magistrate having jurisdiction where the defaulter or other person specified is for the time being resident, by the distress and sale of any moveable property belonging to him and found within the limits of the Magistrate's jurisdiction, and this is laid down once for all by clause 216. Elsewhere throughout the Bill all that is done is to specify the person from whom the particular moneys referred to are to be recoverable.

Clause 25.—The addition provides that no recruiter shall be licensed to act on behalf of more than one contractor, or within the local limits of more than one district.

Clause 32.—It is here proposed that the medical officer appointed by the Local Government to examine emigrants should not be required to certify more as regards an intending labourer than that he is fit to undertake the journey to Assam and is "not incapacitated, by reason of any obvious bodily defect or infirmity, for labour in the labour-districts." If more than this is desired by employers of labour, it will be open to them—see clauses 16 and 17 of the Bill—to secure a further and more searching medical examination before registration.

Clause 33.—The additional words will enable the Local Governments to establish offices for registration at convenient centres.

Clause 35.—This new provision has been added in order that suitable arrangements may be made for the return to their homes of labourers whom a registering-officer has found it necessary to refuse to register.

Clause 44.—It is proposed that a labour-contract should be executed after an interval of three days, as well as before the expiration of thirty days, from the arrival of the labourer at the depot. And the proviso, which is new, lays it down that no labour-contract shall be executed except in the district of recruitment or at some other place within the province. The execution of labour-contracts at Dhubri (the head-quarters station of the Goalpara district) to labour in other districts of the Brahmaputra Valley, will thus no longer be admissible, and consequently the provisions of sections 112-A and 112-B of the Act have, it will be found, been omitted from the Bill.

Clause 48.—It will, under this provision, be within the discretion of the Superintendent to send a labourer who is prevented from proceeding further on the journey to Assam, back to his native district instead of merely to the place at which he was registered. Consequential alterations have been made in the succeeding clauses.

Clause 56.—This provision has been altered so as to limit the scope of employment of garden-sardars by providing that the certificate of a garden-sardar shall authorize him to recruit within the limits of a single district only.

Clause 61.—The certificate of a garden-sardar should, if his operations are to be effectively controlled, be countersigned not only in the labour-district from which he is sent, but also in the district in which he is to recruit. The provisions of section 56 of the Act have been amplified accordingly.

Clause 63.—Where a garden-sardar's certificate is cancelled away from the place in which it was originally accepted and signed, notice of the fact should be given to the Inspector or Magistrate in whose presence it was so accepted and signed; and, whenever an employer cancels a certificate granted by him, the cancellation should be notified both to the Inspector or Magistrate before whom the certificate was accepted and signed by the garden-sardar, and also to the District Magistrate of the district in which the certificate authorized the garden-sardar to recruit labourers. This has here been fully provided for.

Clauses 68 and 69.—The provisions of the second paragraph of section 62 of the Act are here reproduced, but in an imperative, instead of a permissive, form. The effect of this will be that when a local agent, specially licensed under clause 67, engages labourers on behalf of his employer, without the intervention of a garden-sardar, he must forthwith register them and place them under contract as though he were a garden-sardar himself.

Clauses 74 and 77.—The remarks regarding clause 32 will explain the alterations made in these provisions.

Clause 76.—The provisions of section 69 of the Act have here been added to so as to require the execution of labour-contracts after an interval of three days from registration as well as within fifteen days therefrom.

Clauses 85 and 88.—Provision is here made for the return in certain cases of labourers and their dependants either home or to the place of registration, according as the Magistrate or Embarkation Agent may think fit and proper.

Chapter V.—This Chapter, which is entirely new, has been inserted with the object of enabling the Government to facilitate *sardari* recruitment as far as circumstances will admit. Clause 93 first provides for the issue of a notification allowing recruitment by specially appointed garden-sardars, to whom permits are to be given by their employers and who are to be guided thereby, merely reporting their proceedings to the magisterial authorities in the recruiting districts. Clause 94 next proposes a simple system of recruitment by garden-sardars working under the control of recruiting agencies or associations formed and conducted under rules approved by the Local Government, power being also taken for the Local Government to relax the provisions of Chapter IV in the case of garden-sardars employed in the usual way thereunder, if working subject to such control as aforesaid. And, finally, clause 95, by way of precaution, enables the Local Government at any time to step in, if necessary, and suspend or modify the operation of the foregoing provisions.

Clause 126.—As emigrants from, say, Ganjam or the Central Provinces cannot be expected to know Bengali, provision is here made for translations into other languages of the prescribed schedules of task-work.

Clause 162.—The words "or has forwarded or otherwise assisted him to emigrate" have been added so as to cover all garden-sardars and recruiters engaged in recruiting operations.

Clause 164 (4).—It is here expressly provided that all rules shall, on publication, "have effect as if enacted by this Act".

Clause 175.—This new clause is consequential on the inclusion in the Bill of the provisions contained in Chapter V.

Clauses 205–207.—It is thought that, where a labourer is sent to prison for absenting himself or for desertion, the term of his contract ought not to be extended by the period of his imprisonment. The provisions of sections 182, 182-A, 182-B and 182-C of the Act have been modified so as to give effect to this view.

Clause 213.—Section 145 of the Act contains a somewhat unusual provision to the effect that the Local Government may, subject to the control of the Governor-General in Council, by rule, prescribe a penalty "for the infringement of any provision of this Act for a breach of which a penalty is not expressly provided". It is proposed to substitute for it this more familiar clause, which itself fixes the penalty for any such breach.

Clause 216.—This has already been explained in connection with clause 12 above.

General.—The remaining amendments, all of which are indicated by means of italics, are believed to be of a formal character.

J. M. MACPHERSON,
Secretary to the Government of India.

(Republished by order of His Excellency the Governor in Council.)

M. HAMMICK,
Acting Secretary to Government.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

The following Bill was introduced in the Council of the Governor-General in India for the purpose of making Laws and Regulations on the 13th October 1899:

No. 23 OF 1899.

A Bill to make better provision for the health, supervision and control of Emigrants proceeding to or from the labour-districts of Assam.

WHEREAS it is expedient to make better provision for the health, supervision and control of emigrants proceeding to or from the labour-districts of Assam; It is hereby enacted as follows:

Short title, extent and commencement.

1. (*1*) This Act may be called the Assam Emigrants' Health Act, 1900.

(*2*) It extends to the whole of British India, inclusive of the Santhal Parganas; but

[*Cf.* Act III of 1896, s. 1. (3) (4).]

(*3*) It shall not come into force in any part thereof until the Local Government has, as hereinafter provided, declared it to be applicable thereto.

(*4*) The Local Government may, with the previous sanction of the Governor-General in Council, by notification in the local official Gazette, apply this Act to the whole or any part of the Province, and may, in like manner, cancel, vary or amend any such notification.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "agent" means a person who engages or assists a native of India to emigrate otherwise than in accordance with the provisions of the Assam Labour and Emigration Act, 1900, but includes a garden-sardar specially employed under section 93, or working under the control of an approved agency or association under section 94 of the said Act:

(*b*) "dependant" means any woman (not being herself an emigrant), child or aged or incapaciated relative or friend accompanying an emigrant with the consent of the agent:

(*c*) "emigrant" means a native of India engaged or assisted by an agent to emigrate:

(*d*) "emigrate" denotes the departure of any native of India of the age of sixteen years or upwards (not being a native of a labour-district) from any part of [British] India for the purpose of labouring for hire in a labour-district otherwise than as a domestic servant: and

(*e*) "labour-district" means any of the districts of Lakhimpur, Sibsagar, Nowgong, Darrang, Kamrup, Goalpara, Cachar and Sylhet in the Province of Assam.

Power to make rules for the health, supervision and control of emigrants proceeding to the labour-districts of Assam.

3. (*1*) The Local Government may, with the previous sanction of the Governor-General in Council, by notification in the local official Gazette, make rules to provide for the health, supervision and control of emigrants proceeding through the Province to or from the labour-districts of Assam.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) prescribe the routes by which emigrants and their dependants are to travel on their way to or from the labour-districts:

(*b*) require depots and rest-houses to be provided by, and at the cost of, agents for the accommodation of emigrants and their dependants on or off such routes, and provide for the sanitation and superintendence of such depots and rest-houses:

(*c*) prescribe the mode, and the numerical strength of the parties, in which emigrants and their dependants are to travel, the arrangements to be made by, and at the cost of, agents for facilitating the journey of emigrants, the length of the daily marches of emigrants by road, and the provision to be made by, and at the cost of, agents for the carriage of emigrants and their dependants when suffering from sickness:

(*d*) regulate the food to be supplied to emigrants and their dependants by,

and at the cost of, agents, and the provision to be so made for the proper cooking of such food:

(*e*) regulate the water-supply to be maintained by, or at the cost of, agents for the use of emigrants and their dependants:

(*f*) prescribe the clothing to be supplied to emigrants and their dependants by, and at the cost of, agents:

(*g*) require suitable hospital accommodation, medical treatment and maintenance to be provided by, or at the cost of, agents for emigrants or their dependants when suffering from sickness on their way to or from any of the labour-districts, and the arrangements to be so made, and the maintenance to be so provided, for an emigrant and his dependants when either he or any of them is so suffering:

(*h*) regulate the disposal by, and at the cost of, agents of the dead bodies of emigrants and their dependants: and

(*i*) regulate the powers of entry and inspection which may be exercised for the purposes of any rule under this Act, and the authorities by whom those powers may be exercised.

(*5*) In making any rule under this Act, the Local Government may direct that a breach thereof shall be punishable with fine which may extend to five hundred rupees, and, where the breach is a continuing breach, with a further fine which may extend to fifty rupees for every day after the first in regard to which the offender is convicted of having persisted in the breach.

(*4*) Where an agent fails to perform any act which he is by any rule hereunder required to perform, any officer authorized by the Local Government in this behalf may cause the act to be performed, and the cost, together with simple interest thereon at the rate of six per cent. *per annum*, may be recovered, on application to a Magistrate having jurisdiction where the agent is for the time being resident, by the distress and sale of any moveable property within the limits of the Magistrate's jurisdiction belonging to the agent.

Repeal. 4. The Inland Emigrants' Health Act, 1889, and so much of the Repealing and Amending Act, 1897, as relates to that Act, are hereby repealed. Bengal Act I of 1889. V of 1897.

STATEMENT OF OBJECTS AND REASONS.

By an Act of the Bengal Council No. I of 1889, entitled the Inland Emigrants' Health Act, 1889, provision is made for securing proper arrangements with a view to guarding against sickness and mortality among labourers recruited otherwise than in accordance with the provisions of the Assam Labour and Emigration Act, 1882, on their way to Assam from Lower Bengal, the operation of the enactment being, of course, confined to the latter Province. It is proposed now to repeal that Act and to replace it by an Act of the Governor-General's Council capable of application to any part of British India. This Bill has been prepared accordingly, and its provisions are intended also to supplement the new provisions which have, with the object of facilitating emigration to the labour-districts, been included in another Bill to consolidate and amend the law relating to such emigration, which it is proposed to introduce simultaneously in the Supreme Council.

C. M. RIVAZ.

The 7th October 1899.

J. M. MACPHERSON,
Secretary to the Government of India.

(Republished by order of His Excellency the Governor in Council.)

M. HAMMICK,
Ag. Secretary to Government.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

FORT ST. GEORGE GAZETTE SUPPLEMENT.

TUESDAY EVENING, OCTOBER 31, 1899.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 20th October 1899:

No. 24 of 1899.

[NOTE.—The portions of clauses 2, 3 and 5 which differ from, or do not appear at all in, the Army Act are, as far as possible, printed in italics.]

A Bill to amend the law relating to the exemption from tolls of persons and property belonging to the Army.

WHEREAS certain officers, soldiers and other persons, and certain animals, baggage and carriages belonging or attached to the Army, are exempted by section 143 of the Army Act from payment of certain duties or tolls;

And whereas similar exemptions are made by various enactments of the Indian legislatures, but these exemptions are not co-extensive with those made by the said Army Act;

And whereas it is expedient to remove the inconsistency now existing between the said Army Act and the said enactments, and to exempt certain other persons and property belonging to the Army from payment of certain tolls;

And whereas it is declared by section 169 of the said Army Act that "it shall be lawful for the Governor-General of India . . . . to provide by law for reducing any fine directed by this Act to be recovered on summary conviction to such amount as may appear to the Governor-General . . . . to be better adapted to the pecuniary means of the inhabitants; and also to declare the amount of the local currency which is to be deemed for the purposes of this Act to be equivalent to any sum of British currency mentioned in this Act", and it is expedient to alter in the manner hereinafter appearing the fine imposed by section 143 of the said Army Act;

It is hereby enacted as follows:

Short title, extent and commencement. 1. (*1*) This Act may be called the Indian Tolls (Army) Act, 1900.

(*2*) It extends to the whole of British India, inclusive of British Baluchistan, the Santhál Parganas and the Pargana of Spiti; and

(*3*) It shall come into force on the first day of ——————, 1900.

Definitions. 2. In this Act, *unless there is anything repugnant in the subject or* context,—

(*a*) "*Command*" *means one of the principal portions into which the Army of India is, for the time being, divided:* [Cf. Act V of 1869, Pt. I, cl. (16), inserted by Act XII of 1895, s. 4.]

(*b*) "*ferry*" *includes every bridge and other thing which is a ferry within the meaning of any enactment authorising the levy of tolls on ferries, but does not include any ferry or other thing which is included in the definition of "railway" in section 3 of the Indian Railways Act, 1890:* [Cf. Act XVII, 1878, s. 3; Bengal Act I, 1885, s. 5.] IX of 1890.

(*c*) *the expression "General Officer of the Command" means the General Officer Commanding the Forces in a Command:* [Cf. Act V of 1869, Pt. I, clause (*16*) inserted by Act XII of 1895, s. 4.]

(*d*) the expression "Her Majesty's Regular Forces" *has the meaning assigned to it by section 190, clause (8), of the Army Act, and includes the Indian Reserve Forces when subject to military law:* [Cf. Army Act, s. 190, (*8*). 44 & 45 Vict., c. 58.]

(*e*) "horse" includes a mule and any beast of whatever description, *which* is used for burden or draught or for carrying persons: [Cf. Army Act, s. 190 (*40*).]

(*f*) *the expression* "Indian Reserve Forces" means the *forces constituted by the Indian Reserve Forces Act, 1888, and includes persons holding commissions in the Indian Army Reserve of officers when called out in any military capacity:* [Cf. Army Act, ss. 190 (*9*), 178 (2). IV of 1888.]

(*g*) "landing-place" includes a pier, wharf, quay, *jetty and stage:* [Cf. Army Act, s. 190 (*1*).]

(*h*) *the expression "local corps under the Government of India" means the Hyderabad Contingent, the Central India Horse, the Malwa Bhil Corps, the Bhopal Battalion, the Deoli Irregular Force, the Rampura Irregular Force, the Mhywar Bhil Corps, the Merwara Battalion and the Escort of the Resident in Nepal, and includes any other corps which may be notified by the Governor-General in Council in this behalf by order published in the Gazette of India:* [Cf. Indian Army Rules, July 1st, 1895, para. 178.]

(*i*) "*public authority*" *means the Government or a local authority; and, so far as regards tolls*

levied by a railway company under section 4 of the Indian Guaranteed Railways Act, 1879, or section 51 of the Indian Railways Act, 1890, includes such a railway company : and

42 & 43 Vict., c. 41. IX of 1890. [Cf. Army Act, s. 143, (1), (3).]

(*j*) "tolls" include duties (*other than customs duties levied under the Indian Tariff Act, 1894*). *dues*, rates, *rents, fees and charges.*

VIII of 1894. [Cf. Army Act. s. 143 (1).]

Exemptions from tolls.

3. *The following persons and property, namely :*

(*a*) all officers and soldiers of—
(i) Her Majesty's Regular Forces,
(ii) *any local corps under the Government of India, or*
(iii) *the Imperial Service Troops*
when on duty or on the march,
(*b*) *all members of a corps of Volunteers when on duty or on the march,*
(*c*) *all officers and soldiers of the Indian Reserve Forces when proceeding from their place of residence on being called out for training or service or when proceeding back to their place of residence after such training or service,*
(*d*) *all grass-cutters of mounted corps forming part of—*
(i) *Her Majesty's Regular Forces,*
(ii) *any local corps under the Government of India, or*
(iii) *the Imperial Service Troops,*
(*e*) *all other authorized followers of—*
(i) *Her Majesty's Regular Forces,*
(ii) *any local corps under the Government of India,*
(iii) *the Imperial Service Troops, or*
(iv) *any corps of Volunteers,*
when accompanying any body of such Forces, Troops or Volunteers or any members of such corps on the march, or when otherwise moving under the orders of competent military authority,
(*f*) *all members of the families of officers, soldiers or authorized followers of—*
(i) *Her Majesty's Regular Forces, or*
(ii) *any local corps under the Government of India,*
when accompanying any body of such force or any members of such corps on the march,
(*g*) all prisoners under military escort,
(*h*) the horses and baggage of the persons mentioned in clauses (*a*) *and* (*b*), *respectively, when accompanying such persons when they are on duty or on the march,*
(*i*) *the horses of the persons mentioned in clause* (*d*),
(*j*) *the horses and baggage of the followers and families mentioned in clauses* (*e*) *and* (*f*), *respectively, when accompanying such followers or families under the circumstances mentioned in those clauses respectively,*
(*k*) all carriages, horses *and other animals* belonging to Her Majesty or employed in Her *Majesty's* military service, when conveying any such persons as *hereinbefore* in this section mentioned, or *when conveying* baggage or stores, or *when* returning from conveying *such persons, baggage or stores, or when otherwise moving under the orders of competent military authority,*
(*l*) *all carriages and horses, when moving under the orders of competent military authority for the purpose of being employed in Her Majesty's military service, and*
(*m*) *all persons in charge of carriages or animals mentioned in clause* (*k*) *or clause* (*l*), *when accompanying the same under the circumstances mentioned in those clauses respectively,*

shall be exempted from payment of any tolls—

(*n*) on embarking or disembarking, *or on being shipped or landed,* from or upon any landing-place, or
(*o*) *in passing* along or over any turnpike or other road or bridge, or
(*p*) *on being carried by means of any ferry,*

otherwise demandable by virtue of any Act, Ordinance, *Regulation*, order or direction of *any* legislature or other *public* authority in British India :

Provided that nothing in this section shall exempt any boats, barges or other vessels employed in conveying the said persons or *property* along any canal from payment of tolls in like manner as other boats, barges and vessels.

Tolls on vessels transporting troops and baggage, etc., of troops embarked or disembarked.

4. (*1*) No tolls shall be leviable by any local authority in respect of—

[*Cf.* Bombay Act VI of 1879, s. 44; Bombay Act VI of 1886, s. 45.]

(*a*) any vessel employed by the Government solely for the transport of troops, or
(*b*) the baggage or other effects of any troops embarking or disembarking at any port.

(*2*) In respect of all such vessels or troops, their families, their baggage and their effects, the local authority concerned shall, in addition to its duties in the embarking and disembarking of the same, perform and supply all such reasonable services and accommodation as may, from time to time, be required by the Government, and shall receive payment for all such services, and accommodation on such terms and for such periods as may, from time to time, be determined by the Government in consultation with such local authority.

Penalty.

5. Any person who demands and receives any toll in contravention *of the provisions* of section 3 *or section 4*, shall, *notwithstanding anything in Chapter XXII of the Code of Criminal Procedure, 1898, be tried in a* summary *way, and* shall be *punishable with* fine *which may extend to fifty rupees.*

[Cf. Army Act, s. 143 (3).]

V of 1898.

Compensation to lessees for new exemptions.

6. Where, immediately before the commencement of this Act, any tolls referred to in section 3 are leased, and any persons or articles of property mentioned in that section are not exempted by reason either of—

[Cf. Act II, 1878, s. 8; Act XVII, 1878, s. 16; Act XI, 1886, ss. 4, 5; Ben. Act I, 1888, s. 18.]

(*a*) some enactment, or
(*b*) some order or direction made or given by a public authority, or
(*c*) the terms of the lease, or
(*d*) local usage,

from payment of such tolls, then the lessee shall be entitled to compensation for any loss which he may be proved to have incurred from the operation of section 3.

Compensation to railway companies, local authorities, etc., for new exemptions from tolls on roads or bridges.

7. Where, immediately before the commencement of this Act, any persons or articles of property mentioned in section 3 are not exempted by reason either of—

(*a*) some enactment, or
(*b*) some order or direction made or given by a public authority, or
(*c*) local usage,

from payment of any tolls leviable by—

42 & 43 Vict., c. 41.

(i) a railway company acting under section 4 of the Indian Guaranteed Railways Act, 1879, or section 51 of the Indian Railways Act, 1890, or

IX of 1890.

(ii) a local authority, or
(iii) the Government, acting as a railway administration,

on the passing of such persons or property along or over any road or bridge, then such company,

authority or administration shall, except in respect of tolls which are for the time being leased, be entitled to compensation for any loss which it may be proved to have incurred from the operation of section 3.

Compensation for use of ferries.

8. Where, immediately before the commencement of this Act, any persons or articles of property mentioned in section 3 are not exempted by reason either of—

(*a*) some enactment, or
(*b*) some order or direction made or given by a public authority, or
(*c*) local usage,

from payment of any tolls referred to in that section on the carrying of such persons or property by means of a ferry, then the public authority by whom such tolls are leviable shall, except in respect of tolls, which are for the time being leased, be entitled to compensation for the service rendered in carrying such persons or property by means of the ferry.

[Cf. Act II, 1878, s. 8; Act XVII, 1878, s. 15; Act XI, 1881, s. 5; Ben. Act I, 1885, s. 18.]

Settlement of amount of compensation.

9. The amount of any compensation payable under section 6, section 7 or section 8 shall, subject to the control of the Governor-General in Council, be settled, from time to time, by the Commissioner or by such other officer as the Local Government may appoint in this behalf.

Rules.

10. (*1*) The Local Government, in consultation with the General Officer of the Command and with the previous sanction of the Governor-General in Council, may make rules to carry out the purposes and objects of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) declare what evidence shall be accepted as proof that any person or property by or for whom or for which an exemption is claimed under section 3 or section 4, is entitled to such exemption; and
(*b*) declare in what cases the amount of any compensation payable under section 6, section 7 or section 8 shall be referred for the previous sanction of the Governor-General in Council.

(*3*) The power to make rules under this section is subject to the condition of the rules being made after previous publication.

(*4*) All rules made under this section shall be published in the local official Gazette, and, on such publication, shall have effect as if enacted by this Act.

Repeals.

11. The enactments specified in the schedule are hereby repealed to the extent mentioned in the fourth column thereof.

THE SCHEDULE.

Enactments repealed.

(*See Section 11.*)

Year.	Number.	Short title or subject.	Extent of repeal.
		Acts of the Governor-General in Council.	
1851	VIII	The Indian Tolls Act, 1851 ..	In section 4, *the words* of troops and Military stores and equipages on their march or.
1878	XVII	The Northern India Ferries Act, 1878.	So much of section 15 as provides for the exemption from payment of tolls of any persons, animals, vehicles or other things which are exempted by section 3 of this Act.
		Acts of the Governor of Fort St. George in Council.	
1884	I	The City of Madras Municipal Act, 1883.	In section 174, *the word* troops *and the word* Military; *also* so much of the section as relates to any Government stores, vehicles, animals or other property which are or is exempted by section 3 of this Act.
,,	IV	The Madras District Municipalities Act, 1884.	In section 91, sub-section (*3*), clause (*b*), as amended by the Madras District Municipalities Act Amendment Act, 1897 (Madras Act III of 1897), *the words* troops, military stores and baggage, Military and.
,,	V	The Madras Local Boards Act, 1884.	In section 87, sub-section (*3*), *the words* troops on their march or of military *and the words* military and; *also* so much of the sub-section as relates to any Government stores or equipages which are exempted by section 3 of this Act.
		Acts of the Governor of Bombay in Council.	
1868	II	The Bombay Ferries Act, 1868.	Section 3, clause (*a*).
1875	III	Tolls on Public Roads and Bridges.	In section 5, *the words* of troops and military stores and equipages on their march or.
1879	VI	The Bombay Port Trust Act, 1879.	Section 44.
1886	VI	The Karachi Port Trust Act, 1886.	Section 45.
1888	III	The City of Bombay Municipal Act, 1888.	In section 190, sub-section (*1*) *the letter* (*b*); *also* so much of the rest of the sub-section as exepts vehicles which are exempted by section 3 of this Act.
	V	The Aden Port Trust Act, 1888.	Section 40, sub-section (*3*), clause (*b*).
,,		*Acts of the Lieutenant-Governor of Bengal in Council.*	
1876	V	The Bengal Municipal Act, 1876.	In section 159, *the words* of troops on the march or of animals or vehicles employed in the transport of such troops or, *the words* military or, *in both places in which they occur, and the words* or of any animals, whether belonging to Government or otherwise, which are attached to a regiment or a Military Department, and which pass through a toll-bar: Provided that tolls shall be leviable for conveying such animals over a ferry; *also* so much of the section as relates to any Government stores which are exempted by section 3 of this Act.

Year.	Number.	Short title or subject.	Extent of repeal.
		Acts of the Lieutenant-Governor of Bengal in Council—cont.	
1884	III	The Bengal Municipal Act, 1884.	In section 168, *the words* of troops on the march or of animals or vehicles employed in the transport of such troops or, *the words* military or *in both places in which they occur, and the words* or of any animals, whether belonging to Government or otherwise, which are attached to a regiment or a Military Department, and which pass through a toll-bar: Provided that tolls shall be leviable for conveying such animals over a ferry; *also* so much of the section as relates to any Government stores which are exempted by section 3 of this Act.
1885	I	The Bengal Ferries Act, 1885.	So much of section 18 as provides for the exemption from payment of tolls of any persons, animals, vehicles or other things which are exempted by section 3 of this Act.
		Act of the Lieutenant-Governor of Burma in Council.	
1898	II	The Burma Ferries Act, 1898.	So much of section 16 as provides for the exemption from payment of tolls of any persons, animals, vehicles or other things which are exempted by section 3 of this Act.

STATEMENT OF OBJECTS AND REASONS.

SECTION 143 of the Army Act (44 and 45 Vict., c. 58) exempts certain officers, soldiers and other persons, and certain animals, baggage and carriages belonging or attached to the Army, from the payment of certain tolls, and the provision is applicable to India in common with the rest of Her Majesty's dominions. In the Indian Statute-book, however, there are several enactments on the same subject; and these, while they provide for exemption from the payment of tolls of the classes referred to in the Army Act, do so in favour of persons more or less different from those indicated in that Act. Moreover, there are some Acts of the Indian legislatures which authorize the levy of tolls of the same classes as those described in the English Statute, but which either contain no exempting clauses at all or merely contain clauses empowering the Executive to allow exemptions.

2. In these circumstances, it has been decided to legislate. In the case of those Indian enactments which contain lists of exempted persons and property, legislation is necessary in order to remove the conflict which at present exists between them and the Army Act. The latter would of course prevail if the conflict were brought to the notice of the Courts; but, so long as the Indian enactments remain as they now are, it is probable that full effect may not always in practice be given to the Army Act. In the case, too, of the remaining enactments of the Indian legislatures above mentioned, it is not unlikely that the provisions of s. 143 of the Army Act may be overlooked, tolls being levied under the local law in cases in which their levy is in reality prohibited by Parliament.

3. The present Bill reproduces s. 143 of the Army Act, except sub-section (*2*), which does not apply to India, and amplifies its provisions so as to cover certain additional exemptions, all inconsistent provisions to be found in the Indian Statute-book being at the same time repealed. Section 22 of the Indian Councils Act, 1861 (24 and 25 Vict., c. 67), prevents the repeal of s. 143 of the Army Act by the Governor-General's Legislative Council, but it is believed that there is nothing to prevent that Council from re-enacting the section, and, in doing so, extending the list of persons and property to be exempted from payment of tolls. The list now given in the Bill is a provisional one only. It requires careful consideration, and attention is, therefore, specially invited to its details.

4. The contents of the Bill are explained at length in the annexed *Notes on Clauses*.

C. M. RIVAZ.

The 19th October 1899.

Notes on Clauses.

Clause 2.—Several of the definitions set forth in this clause are taken from the Army Act. The portions which differ from, or do not appear at all in, that Act are, as far as possible, printed in italics.

The definitions of "Command" and "General Officer of the Command" are new, and are required for the purposes of clause 10 of the Bill.

The definition of "ferry" is merely formal. In regard to the exclusion of ferries which are comprised in the definition of "railway" in s. 3 of the Indian Railways Act, 1890 (IX of 1890), it may be explained that the tolls imposed on ferries by or under the various Indian enactments in force are apparently not leviable on ferries which are "used for the purposes of the traffic of a railway and belong to, or are hired or worked by, the authority administering the railway."

The definition of "horse" is taken from s. 190 (*40*) of the Army Act, some verbal alterations being made which do not affect the substance.

The definition of "Indian Reserve Forces" is new, that of "reserve forces" in s. 190 (*9*) of the Army Act being inapplicable to India.

The definition of "landing-place" includes piers, wharves and quays, which are mentioned in s. 143 of the Army Act and in several of the Indian enactments, and jetties and stages, which are mentioned in some Indian enactments.

The definition of "local corps under the Government of India" is new, being introduced in connection with clause 3 of the Bill.

Statutory tolls are leviable in British India by (1) the Government, (2) District Boards, District Councils, Local Boards, Municipalities and Port Trusts, and (3) Railway Companies. The term "public authority" has been employed in the Bill to designate all these bodies, and is defined accordingly. It has been made to include those railway companies only which levy tolls under s. 4 of the Indian Guaranteed Railways Act, 1879 (42 & 43 Vict., c. 41), or s. 51 of the Indian Railways Act, 1890 (IX of 1890), tolls levied under either of these enactments being covered by s. 143 of the Army Act, but not tolls levied by railway companies independently of them.

On the other hand, the definition has been drawn so as to exclude private individuals who levy tolls (otherwise than as the mere delegates of a "public authority") and companies levying tolls, other than railway companies acting under one or other of the Railway Acts mentioned above. It would be improper to interfere with the levy of tolls by such individuals or companies without their consent; and s. 143 of the Army Act apparently does not apply to such tolls.

The definition of "tolls" includes (1) "duties," which are mentioned in s. 143 of the Army Act, (2) "dues," "rents," "fees" and "charges," which are mentioned in several of the Indian enactments, and (3) "rates," which are mentioned both in s. 143 of the Army Act and in several of the Indian enactments.

Customs-duties have been expressly excluded. It is not intended that the Bill should apply to them, and it seems clear that the word "duties" in s. 143 of the Army Act does not refer to them.

Clause 3.—The additions which it is at present proposed to make in re-enacting s. 143 of the Army Act are, as far as possible, printed here in italics.

The "local corps under the Government of India" are for the most part ordinarily stationed in Native territory, but it is considered necessary to mention them because they may be marched into British India. Local corps not under the Government of India have advisedly been omitted because they are employed for local purposes only. They do not ordinarily leave their posts or stations, and, should it be found desirable to exempt any of them from payment of any particular tolls, it will, no doubt, be possible to make special arrangements.

Carriages and transport animals belonging to Her Majesty, or employed in Her Majesty's military service, are exempted by the Army Act from the payment of tolls when conveying officers or soldiers of the Regular Forces on duty or on the march, prisoners under military escort, horses, baggage or stores, and when returning from conveying the same. In this exemption "other animals" have been included so as to cover the slaughter-cattle which are generally driven along with troops on the march. The words "when otherwise moving under the orders of competent military authority" have also been inserted.

Sub-clause (*l*) has been added to cover carriage collected for the use of troops about to march or for the purposes of an expedition or other special service.

The following are the other alterations made by clause 3:

(*1*) In sub-clause (*n*) the words "or on being shipped or landed" are new. The words "embarking or disembarking" refer, strictly speaking, only to persons, although, as used in s. 143 of the Army Act, they are intended to apply also to the property there mentioned. The words "or on being shipped or landed" are added to secure greater precision; also because several Indian enactments specifically authorize the levy of tolls on property "shipped or landed."

(*2*) Sub-clause (*p*) is new. S. 143 of the Army Act does not exempt military persons or property from payment of tolls at ferries. But most of the Indian enactments on the subject provide for such exemptions, and it is, therefore, thought that clause 3 of the Bill should apply to ferries, subject to the provisions as to compensation hereinafter mentioned.

(*3*) The word "Regulation" is inserted in the latter part of the clause because authority to levy tolls is given by certain Regulations made under the Government of India Act, 1870 (33 Vict., c. 3).

(*4*) The word "public" is inserted before the word "authority" near the end of the clause for the reasons given above in connection with the definition of the expression "public authority" as used in the Bill.

(*5*) The proviso is copied from the proviso to s. 143 (*1*) of the Army Act, the word "property" being substituted for the words "horses, baggage or stores." The Indian enactments which authorize the levy of tolls on vessels passing along canals or other lines of navigation, appear to be—

(*a*) Act XXII of 1856 (Karatoya River), s. 1;

(*b*) Act I of 1867 (Ganges Tolls), s. 2;

(*c*) Act II of 1881 (Pegu and Sittang Canal), s. 4;

(*d*) Bengal Act V of 1864 (Canals and other lines of navigation), s. 5; and

(*e*) Madras Act II of 1890 (Canals and other lines of navigation), s. 6 (*6*).

Clause 4.—Provision is here made in respect of tolls leviable at landing-places. The question has lately arisen in connection with the embarkation and disembarkation of troops at the ports of Bombay and Karachi, and it was originally proposed to provide in the manner indicated by this clause of the Bill for these important cases alone by amending s. 44 of the Bombay Port Trust Act, 1879 (Bombay Act VI of 1879), and s. 45 of the Karachi Port Trust Act, 1886 (Bombay Act VI of 1886), so as to require compensation to be given by the Government for any services rendered by the Port authorities in this connection. There may, however, be other similar cases, and it has, therefore, been decided to include in the Bill a general enactment on the subject and to repeal the provisions of the special Acts above referred to.

Clause 5.—The alterations here made in sub-section (3) of s. 143 of the Army Act are shown in italics. It is proposed, in exercise of the power conferred by s. 169 of the Statute, to reduce the fine to a maximum of fifty rupees, and it has been thought unnecessary expressly to fix any minimum.

Clauses 6 to 9.—These clauses contain provisions for the admission of claims to compensation in cases where actual loss may be occasioned by the operation of clause 3. For the present no attempt has been made to indicate precisely what the machinery should be for determining the extent of such loss; but it is felt that, if possible, claims for compensation should be provided for, and these clauses have been drawn more as indicating this feeling and as a basis for discussions than as definitely expressing the conditions and limitations under which claimants should receive compensation.

Clause *6* declares that the lessees of tolls shall be entitled to compensation for any loss which they may be proved to have incurred from the introduction of the new exemptions mentioned in clause 3. The clause follows precedents in Indian legislation, and it seems only just that, where a right to collect tolls has been purchased on the basis of the existing law, the purchaser should receive compensation for any curtailment of that right. It is considered important to refer to exemptions made in accordance with local usage because it is believed that military establishments are in practice sometimes allowed to pass free of

tolls even although no exemption could be claimed under statutory authority or under the terms of leases, and there is no necessity for paying compensation for any but actual losses.

Compensation should clearly be provided for in the case of new exemptions from tolls leviable by railway companies. This it is proposed to effect by clause 7 of the Bill.

It is for consideration, however, whether a right to compensation should be given in the case of new exemptions from tolls leviable by the Government or by local authorities.

As regards the Government, it seems clear that there is no real necessity for paying compensation, since the result would merely be to transfer money from one Department of the State to another. But it is apprehended that State Railway Administrations would object to allowing any new exemptions without payment of compensation, on the ground that their earnings as commercial undertakings would be decreased; and these bodies have accordingly been included.

As regards local authorities, it may be said that, since their power to levy taxes is derived from the Government, the Government may fairly claim that its own establishments and property should be exempted from such taxes without payment of compensation; and it may be noted that many of the Indian enactments already expressly provide for such exemptions. On the other hand, it has been said that local self-governing bodies will be discouraged from improving communications if the loss by exemptions should turn out to be serious, a result which would be unsatisfactory to all concerned. Pending the settlement of this question, local authorities have been included in clause 7 of the Bill.

The right to compensation for new exemptions is given by clause 7 in the case of those tolls only which are leviable on roads or bridges. Compensation in the case of tolls at ferries is provided for by clause 8. The case of the other tolls mentioned in s. 143 of the Army Act, namely, those leviable at landing-places, has already been noticed in connection with clause 4 of the Bill.

Tolls at ferries and at landing-places stand on a somewhat different footing from other tolls, since they represent payments for services directly rendered; and it seems but fair that compensation should be allowed for the new exemptions, although the existing Indian enactments do not, as a matter of fact, provide for compensation for the exemptions already allowed in such cases.

Clause 9 provides for the settlement of the amount payable as compensation under clause 6, clause 7 or clause 8. In placing this duty on the Commissioner of the Division or an officer to be selected by the Local Government, the clause follows s. 15 of the Northern India Ferries Act, 1878 (XVII of 1878). It has, however, been deemed right to make all awards subject to the control of the Governor-General in Council so as to give the Government of India power to supervise the disbursements on account of compensation. It will not be necessary for every petty case to be referred for the orders of the Governor-General in Council; but, in order to make the control really effective, instructions will probably be issued to the effect that the amounts proposed to be paid in the more important cases must be submitted for previous sanction. The cases in which previous sanction should be obtained can be declared by means of rules more appropriately than by the Bill itself, and this matter is accordingly mentioned in clause 10.

Clause 10.—The only other matter of importance here dealt with is the identification of persons and property for whom or for which exemptions may be claimed under the proposed measure. The necessity for enacting some provisions on this head has been pressed upon the Government of India by several Local Governments, and the best course seems to be to leave such details to rules.

It has been provided that all rules shall be made by Local Governments in consultation with the proper military authorities, and, in order to secure uniformity as far as possible, that the previous sanction of the Governor-General in Council shall be required in each case.

Clause 11 and Schedule.—This part of the Bill proposes the repeal of such of the provisions to be found in existing Indian enactments as will be superseded if the Bill, in its present form, becomes law.

J. M. MACPHERSON,
Secretary to the Government of India.

(Republished by order of His Excellency the Governor in Council.)

M. HAMMICK,
Ag. Secretary to Government.

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FORT ST. GEORGE GAZETTE SUPPLEMENT.

TUESDAY EVENING, JULY 10, 1900.

Bills introduced in the Council of the Governor-General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 29th June 1900:

No. 5 of 1900.

A Bill to provide for certain matters in connection with the taking of the Census.

WHEREAS it has been determined to take a census of British India during the year 1901, and it is expedient to provide for certain matters in connection with the taking of such census; It is hereby enacted as follows:—

Title, extent and commencement.

1. (*1*) This Act may be called the Indian Census Act, 1900.

(*2*) It extends to the whole of British India, inclusive of British Baluchistan, the Santhal Parganas and the Pargana of Spiti; and

(*3*) It shall come into force at once.

Appointment of census-officers.

2. (*1*) The Local Government may appoint any person to take, or aid in or supervise the taking of, the census within any specified local area.

(*2*) Persons so appointed shall be called census-officers.

(*3*) The Local Government may delegate to such authority as it thinks fit the power of appointing census-officers which is conferred by this section.

Proof of appointment of census-officers, and their status as public servants.

3. (*1*) A declaration in writing, signed by any officer authorised by the Local Government in this behalf, that any person has been duly appointed a census-officer for any local area shall be conclusive proof of such appointment.

(*2*) All census-officers shall be deemed to be public servants within the meaning of the Indian Penal Code.

Discharge of duties of census-officers in certain cases.

4. (*1*) (*a*) Every officer in command of any body of men belonging to Her Majesty's military or naval forces or to Her Majesty's Indian Marine Service or of any vessel of war,

(*b*) every person (except a pilot or harbour-master) having charge or control of a vessel,

(*c*) every person in charge of a lunatic asylum, hospital, workhouse, prison, reformatory or lock-up, or of any public, charitable, religious or educational institution,

(*d*) every keeper, secretary or manager of any sarai, hotel, boarding-house, lodging-house or club, and

(*e*) every occupant of immoveable property and every manager or officer of a railway or other commercial or industrial enterprise who has at the time of the taking of the census not less than fifty persons employed under him, or living on or in such property,

shall, if so required by the District Magistrate, or by such officer as the Local Government may appoint in this behalf, perform such of the duties of a census-officer in relation to the persons who at the time of the taking of the census are under his command or charge, or inmates of his house or present on or in such immoveable property, as such Magistrate or officer may, by written order, direct.

(*2*) All the provisions of this Act relating to census-officers shall apply, so far as they can be made applicable, to all persons while performing such duties under this section, and any person refusing or neglecting to perform any duty which he is directed under this section to perform shall be deemed to have committed an offence under section 187 of the Indian Penal Code. XLV of 1860

Power of District Magistrate to call upon certain persons to give assistance.

5. (*1*) The District Magistrate, or such officer as the Local Government may appoint in this behalf for any local area, may, by written order, which shall have effect throughout the limits of his district or of such local area, as the case may be, call upon—

(*a*) all owners and occupiers of land, tenure-holders, farmers, assignees of land-revenue and lessees of fisheries under the Burma Fisheries Act, 1875, or the Upper Burma Land and Revenue Regulation, 1889, or their agents, VII of 1875. III of 1889.

(*b*) all village-servants in permanently-settled estates in the Madras Presidency, and

(*c*) all members of panchayats appointed under the Village Chaukidari Act, 1870 (Bengal), or the Chota Nagpur Rural Police Act, 1887 (Bengal), or the Sylhet and Cachar Rural Police Regulation, 1883, VI (B.C.) of 1870. V (B.C.) of 1887. I of 1883.

to give such assistance as he needs towards the taking of a census of the persons who are at the

time of the taking of the census on the lands of such owners, occupiers, holders, farmers and assignees, or within the limits of such fisheries or in the villages for which such village-servants or panchayats are appointed, as the case may be.

(2) Such order shall specify the nature of the assistance required, and such owners, occupiers, holders, farmers, assignees, lessees or their agents, and such village-servants and the members of such panchayats, shall be bound to obey it.

Asking of questions by census-officers.

6. Every census-officer may ask all such questions of all persons within the limits of the local area for which he is appointed as, by instructions issued in this behalf by the Local Government and published in the official Gazette, he may be directed to ask.

Obligation to answer questions.

7. Every person of whom any question is asked under the last foregoing section shall be legally bound to answer such question to the best of his knowledge or belief:

Provided that no person shall be bound to state the name of any female member of his household, and that no woman shall be bound to state the name of her husband or deceased husband or of any other person whose name she is forbidden by custom to mention.

Occupier to allow access, and permit affixing of numbers.

8. Every person occupying any house, enclosure, vessel or other place shall allow census-officers such access thereto as they may require for the purposes of the census, and as, having regard to the customs of the country, may be reasonable, and shall allow them to paint on or affix to the place such letters, marks or numbers as may be necessary for the purposes of the census.

Occupier to fill up schedule.

9. (1) Subject to such orders as the Local Government may issue in this behalf, any census-officer may leave, or cause to be left, at any dwelling-house within the local area for which he is appointed, a schedule for the purpose of its being filled up by the occupier of such house or of any specified part thereof with such particulars as the Local Government may direct regarding the inmates of such house or part at the time of the taking of the census.

(2) When any such schedule has been so left, the occupier of the house or part to which it relates shall fill it up, or cause it to be filled up, to the best of his knowledge or belief, so far as regards the inmates of such house or part, as the case may be, at the time aforesaid, and shall sign his name thereto, and, when so required, shall deliver the schedule so filled up and signed to the census-officer or to such person as he may direct.

Penalties.

10. In any of the following cases, namely:—

(a) if a census-officer or a person appointed to be a census-officer or a person lawfully required to give assistance towards the taking of a census refuses or neglects to use reasonable diligence in performing any duty imposed upon him or in obeying any order issued to him in accordance with this Act, or with any rule duly made thereunder,

(b) if a census-officer intentionally puts any offensive or improper question or knowingly makes any false return,

(c) if any person refuses to answer to the best of his knowledge or belief any question asked of him by a census-officer which he is legally bound by section 7 so to answer,

(d) if any person occupying any house, enclosure, vessel or other place refuses to allow a census-officer such reasonable access thereto as he is required by section 8 to allow,

(e) if any person removes, obliterates, alters or injures before the thirty-first day of March, 1901, any letters, marks or numbers which have been painted or affixed for the purposes of the census,

(f) if any occupier of a dwelling-house or part thereof knowingly and without sufficient cause fails to comply with the provisions of section 9 or makes any false return under that section,

he shall be punishable with fine which may extend to fifty rupees.

Jurisdiction in prosecutions.

11. (1) The Local Government may, by notification in the official Gazette, declare before what classes of Magistrates prosecutions under this Act may be instituted.

(2) Unless and until a notification is published under sub-section (1), all prosecutions under this Act shall, in the towns of Calcutta, Madras and Bombay, be instituted before a Presidency Magistrate, and elsewhere before the District Magistrate.

(3) No prosecution under this Act shall be instituted except with the previous sanction of the Local Government, or with the previous sanction of some officer authorised by the Local Government in this behalf.

Records of census not admissible in evidence in certain proceedings.

12. Notwithstanding anything to the contrary in the Indian Evidence Act, 1872, no entry in any book, register or record made by a census-officer in the discharge of his duty as such officer, and no entry in a schedule delivered under section 9, shall be admissible as evidence in any civil proceeding or any proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898. I of 1872.

Temporary suspension of local enactments and rules as to mode of taking census in municipalities.

13. Notwithstanding anything in any enactment or rule with respect to the mode in which a census is to be taken in any municipality, the municipal authority may, at the time appointed for the taking of the census of British India during the year 1901, cause the census of the municipality to be taken wholly or in part by any method authorised by this Act.

Power in regard to expenses.

14. Notwithstanding anything in any enactment or rule, in regard to municipal, local or village funds, the Local Government may direct that the whole or any part of any expenses incurred for anything done in accordance with this Act, may be charged to any municipal, local or village fund constituted for, and on behalf of, the area within which such expenses were incurred.

Power to make rules.

15. (1) The Governor-General in Council may make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, the Governor-General in Council may make rules providing—

(a) for the appointment of census-officers and of persons to perform any of the duties of census-officers or to give assistance towards the taking of a census and for the general instructions to be issued to such officers and persons;

(b) for the enumeration of persons employed on railways and their families and of other classes of the population for whom it may be necessary or expedient to make special provision;

(c) for the enumeration of persons travelling on the night when a census is taken.

(3) The Governor-General in Council may, by general or special order, direct that all or any of the powers conferred upon him by this section may also be exercised by any Local Government with respect to the territories administered by it.

STATEMENT OF OBJECTS AND REASONS.

The present Bill closely follows the lines of the Indian Census Act, 1890, which was itself only slightly modified from the previous enactment of 1880. Apart from alterations of form necessitated by intermediate legislation or intended to secure greater clearness, substantially only four amendments affecting the subject-matter have been suggested by the experience of the last census. In clause 4 (e) the convenience of railways and of other commercial or industrial enterprises has been consulted by providing for special arrangements for enumeration through their own local officers. Clause 10 (a) has been recast with the object of removing any doubt about the power, which has rarely been required but must always be held in reserve, to punish persons refusing, or neglecting to use due diligence in performing, any duty under the Act. By clause 14 it is proposed to legalize arrangements, which were found to be expedient on the last occasion, for defraying expenses, mostly for petty charges, out of local rates and taxes to an extent varying with circumstances. Finally, the power now to be taken in clause 15 is required to give proper authority to such rules as, in practice, must always be issued by the executive Government for the disposal of questions of detail incidentally arising in the working of the Act.

C. M. RIVAZ.

The 26th June 1900.

(Republished by order of His Excellency the Governor in Council.)

G. S. FORBES,
Secretary to Government

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bills introduced in the Council of the Governor General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 20th July 1900:

No. 7 of 1900.

A Bill to amend the Law of Evidence with respect to Bankers' Books.

WHEREAS it is expedient to amend the Bankers' Books Evidence Act, 1891; It is hereby enacted as follows:

Short title and commencement.

1. (*1*) This Act may be called the Bankers' Books Evidence Act, 1900; and

(*2*) It shall come into force at once.

Amended definition of "company".

2. For the definition of "company" contained in section 2, sub-section (*1*), of the said Act the following shall be substituted, namely:

"(*1*) 'company' means a company registered under any of the enactments relating to companies for the time being in force in the United Kingdom or any of the Colonies or Dependencies thereof or in British India or incorporated by an Act of Parliament or of the Governor General in Council, or by Royal Charter or Letters Patent;."

STATEMENT OF OBJECTS AND REASONS.

The Empress v. *Patrick McGuire*, Full Bench reference decided on the 5th March 1900.

The necessity for the present Bill was suggested by the marginally-noted ruling of the Hon'ble High Court of Calcutta, to which the attention of the Government of India was directed by the Hon'ble the Advocate-General of Bengal, and by a memorial of the Bengal Chamber of Commerce. It was held by the Full Bench that, under the terms of the definition of "company" in section 2 (*1*) of the Bankers' Books Evidence Act, 1891 (XVIII of 1891), the Calcutta branches of banking companies registered under enactments in force in the United Kingdom or in foreign countries were not entitled to statutory privileges in regard to proving the contents of bankers' books. The Bill proposes to extend those privileges to companies registered under enactments in force in the United Kingdom or in any of its colonies or dependencies; but, in the case of companies registered under foreign enactments only, the Government of India are of opinion that the discretionary power conferred by section 3 of the Act of 1891 upon Local Governments still provides the most convenient procedure.

The 13th July 1900.

T. RALEIGH,
J. M. MACPHERSON,
Secy. to the Govt. of India, Leg. Dept.

(Republished by order of His Excellency the Governor in Council.)

G. STOKES,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.
I.B.-2

Bills introduced in the Council of the Governor General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

The following Report of the Select Committee on the Bill to provide for certain matters in connection with the taking of the Census was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 10th August 1900 :—

WE, the undersigned, Members of the Select Committee to which the Bill to provide for certain matters in connection with the taking of the Census 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.

Telegram from Chief Commissioner, Assam, No. 2924-J., dated 23rd July 1900 [Paper No. 1].
From Government, Bengal, No. 3640-Mis., dated 23rd July 1900 [Paper No. 2].
From High Court, Calcutta, No. 1863, dated 23rd July 1900 [Paper No. 3].
From Chief Commissioner, Ajmer-Merwara, No. 821, dated 23rd July 1900 [Paper No. 4].
From Government, Punjab, No. 663-S., dated 25th July 1900, and enclosures [Papers No. 5].
From Chief Commissioner, Central Provinces, No. 6250, dated 24th July 1900 [Paper No. 6].
Telegram from Government, North-Western Provinces and Oudh, dated 29th July 1900 [Paper No. 7].
From Chief Commissioner, Coorg, No. 1370, dated 24th July 1900 [Paper No. 8].
From Agent to Governor General in Baluchistan, No. 774-C., dated 24th July 1900 [Paper No. 9].
From Resident, Hyderabad, No. 326, dated 24th July 1900, and enclosure [Papers No. 10].
Telegram from Government, Burma, No. 1, dated 30th July 1900 [Paper No. 11].
Telegram from Government, Madras, No. 118, dated 30th July 1900 [Paper No. 12].
From Government, Bombay, No. 242-P., dated 27th July 1900, and enclosure [Papers No. 13].
From Government, North-Western Provinces and Oudh, No. 2495, dated 4th August 1900 [Paper No. 14].

2. At the suggestion of the Government of Madras we have substituted a new clause for sub-clause (*b*) of clause 5 so as to secure control over village-officers and servants in unsettled estates and *inam* villages.

3. The Government of Bengal represents that there are no panchayats appointed under the Chota Nagpur Rural Police Act, 1887, and recommends that all ghatwals and all circle-tahsildars appointed under that Act should be included in the provisions made in sub-clause (*c*) of the same clause; and we have amended the sub-clause accordingly.

4. We have also, at the request of the Government of the North-Western Provinces and Oudh, provided in the same sub-clause for the case of village-headmen in the Kumaun Division, where, owing to the paucity of enumerators, the final enumeration will extend over several days, and it is consequently thought desirable that the village-headman should be made responsible for reporting any arrivals after the date of the enumerator's visit.

5. In order to make it clear that no person shall have the right to inspect any book, register or record made by a census-officer or any schedule delivered under clause 9, we have redrafted clause 12 on lines suggested by the Judicial Commissioner of the Central Provinces.

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

In English.

Gazette.	Date.
Gazette of India	30th June 1900.
Fort St. George Gazette	10th July 1900.
Bombay Government Gazette	5th July 1900.
Calcutta Gazette	11th July 1900.
North-Western Provinces and Oudh Government Gazette ..	7th July 1900.
Punjab Government Gazette	5th July 1900.
Burma Gazette	21st July 1900.
Central Provinces Gazette	7th July 1900.
Assam Gazette	21st July 1900.
Coorg District Gazette	11th July 1900.
Sindh Official Gazette	12th July 1900.

In the Vernaculars.

Province.	Language.	Date.
Madras	Tamil	10th July 1900.
	Telugu	10th July 1900.
	Malayalam	10th July 1900.
	Hindustani	17th July 1900.
	Kanarese	17th July 1900.
Bombay	Marathi	12th July 1900.
	Gujarathi	12th July 1900.
	Kanarese	12th July 1900.
Bengal	Bengali	10th July 1900.
	Hindi	10th July 1900.
	Uriya	12th July 1900
Assam	Bengali	28th July 1900.
Coorg	Kanarese	20th July 1900.
Sindh	Sindhi	19th July 1900.

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

C. M. RIVAZ.
T. RALEIGH.
HARNAM SINGH, AHLUWALIA.

The 9th August 1900.

[The italics indicate the alterations proposed by the Select Committee.]

No. II.

A Bill to provide for certain matters in connection with the taking of the Census.

WHEREAS it has been determined to take a census of British India during the year 1901, and it is expedient to provide for certain matters in connection with the taking of such census; It is hereby enacted as follows :—

Title, extent and commencement.

1. (*1*) This Act may be called the Indian Census Act, 1900.

(*2*) It extends to the whole of British India, inclusive of British Baluchistan, the Santhal Parganas and the Pargana of Spiti ; and

(*3*) It shall come into force at once.

Appointment of census-officers.

2. (*1*) The Local Government may appoint any person to take, or aid in or supervise the taking of, the census within any specified local area.

(*2*) Persons so appointed shall be called census-officers.

(*3*) The Local Government may delegate to such authority as it thinks fit the power of appointing census-officers which is conferred by this section.

Proof of appointment of census-officers, and their status as public servants.

3. (*1*) A declaration in writing, signed by any officer authorised by the Local Government in this behalf, that any person has been duly appointed a census-officer for any local area shall be conclusive proof of such appointment.

(*2*) All census-officers shall be deemed to be public servants within the meaning of the Indian Penal Code. XLV of 1860.

Discharge of duties of census-officers in certain cases.

4. (*1*) (*a*) Every officer in command of any body of men belonging to Her Majesty's military or naval forces or to Her Majesty's Indian Marine Service or of any vessel of war,

(*b*) every person (except a pilot or harbour-master) having charge or control of a vessel,

(*c*) every person in charge of a lunatic asylum, hospital, workhouse, prison, reformatory or lock-up, or of any public, charitable, religious or educational institution,

(*d*) every keeper, secretary or manager of any sarai, hotel, boarding-house, lodging-house or club, and

(*e*) every occupant of immoveable property and every manager or officer of a railway or other commercial or industrial enterprise who has at the time of the taking of the census not less than fifty persons employed under him, or living on or in such property,

shall, if so required by the District Magistrate, or by such officer as the Local Government may appoint in this behalf, perform such of the duties of a census-officer in relation to the persons who at the time of the taking of the census are under his command or charge, or inmates of his house or present on or in such immoveable property, as such Magistrate or officer may, by written order, direct.

(*2*) All the provisions of this Act relating to census-officers shall apply, so far as they can be made applicable, to all persons while performing such duties under this section, and any person refusing or neglecting to perform any duty which he is directed under this section to perform shall be deemed to have committed an offence under section 187 of the Indian Penal Code.

Power of District Magistrate to call upon certain persons to give assistance.

5. (*1*) The District Magistrate, or such officer as the Local Government may appoint in this behalf for any local area, may, by written order, which shall have effect throughout the limits of his district or of such local area, as the case may be, call upon—

(*a*) all owners and occupiers of land, tenure-holders, farmers, assignees of land-revenue and lessees of fisheries under the Burma Fisheries Act, 1875, or the Upper Burma Land and Revenue Regulation, 1889, or their agent.

(*b*) *all village-officers and servants in estates as defined in the Madras Proprietary Estates Village Service Act, 1894 (Madras),* and

(*c*) all members of panchayats appointed under the Village Chaukidari Act, 1870 (Bengal), or the Sylhet and Cachar Rural Police Regulation, 1883, *all ghatwals and all circle-tahsildars appointed under the Chota Nagpur Rural Police Act, 1887 (Bengal), and all village-headmen in the Kumaun Division of the North-Western Provinces,* Ben. VI of 1870. I of 1883. Ben. V of 1887.

to give such assistance as he needs towards the taking of a census of the persons who are at the time of the taking of the census on the lands of such owners, occupiers, holders, farmers and assignees, or within the limits of such fisheries or in the villages *or other areas* for which such village-*officers and* servants, panchayats, *ghatwals, circle-tahsildars or village headmen* are appointed, as the case may be.

(*2*) Such order shall specify the nature of the assistance required, and such owners, occupiers, holders, farmers, assignees, lessees or their agents, and such village-*officers and* servants, the members of such panchayats *and such ghatwals, circle-tahsildars and village-headmen* shall be bound to obey it.

Asking of questions by census-officers.

6. Every census-officer may ask all such questions of all persons within the limits of the local area for which he is appointed as, by instructions issued in this behalf by the Local Government and published in the official Gazette, he may be directed to ask.

Obligation to answer questions.

7. Every person of whom any question is asked under the last foregoing section shall be legally bound to answer such question to the best of his knowledge or belief :

Provided that no person shall be bound to state the name of any female member of his household, and that no woman shall be bound to state the name of her husband or deceased husband or of any other person whose name she is forbidden by custom to mention.

Occupier to allow access, and permit affixing of numbers.

8. Every person occupying any house, enclosure, vessel or other place shall allow census-officers such access thereto as they may require for the purposes of the census, and as, having regard to the customs of the country, may be reasonable, and shall allow them to paint on or affix to the place such letters, marks or numbers as may be necessary for the purposes of the census.

Occupier to fill up schedule.

9. (*1*) Subject to such orders as the Local Government may issue in this behalf any census-officer may leave, or cause to be left, at any dwelling-house within the local area for which he is appointed, a schedule for the purpose of its being filled up by the occupier of such house or of any specified part thereof with such particulars as the Local Government may direct regarding the inmates of such house or part at the time of the taking of the census.

(*2*) When any such schedule has been so left, the occupier of the house or part to which it relates shall fill it up, or cause it to be filled up, to the best of his knowledge or belief, so far as regards the inmates of such house or part, as the case may be, at the time aforesaid, and shall sign his name thereto, and, when so required, shall deliver the schedule so filled up and signed to the census-officer or to such person as he may direct.

Penalties.

10. In any of the following cases, namely :

(*a*) if a census-officer or a person appointed to be a census-officer or a person lawfully required to give assistance towards the taking of a census refuses or neglects to use reasonable diligence in performing any duty imposed upon him or in obeying any order issued to him in accordance with this Act, or with any rule duly made thereunder,

(*b*) if a census-officer intentionally puts any offensive or improper question or knowingly makes any false return,

(*c*) if any person refuses to answer to the best of his knowledge or belief any question asked of him by a census-officer which he is legally bound by section 7 so to answer,

(*d*) if any person occupying any house, enclosure, vessel or other place refuses to allow a census-officer such reasonable access thereto as he is required by section 8 to allow,

(*e*) if any person removes, obliterates, alters or injures before the thirty-first day of March, 1901, any letters, marks or numbers which have been painted or affixed for the purposes of the census,

(*f*) if any occupier of a dwelling-house or part thereof knowingly and without sufficient cause fails to comply with the provisions of section 9 or makes any false return under that section,

he shall be punishable with fine which may extend to fifty rupees.

Jurisdiction in prosecutions.

11. (*1*) The Local Government may, by notification in the official Gazette, declare before what classes of Magistrates prosecutions under this Act may be instituted.

(*2*) Unless and until a notification is published under sub-section (*1*), all prosecutions under this Act shall, in the towns of Calcutta, Madras and Bombay, be instituted before a Presidency Magistrate, and elsewhere before the District Magistrate.

(*3*) No prosecution under this Act shall be instituted except with the previous sanction of the Local Government, or with the previous sanction of some officer authorised by the Local Government in this behalf.

Records of census not open to inspection or admissible in evidence in certain proceedings.

12. *No person shall have a right to inspect any book, register or record made by a census-officer in the discharge of his duty as such officer or any schedule delivered under section 9, and notwithstanding* anything to the contrary in the Indian Evidence Act, 1872, no entry in any *such* book, register, record *or schedule,* shall be admissible as evidence in any civil proceeding or any proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898. I of 1872. V of 1898.

Temporary suspension of local enactments and rules as to mode of taking census in municipalities.

13. Notwithstanding anything in any enactment or rule with respect to the mode in which a census is to be taken in any municipality, the municipal authority may, at the time appointed for the taking of the census of British India during the year 1901, cause the census of the municipality to be taken wholly or in part by any method authorised by this Act.

Power in regard to expenses.

14. Notwithstanding anything in any enactment or rule, in regard to municipal, local or village funds, the Local Government may direct that the whole or any part of any expenses

incurred for anything done in accordance with this Act, may be charged to any municipal, local or village fund constituted for, and on behalf of, the area within which such expenses were incurred.

Power to make rules.

15. (*1*) The Governor General in Council may make rules for carrying out the purposes of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, the Governor General in Council may make rules providing—

(*a*) for the appointment of census-officers and of persons to perform any of the duties of census-officers or to give assistance towards the taking of a census and for the general instructions to be issued to such officers and persons;

(*b*) for the enumeration of persons employed on railways and their families and of other classes of the population for whom it may be necessary or expedient to make special provision;

(*c*) for the enumeration of persons travelling on the night when a census is taken.

(*3*) The Governor General in Council may, by general or special order, direct that all or any of the powers conferred upon him by this section may also be exercised by any Local Government with respect to the territories administered by it.

J. M. MACPHERSON,
Secy. to the Govt. of India, Legislative Dept.

(Republished by order of His Excellency the Governor in Council.)

M. HAMMICK,
Ag. Secretary to Government.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Bills introduced in the Council of the Governor General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 4th January 1901:

No. 1 of 1901.

A Bill to amend the law relating to the admission of Native Military Lunatics into Asylums.

Whereas it is expedient to repeal certain provisions of the law now in force with regard to the admission of native military lunatics into asylums; It is hereby enacted as follows:—

Repeal of certain enactments.

1. The enactments mentioned in the schedule hereto annexed are repealed to the extent specified in the fourth column thereof.

Saving of certain detentions.

2. The repeal by this Act of any enactment shall not affect any native military lunatic who, at the commencement of this Act, is detained in an asylum in pursuance of an order under section 6 of the Military Lunatics Act, 1877.

XI of 1877.

THE SCHEDULE.

(*See section 1.*)

Repeal of Enactments.

1	2	3	4
Year.	No.	Short title or subject.	Extent of repeal.
1869	V	Indian Articles of War.	In article 179, *the words from* such allowance *to the end.*
1877	XI	Military Lunatics.	In the preamble, *the words* and to amend the law now in force with regard to the admission thereto of native military lunatics. Sections 4, 5 and 6. In sections 7 and 8 *the words* whether European or native.

Statement of Objects and Reasons.

Experience gathered since the passing of the Military Lunatics Act, 1877, has proved the expediency of following, in regard to persons subject to the Indian Articles of War, the practice, now well established in the British Army, of treating declared insanity as a ground for discharge. The powers to discharge, conferred by articles 3 and 4, will be exercised, as usual, in accordance with Army Regulations on the subject; and it is proposed that, for the future, Native military lunatics should, in consequence of discharge, be governed by the general law affecting the civil population. For this purpose, however, it will be necessary to relieve the military authorities of certain statutory obligations which were imposed by the Military Lunatics Act, 1877. The case of European military lunatics, with reference to whom no alteration of the law is contemplated, stands on an entirely different footing, inasmuch as it is rarely possible to make them over to the custody of friends or relatives in this country. With regard to Natives detained in asylums at the date on which the Act now proposed comes into force, the Government are of opinion that, to avoid the inconvenience of taking fresh proceedings against them as civilians and any hardship arising from stoppage of the allowance at present payable under article 179 of the Indian Articles of War, they should continue to be governed by the procedure now applying to them.

EDWIN H. H. COLLEN,
Major-General.

The 3rd January 1901.

J. M. MACPHERSON,
Secy. to the Govt. of India, Leg. Dept.

(Republished by order of the Governor in Council.)

M. HAMMICK,
Ag. Secy. to Govt., Leg. Dept.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.
I.B.-1

BILL OF THE GOVERNMENT OF INDIA.

Bills introduced in the Council of the Governor General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 18th January 1901 :—

No. 3 OF 1901.

A Bill further to amend the Administrator General's Act, 1874.

WHEREAS Hindus, Muhammadans, Parsis and Buddhists are exempted from the operation of certain provisions of the Administrator General's Act, 1874, and it is expedient that Native Christians should be exempted from the operation of the said provisions to the same extent as Hindus, Muhammadans, Parsis and Buddhists; It is hereby enacted as follows :— II of 1874.

Short title and commencement.

1. (*1*) This Act may be called the Administrator General's Act (Amendment) Act, 1901; and

(*2*) It shall come into force at once.

Definition.

2. In this Act, the expression "Native Christian" means a native of India who is or in good faith claims to be of unmixed Asiatic descent and who professes any form of the Christian religion.

Further amendment of certain sections of Act II of 1874. II of 1874.

3. In sections 16, 17, 18, 37 and 64 respectively of the Administrator General's Act, 1874, before the word "Hindu" wherever it occurs, the word "Native Christian" shall be inserted.

Saving.

4. Nothing herein contained shall affect any probate, letters of administration or certificate granted or vested under the said Act.

STATEMENT OF OBJECTS AND REASONS.

SEVERAL representations have been received by the Government on the subject of the grievances from which Native Christians suffer through the unequal operation of the law in India, relating to probate and administration, to be found in the Indian Succession Act, 1865 (X of 1865), the Hindu Wills Act, 1870 (XXI of 1870), the Administrator General's Act, 1874 (II of 1874), and the Probate and Administration Act, 1881 (V of 1881).

2. By sections 187 and 190 of the Act of 1865 it is provided that no right under a will or to the property of an intestate can be established in any Court unless probate or administration has been granted, and such a grant is further rendered necessary by certain provisions of the Act of 1874, under which the omission to obtain a grant entails the intervention of the Administrator General if the value of the assets of the estate concerned exceeds Rs. 1,000. These provisions govern Native Christians, but not Hindus, Muhammadans or Buddhists save in the Lower Provinces of Bengal and the towns of Madras and Bombay, where, owing to the provisions of the Hindu Wills Act, 1870, which incorporates section 187 of the Act of 1865, probate of the wills of Hindus, Jains, Sikhs and Buddhists has been rendered compulsory. Elsewhere Hindus, Muhammadans and Buddhists are only subject to the Act of 1881, which, while it enables a person governed by it to take out a grant if he finds it expedient to do so, contains no compulsory provisions similar to those of sections 187 and 190 of the Act of 1865. This concession was deliberately made with a view to save Natives of India unnecessary trouble and expense, in uncontested cases, and it is clear that by reason of it Native Christians are in a less favourable position than other Natives who differ from them only in respect of their religious belief.

3. The Government of India are of opinion that the considerations which prompted the granting of the concession above explained to the vast majority of Natives of India, have equal force when applied to the case of such as are Christians. The Act of 1865 was originally designed for Europeans and other persons with a foreign domicile resident in India, and it is due only to the fact that Natives on their conversion to Christianity *ipso facto* cease to be governed by the Indian laws of succession, that, though Asiatics domiciled in the country, they fall within the purview of that Act.

4. To remove these grievances more than one course has been proposed, but that which commends itself to the Government is the exemption of Native Christians from the provisions of sections 16, 17, 18, 37 and 64 of the Administrator General's Act, 1874. This will do for them precisely what was done for Parsis by the amending Act IX of 1881; *i.e.*, it will relieve them from the interference of the Administrator General in certain cases, and will enable them to avoid taking out probate, and, therefore, to escape payment of probate duty, in cases where the assets can be amicably distributed Such action, though it will not place Native Christians on terms of absolute equality with other natives of India, will, it is thought, be an adequate recognition of their grievances. The present Bill has been prepared accordingly.

C. M. RIVAZ.

The 15th January 1901.

J. M. MACPHERSON,
Secy. to the Govt. of India, Leg. Dept.

(Republished by order of the Governor in Council.)

M. HAMMICK,
Ag. Secy. to Govt., Leg. Dept.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

FORT ST. GEORGE GAZETTE SUPPLEMENT.

TUESDAY EVENING, FEBRUARY 19, 1901.

BILL OF THE GOVERNMENT OF INDIA.

Bills introduced in the Council of the Governor General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

The following Report of the Select Committee on the Bill to amend the law relating to the exemption from tolls of persons and property belonging to the Army was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 8th February 1901:—

WE, the undersigned, members of the Select Committee to which the Bill to amend the law relating to the exemption from tolls of persons and property belonging to the Army 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 Chief Commissioner, Coorg, No. 2769, dated 25th November 1899 [Paper No. 1].
From Officiating Agent to Governor-General in Baluchistan, No. 9246, dated 1st December, 1899 [Paper No. 2].
From High Court, Calcutta, No. 3072, dated 9th December, 1899 [Paper No. 3].
From Resident, Hyderabad, No. 384, dated 23rd December, 1899 [Paper No. 4].
From Chief Commissioner, Assam, No. 43-T., dated 22nd December, 1899 [Paper No. 5].
From Chief Commissioner, Central Provinces, No. 10433, dated 23rd December, 1899, and enclosure [Papers No. 6].
From Government, Madras, No. 2-L., dated 2nd January 1900, and enclosures [Papers No. 7].
From Chief Commissioner, Ajmer-Merwara, No. 35, dated 6th January, 1900 [Paper No. 8].
From Government, North-Western Provinces and Oudh, No. 64-XII-398-E., dated 8th January 1900, and enclosure [Papers No. 9].
From Government, Burma, No. 105-3-M.-8, dated 5th Jan. 1900, and enclosures [Papers No. 10].
From Government, Bengal, No. 384-M., dated 24th Jan. 1900, and enclosure [Papers No. 11].
From Government, Punjab, No. 134, dated 25th Jan. 1900, and enclosures [Papers No. 12].
From Government, Bombay, No. 674, dated 10th February, 1900 [Paper No. 13].

2. The lamented decease of Her late Majesty the Queen, Empress of India, and the accession of his present Majesty, have rendered it necessary to make some verbal alterations in the Bill.

3. *Clause 1 (3).*—In accordance with a suggestion made by the Government of the Punjab we have proposed the 1st April as the date on which the new Act should come into force, thus making its commencement coincident with that of the coming financial year.

4. *Clause 2 (c).*—"Landing-place."—We have added words to this definition to make it clear that it covers floating landing-stages.

(*f*) "Local corps under the Government of India."—We have expunged the words "under the Government of India" both in this definition and elsewhere in the Bill where "local corps" are referred to, because, except in the case of the Hyderabad Contingent, these "local corps" are now under the Commander-in-Chief.

(*h*) "Tolls."—As this definition stood in the Bill as introduced, it might have been held to include the octroi or town duties leviable in many towns from which there was no intention to exempt military property. We have therefore amended the definition so as to remove any doubt on this point, and have at the same time, on the suggestion of the Government of Bengal, added words to make it clear that the definition does not include fares for the conveyance of passengers by tramway, which are in some Acts described as tolls.

5. *Clause 3, sub-clause (b).*—It has been suggested by certain Local Governments that this sub-clause in the Bill as introduced does not cover the case of volunteers when on their way to or from a place for drill or musketry exercise. To meet this difficulty we have added words making it expressly applicable to volunteers "proceeding to or returning from duty."

Sub-clause (d).—As we have redrafted this sub-clause it will cover the case of grass cutters of mounted volunteers as well as those employed in connection with the chargers of field officers of other volunteer corps. Such volunteers are required to keep up horses which are liable to be called out on duty at any time, and we consider it to be a not unreasonable concession that the grass-cutters of such horses should have the benefit of the new Act at all times in the same way as the grass-cutters of the other corps referred to in the sub-clause.

Sub-clause (*e*).—Apart from certain slight verbal alterations which we have made in this sub-clause, we have omitted the word "competent" before "military authority" in this and other subsequent sub-clauses, as we think that its retention may possibly lead to difficulties in certain cases.

Sub-clause (*f*).—We have redrafted the latter part of this sub-clause so as to make it provide, as we believe was the original intention, for all cases where the members of families of officers, soldiers or authorised followers accompany them on duty.

Sub-clause (*h*).—This sub-clause is new. It takes the place of sub-clauses (*h*), (*i*) and (*j*) of the Bill as introduced, which it consolidates and expands so as to cover the case of persons employed in carrying baggage. It seems to us that the horses, baggage and coolies accompanying the persons exempted under the previous sub-clauses may fairly claim to be similarly exempted.

Sub-clause (*k*) is also new. The reference to "other animals" in sub-clause (*k*) of the Bill as introduced was intended to provide for animals required for slaughter, but we have thought it best to deal with such animals as well as those required for any purpose connected with the provisioning of troops in a separate sub-clause.

Sub-clause (*l*).—This corresponds to sub-clause (*m*) of the Bill as introduced which we have generalized.

6. *Clause 4.*—We have amplified the provisions of this clause, which relates to tolls on vessels and the baggage of troops embarking or disembarking, so as to make it cover the horses of such troops and carriages belonging to His Majesty or in His Majesty's military service, which are all exempt under the provisions of clause 3.

7. *Clause 5.*—On the suggestion of the Judicial Commissioner of the Central Provinces we have omitted from this clase the words requiring persons demanding and receiving tolls in contravention of the preceding clauses to be tried in a summary way, as we agree with him that there does not appear to us to be any reason why Magistrates who are not invested with summary powers under the Code should be deemed to be so invested for the purposes of this clause, the summary conviction referred to in section 143 of the Army Act being based on a procedure differing widely from that contained in Chapter XXII of the Code.

8. *Clause 6* is new. It takes the place of clauses 6 to 9 of the Bill as introduced, which deal in considerable detail with the subject of compensation. We do not anticipate that claims to compensation will be numerous, more especially if the terms of the proposed Act are explained to intending lessees at the annual auctions which we believe take place in February and March. But in case any owner or lessee for a fixed term can show that his interests are prejudiced by the passing of the Act, we think it sufficient to give the Local Government power to direct proper inquiry and assessment of compensation as we have provided in this clause.

9. *Clause 7* corresponds with clause 10 of the Bill as introduced. We have given power to the Governor-General in Council as well as the Local Government, with the previous sanction of the Governor-General in Council, to make rules. We have altered the language of this clause so as to provide for rules prescribing the form of passes to be given under the Act, and we have omitted the words relating to compensation which have been rendered unnecessary by the general provisions of clause 6.

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

In English.

Gazette.	*Date.*
Gazette of India	21st October 1899.
Fort Saint George Gazette	31st October 1899.
Bombay Government Gazette	26th October 1899.
Calcutta Gazette	1st November 1899.
North-Western Provinces and Oudh Government Gazette.	28th October 1899.
Punjab Government Gazette	26th October 1899.
Burma Gazette	11th November 1899.
Central Provinces Gazette	28th October 1899.
Assam Gazette	11th November 1899.
Coorg District Gazette	1st November 1899.
Sind Official Gazette	2nd November 1899.

In the Vernaculars.

Province.	*Language.*	*Date.*
Bombay	Marathi, Gujarathi, Kanarese	28th December 1899.
Bengal	Bengali	19th December 1899.
	Hindi	26th December 1899.
	Uriya	28th December 1899.
North-Western Provinces and Oudh.	Urdu	16th December 1899.
Punjab	Urdu	14th December 1899.
Assam	Bengali	30th December 1899.
Sindh	Sindhi	7th December 1899.

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

C. M. RIVAZ.
EDWIN H. H. COLLEN.
T. RALEIGH.
H. F. EVANS.
ALLAN ARTHUR.
P. M. MEHTA.
A. WINGATE.

The 25th January 1901.

[NOTE.—The portions of clauses 2, 3 and 5 which differ from, or do not appear at all in, the Army Act are, as far as possible, printed in italics. The alterations proposed by the Select Committee are printed in antique type.]

No. II.

A Bill to amend the law relating to the exemption from tolls of persons and property belonging to the Army.

WHEREAS certain officers, soldiers and other persons, and certain animals, baggage and carriages belonging or attached to the Army, are exempted by section 143 of the Army Act from payment of certain duties or tolls; 44 & 45 Vict., c. 58.

And whereas similar exemptions are made by various enactments of the Indian legislatures, but these exemptions are not co-extensive with those made by the said Army Act;

And whereas it is expedient to remove the inconsistency now existing between the said Army Act and the said enactments, and to exempt certain other persons and property belonging to the Army from payment of certain tolls;

And whereas it is declared by section 169 of the said Army Act that "it shall be lawful for the Governor-General of India . . . . to provide by law for reducing any fine directed by this Act to be recovered on summary conviction to such amount as may appear to the Governor-General . . . . to be better adapted to the pecuniary means of the inhabitants; and also to declare the amount of the local currency which is to be deemed for the purposes of this Act to be equivalent to any sum of British currency mentioned in this Act", and it is expedient to alter in the manner hereinafter appearing the fine imposed by section 143 of the said Army Act;

It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian Tolls (Army) Act, 1901.

(*2*) It extends to the whole of British India, inclusive of British Baluchistan, the Santhál Parganas and the Pargana of Spiti; and

(*3*) It shall come into force on the first day of April, 1901.

Definitions.

2. In this Act, *unless there is anything repugnant in the subject or context,*—

[Cf. Act XVII, 1878, s. 3; Bengal Act I, 1885, s. 5.]

(*a*) "*ferry*" *includes every bridge and other thing which is a ferry within the meaning of any enactment authorising the levy of tolls on ferries, but does not include any ferry or other thing which is included in the definition of "railway" in section 3 of the Indian Railways Act, 1890*:

IX of 1890.

[Cf. Army Act, s. 190 (9).]

(*b*) the expression "His Majesty's Regular Forces" *has the meaning assigned to it by section 190, clause* (*8*), *of the Army Act, and includes the Indian Reserve Forces when subject to military law*:

44 & 45 Vict., c. 58.

[Cf. Army Act, s. 190 (*40*).]

(*c*) "horse" includes a mule and any beast of whatever description *which is* used for burden or draught or for carrying persons:

[Cf. Army Act, ss. 190, (*5*), 175 (*9*).] 17 of 1888.

(*d*) *the expression* "Indian Reserve Forces" means the *forces constituted by the Indian Reserve Forces Act, 1888, and includes persons holding commissions in the Indian Army Reserve of officers when called out in any military capacity*:

[Cf. Army Act, s. 143 (*l*).]

(*e*) "landing-place" includes a pier, wharf, quay, *jetty and* a stage, whether fixed or floating:

(*f*) *the expression "local corps" means the Hyderabad Contingent, the Central India Horse, the Malwa Bhil Corps, the Bhopal Battalion, the Deoli Irregular Force, the Erinpura Irregular Force, the Meywar Bhil Corps, the Merwara Battalion and the Escort of the Resident in Nepal, and includes any other corps which may be notified by the Governor-General in Council in this behalf by order published in the Gazette of India*:

(*g*) "*public authority*" *means the Government or a local authority; and, so far as regards tolls levied by a railway company under section 4 of the Indian Guaranteed Railways Act, 1879, or section 51 of the Indian Railways Act, 1890, includes such a railway company: and* 42 & 43 Vict., c. 41. IX of 1890.

(*h*) "tolls" include duties, *dues*, rates, *rents, fees and charges*, but do not include customs-duties levied under the Indian Tariff Act, 1894, octroi-duties or town-duties on the import of goods, or fares paid for the conveyance of passengers on a tramway. [Cf. Army Act, s. 143, (*j*), (*3*).] VIII of 1894.

Exemptions from tolls.

3. *The following persons and property namely*:— [Cf. Army Act, s. 143 (*l*).]

(*a*) all officers and soldiers of—

(i) His Majesty's Regular Forces,
(ii) *any local corps, or*
(iii) *Imperial Service Troops,*

when on duty or on the March,

(*b*) *all members of a corps of Volunteers when on duty or* when proceeding to or returning from duty,

(*c*) *all officers and soldiers of the Indian Reserve Forces when proceeding from their place of residence on being called out for training or service or when proceeding back to their place of residence after such training or service,*

(*d*) *all grass-cutters* when employed in the service of—

(i) His *Majesty's Regular Forces,*
(ii) *any local corps,*
(iii) *Imperial Service Troops,* or
(iv) any corps of Volunteers,

(*e*) *all other authorised followers of*—

(i) His *Majesty's Regular Forces,*
(ii) *any local corps,*
(iii) *Imperial Service Troops, or*
(iv) *any corps of Volunteers,*

when they *accompany any body of such Forces, Troops or Volunteers, or any members of such corps on the march, or when* they are *otherwise moving under the orders of military authority,*

(*f*) *all members of the families of officers, soldiers or authorised followers of*—

(i) His *Majesty's Regular Forces, or*
(ii) *any local corps,*

when accompanying any body of troops, or any officer, soldier or authorised follower thereof, on duty or *on the march,*

(*g*) all prisoners under military escort,

(*h*) the horses and baggage, and the persons (if any) employed in carrying the baggage of any persons exempted under any of the foregoing clauses, when such horses, baggage or persons accompany the persons so exempted under the circumstances mentioned in those clauses respectively,

(*i*) all carriages and horses belonging to His Majesty or employed in His *Majesty's* military service and all persons in charge of or accompanying the same, when conveying any such persons as *hereinbefore* in this section mentioned, or *when conveying* baggage or stores, or *when* returning unladen from conveying *such persons, baggage or stores*,

(*j*) *all carriages and horses, when moving under the orders of military authority for the purpose of being employed in* His *Majesty's military service*,

(*k*) all animals accompanying any body of troops which are intended to be slaughtered for food or kept for any purpose connected with the provisioning of such troops, and

(*l*) *all persons in charge of* any *carriage*, horse *or animal* exempted under any of the foregoing clauses *when accompanying the same under the circumstances mentioned in those clauses respectively*,

shall be exempted from payment of any tolls—

(*i*) on embarking or disembarking, *or on being shipped or landed*, from or upon any landing-place, or

(*ii*) in passing along or over any turnpike or other road or bridge, or

(*iii*) *on being carried by means of any ferry*,

otherwise demandable by virtue of any Act, Ordinance, *Regulation*, order or direction of *any* legislature or other *public* authority in British India:

Provided that nothing in this section shall exempt any boats, barges or other vessels employed in conveying the said persons or *property* along any canal from payment of tolls in like manner as other boats, barges and vessels.

[Cf. Bombay Act VI of 1879, s. 44; Bombay Act VI of 1886, s. 45.]

Tolls on vessels transporting troops and baggage, etc., of troops embarked or disembarked.

4. (*1*) No tolls shall be leviable by any local authority in respect of—

(*a*) any vessel employed by the Government solely for the transport of troops, or

(*b*) the horses, baggage or other effects of any troops embarking or disembarking at any port, or

(*c*) carriages belonging to His Majesty or employed in His Majesty's military service embarking or disembarking at any port.

(*2*) In respect of all such vessels or troops, their families, their horses, baggage and their effects, or any such carriages as aforesaid, the local authority concerned shall, in addition to its duties in the embarking and disembarking of the same, perform and supply all such reasonable services and accommodation as may, from time to time, be required by the Government, and shall receive payment for all such services and accommodation on such terms and for such periods as may, from time to time, be determined by the Government in consultation with such local authority.

Penalty.

5. Any person who demands and receives any toll in contravention *of the provisions* of section 3 *or section 4*, shall be *punishable with* fine *which may extend to fifty rupees*. [Cf. Army Act, s. 143 (3).]

Compensation.

6. (*1*) If any owner or lessee, or any Company, railway administration or local authority claims compensation for any loss alleged to have been incurred owing to the operation of this Act, the claim shall be submitted to the Local Government.

(*2*) On receiving any such claim, the Local Government, subject to the control of the Governor General in Council, shall pass such order thereon as justice requires, and shall give all necessary directions for the purpose of ascertaining the facts of the case and of assessing the compensation, if any, to be paid.

Rules.

7. (*1*) The Governor General in Council, and the Local Government with the previous sanction of the Governor General in Council, may make rules to carry out the purposes and objects of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, the Governor General in Council, or the Local Government with the previous sanction of the Governor General in Council, may make rules providing for the form of passes to be given to persons or bodies of persons or in respect of property entitled to exemption from the payment of tolls under this Act.

(*3*) The power to make rules under this section is subject to the condition of the rules being made after previous publication.

(*4*) All rules made under this section shall be published in the Gazette of India or in the local official Gazette, and, on such publication, shall have effect as if enacted by this Act.

Repeals.

8. The enactments specified in the schedule are hereby repealed to the extent mentioned in the fourth column thereof.

THE SCHEDULE.

ENACTMENTS REPEALED.

(*See section 8.*)

Year.	Number.	Short title or subject.	Extent of repeal.
		Acts of the Governor General in Council.	
1851	VIII	The Indian Tolls Act, 1851.	In section 4, *the words* of troops and military stores and equipages on their march or.
1878	XVII	The Northern India Ferries Act, 1878.	So much of section 15 as provides for the exemption from payment of tolls of any persons, animals, vehicles or other things which are exempted by section 3 of this Act.

THE SCHEDULE—*cont.*

Year.	Number.	Short title or subject.	Extent of repeal.
		Acts of the Governor of Fort St. George in Council.	
1884	I	The City of Madras Municipal Act, 1883.	In section 174, *the word* troops *and the word* military; *also* so much of the section as relates to any Government stores, vehicles, animals or other property which are or is exempted by section 3 of this Act.
,,	IV	The Madras District Municipalities Act, 1884.	In section 91, sub-section (*3*), clause (*b*), as amended by the Madras District Municipalities Act Amendment Act, 1897 (Madras Act III of 1897), *the words* troops, military stores and baggage, military and.
,,	V	The Madras Local Boards Act, 1884.	In section 87, sub-section (3), *the words* troops on their march or of military and; *the words* military and; *also* so much of the sub-section as relates to any Government stores or equipages which are exempted by section 3 of this Act.
		Acts of the Governor of Bombay in Council.	
1868	II	The Bombay Ferries Act, 1868.	Section 3, clause (*a*).
1875	III	Tolls on Public Roads and Bridges.	In section 5, *the words* of troops and military stores and equipages on their march or.
1879	VI	The Bombay Port Trust Act, 1879.	Section 44.
1886	VI	The Karáchi Port Trust Act, 1886.	Section 45.
1888	III	The City of Bombay Municipal Act, 1888.	In section 190, sub-section (*1*), *the letter* (*b*); *also* so much of the rest of the sub-section as excepts vehicles which are exempted by section 3 of this Act.
,,	V	The Aden Port Trust Act, 1888.	Section 40, sub-section (*3*), clause (*b*).
		Acts of the Lieutenant-Governor of Bengal in Council.	
1876	V	The Bengal Municipal Act, 1876.	In section 159, *the words* of troops on the march or of animals or vehicles employed in the transport of such troops or, *the words* military or, *in both places in which they occur, and the words* or of any animals, whether belonging to Government or otherwise, which are attached to a regiment or a Military Department, and which pass through a toll-bar: *also* so much of the section as relates to any Government stores, and so much of the proviso as relates to any animals, which are exempted by section 3 of this Act.
1884	III	The Bengal Municipal Act, 1884.	In section 168, *the words* of troops on the march or of animals or vehicles employed in the transport of such troops or, *the words* military or *in both places in which they occur, and the words* or of any animals, whether belonging to Government or otherwise, which are attached to a regiment or a Military Department, and which pass through a toll-bar: *also* so much of the section as relates to any Government stores, and so much of the proviso as relates to any animals, which are exempted by section 3 of this Act.
1885	I	The Bengal Ferries Act, 1885.	So much of section 18 as provides for the exemption from payment of tolls of any persons, animals, vehicles or other things which are exempted by section 3 of this Act.
		Act of the Lieutenant-Governor of Burma in Council.	
1898	II	The Burma Ferries Act, 1898.	So much of section 16 as provides for the exemption from payment of tolls of any persons, animals, vehicles or other things which are exempted by section 3 of this Act.

J. M. MACPHERSON,
Secy. to the Govt. of India, Leg. Dept.

(Republished by order of the Governor in Council.)

M. HAMMICK,
Ag. Secy. to Govt., Leg. Dept.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.
I.B.-2

BILL OF THE GOVERNMENT OF INDIA.

Bills introduced in the Council of the Governor General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

The following Report of the Select Committee on the Bill further to amend the Indian Ports Act, 1889, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 8th February 1901 :—

WE, the undersigned, Members of the Select Committee to which the Bill further to amend the Indian Ports Act, 1889, 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 High Court, Calcutta, No. 2893, dated 4th December 1900 [Paper No. 1].
Resolution by Government of India, Finance and Commerce Department, No. 6112 S.R., dated 13th December 1900, and enclosures [Papers No. 2].
From Government, Burma, No. 604-3 P.-16, dated 19th December 1900 [Paper No. 37].
From Government, Bengal, No. 18, Marine, dated 3rd January 1901 [Paper No. 4].
From Government, Madras, No. 5, Marine, dated 7th January 1901, and enclosure [Papers No. 5].
From Government, Bombay, No. 216, dated 12th January 1901, and enclosures [Papers No. 6].

2. In accordance with a suggestion from the Government of Madras, we have specifically provided in the opening words of the new clause (*p*), which the Bill proposes to add to section 6 of the Indian Ports Act, 1889, for the establishment and regulation of hospitals for the treatment of, as well as sanitaria for the segregation of, persons suffering from, or who have recently recovered from, dangerous infectious or contagious diseases.

3. The Government of Bombay have suggested that the clause should be extended so as to provide for the segregation of "contacts" and "suspects," but we have not been able to adopt this proposal, as it would, in our opinion, be difficult to control the exercise of such a power by Port Health Officers.

4. We have extended from seven to twelve days the period which is fixed by sub-clause (*iii*) of the new clause (*p*). We understand that twelve days will cover cases of incubation of small-pox.

5. We have inserted a new sub-clause (*v*) in the same clause to provide for cases in which vessels, though not coming themselves from infected ports, may bring persons who have been transhipped into such vessels *en route* from such ports

6. We have corrected a clerical error which has been discovered in clause 2, sub-clause (*2*), of the Bill as introduced.

7. Certain proposals for further amendment of the Indian Ports Act in matters relating to port-dues have been made by the Government of Madras. We have not, however, seen our way to considering these proposals in connection with the present Bill, which is limited in its scope to matters connected with health regulations in ports.

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

In English.

Gazette.	*Date.*
Gazette of India	20th October 1900.
Fort Saint George Gazette	30th October 1900.
Bombay Government Gazette	25th October 1900.
Calcutta Gazette	31st October 1900.
Burma Gazette	10th November 1800.
Sind Official Gazette	22nd November 1900.

In the Vernaculars.

Province.	*Language.*	*Date.*
Madras	Tamil	13th November 1900.
	Telugu	13th November 1900.
	Kanarese	13th November 1900.
	Malayalam	13th November 1900.
	Hindustani	20th November 1900.
Bombay	Marathi	22nd November 1900.
	Gujarathi	22nd November 1900.
	Kanarese	22nd November 1900.
Bengal	Bengali	4th December 1900.
	Hindi	11th December 1900.
Burma	Burmese	10th November 1900.
Sindh	Sindhi	29th November 1900.

9. We think that the Bill has not been so altered as to require republication, and we recommend that it be passed as now amended.

T. RALEIGH.
C. M. RIVAZ.
E. FG. LAW.
P. ANANDA CHARLU.
ALLAN ARTHUR.

The 5th February 1901.

[The portions in italics show the alterations proposed by the Select Committee.]

No. II.

A Bill further to amend the Indian Ports Act, 1889.

X of 1889.

WHEREAS it is expedient further to amend the Indian Ports Act, 1889; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Indian Ports Act, 1901; and

(*2*) It shall come into force at once.

X of 1889.

Amendment of section 6, Act X, 1889.

2. (*1*) For clause (*p*) of sub-section (*1*) of section 6 of the Indian Ports Act, 1889, the following shall be substituted, namely:—

"(*p*) with the previous sanction of the Governor General in Council, for the establishment and regulation of places to be used as sanitaria for the segregation or *as hospitals for the treatment* of persons who are or have recently been suffering from any dangerous infectious or contagious disease, and for regulating the action, including the disposal of dead bodies, to be taken—

(*i*) where a vessel on which there is any case of dangerous infectious or contagious disease common in India, enters or is in any such port;

(*ii*) where a vessel on which there is any case of dangerous infectious or contagious disease uncommon in India, enters or is in any such port;

(*iii*) where a vessel on which there has been any case of dangerous infectious or contagious disease or any death within *twelve* days previous to the arrival of the vessel at such port, enters or is in any such port;

(*iv*) where a vessel enters any such port from a port in which, or in the neighbourhood of which, there is believed to be, or to have been at the time when the vessel left such port, any dangerous infectious or contagious disease uncommon in India;

(*v*) *where a vessel enters any such port having on board any person transhipped from a vessel coming from a port in which or in the neighbourhood of which there is believed to be or to have been at the time when such last-mentioned vessel left such last-mentioned port any dangerous infections or contagious disease uncommon in India;*

(*vi*) where there is a dead body on board a vessel in any such port;

(*vii*) where there are on board a vessel in any such port food-stuffs which, owing to decomposition or for any other reason, are, in the opinion of the Health Officer, unfit for human consumption; or

(*viii*) where a vessel leaves any such port while there is in the port or in its neighbourhood any dangerous infectious or contagious disease uncommon in India.

For the purposes of this clause only such diseases shall be deemed to be dangerous infectious or contagious diseases, or diseases common or uncommon in India, as the Governor General in Council may by order direct."

(*2*) After sub-section (*2*) *of the same section* the following sub-sections shall be inserted, namely:—

"(*3*) If any person disobeys any rule made under clause (*p*) of sub-section (*1*), he shall be punished for every such offence with fine which may extend to one thousand rupees.

(*4*) If a master fails wholly or in part to do any act prescribed by any rule made under clause (*p*) of sub-section (*1*), the Health Officer shall cause such act to be done, and the reasonable expenses incurred in doing such act shall be recoverable by him from such master."

Repeal of Act 1, 1870.

3. The Indian Quarantine Act, 1870, is hereby repealed. I of 1870.

J. M. MACPHERSON,
Secy. to the Govt. of India, Leg. Dept.

(Republished by order of the Governor in Council.)

M. HAMMICK,
Ag. Secy. to Govt., Leg. Dept.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

FORT ST. GEORGE GAZETTE SUPPLEMENT.

TUESDAY EVENING, FEBRUARY 19, 1901.

BILL OF THE GOVERNMENT OF INDIA.

Bills introduced in the Council of the Governor General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 8th February 1901:—

No. 4 OF 1901.

A Bill to consolidate and amend the Law relating to the Extradition and Rendition of Criminals.

WHEREAS it is expedient to consolidate and amend the law relating to the extradition and rendition of criminals; It is hereby enacted as follows:—

Preliminary.

Short title, extent and commencement.

1. (*1*) This Act may be called the *Indian* Extradition Act, *1901*.

(*2*) It extends to the whole of British India (*including British Baluchistan, the Santhal Parganas and the Purgunas of Spiti*).

(*3*) It shall come into force on such day as the Governor General in Council, by notification in the *Gazette of India*, may direct.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

[XXI of 1879, s. 3.]

(*a*) "European British subject" means a European British subject as defined by the Code of Criminal Procedure *for the time being in force*;

V of 1898. [56 & 57 Vict., c. 52, s. 26.]

(*b*) "*conviction*" and "*convicted person*" *do not include a conviction or a person convicted for contumacy under foreign law; but "accused person" includes a person convicted for contumacy under foreign law*:

[Ibid.]

(*c*) "*extradition offence*" *means any such offence as is described in the first schedule*:

[New.]

(*d*) "*High Court*" *means the High Court as defined by the Code of Criminal Procedure for the time being in force*:

[New.]

(*e*) "*offence*" *includes any act wheresoever committed which would, if committed in British India, constitute an offence*:

[New.]

(*f*) "*rules*" *include forms*: *and*

[56 & 57 Vict., c. 52, s. 26.]

(*g*) "*warrant*", *in the case of any foreign State, includes any judicial document authorizing the arrest of any person accused or convicted of an offence.*

Surrender of Fugitive Criminals.

Requisition for extradition.

3. (*1*) Where a requisition is made to the *Government of India* or to any Local Government by the Government *of any country or place outside British India* that a person accused of having committed an offence in such *country or place* should be *surrendered*, the *Government of India or the* Local Government, *as the case may be*, may, *if it thinks fit*, issue an order to any Magistrate who would have had jurisdiction to inquire into the offence if it had been committed within the local limits of his jurisdiction, directing him to inquire into such accusation. [XXI of 1879, s. 14.]

Summons or warrant for arrest.

(*2*) The Magistrate so directed shall issue a summons or warrant for the arrest of *the accused* according as the offence named appears to be one for which a summons or warrant would ordinarily issue.

Inquiry by Magistrate

(*3*) *The Magistrate shall inquire into the accusation and shall take such evidence as may be produced in support of the requisition and on behalf of the accused, including any evidence which may be tendered to show that the offence named is not an extradition offence.*

Committal.

(*4*) *If the Magistrate is of opinion that a prima facie case is made out in support of the requisition, he may commit the accused person to prison to await the orders of the Government of India or the Local Government, as the case may be.*

Magistrate's report.

(*5*) *The Magistrate* shall report *the result of his inquiry* to the Government *of India or the Local Government, as the case may be, and shall forward, together with such report, any written statement which the accused person may desire to submit for the consideration of the Government.*

Reference to High Court if Government thinks necessary.

(*6*) *If the Government of India or the Local Government, as the case may be, is of opinion that such report or written statement raises an important question of law, it may make an order referring such question of law to the High Court, and the accused person shall not be surrendered until such question has been decided.*

(7) If, upon receipt of such report *and statement or upon the decision of any such question, the* Government *of India or the Local Government, as the case may be*, is of opinion that the accused person ought to be *surrendered*, it may issue a warrant for the custody and removal of such accused person and for his delivery at a place and to a person to be named in the warrant.

Warrant for surrender.

[XXI of 1879, s. 15.]

4. *(1) If* it appears to *a* Magistrate that a person within the local limits of *his* jurisdiction *is* accused or suspected of having committed an offence *in any country or place outside British India* and that such person *may lawfully be surrendered to the Government of such country or place, or that a warrant may be issued for his arrest under section 5 of this Act or under the Fugitive Offenders Act, 1881, the* Magistrate may, if he thinks fit, issue a warrant for the arrest of such person on such information or complaint and on such evidence as would, in his opinion, justify the issue of a warrant if the offence had been committed within the local limits of his jurisdiction.

Warrant issued by Magistrate without order.

44 & 45 Vict., c. 69.

(2) The Magistrate shall *forthwith* report *the issue of a warrant under this section* to the Local Government and, if the offence appears or is alleged to have been committed in a *country or place* for which there is a Political Agent, he *shall also forthwith report the same* to such *Political* Agent.

Warrant reported forthwith.

[XXI of 1879, s. 16.]

(3) A person arrested on a warrant issued under this section shall *not* be detained more than two months, *or, in cases under the Fugitive Offenders Act, 1881, more than one month*, unless within such period the Magistrate receives an order made with reference to *such person* under section *3 of this Act*, or a warrant for the *arrest* of such person under section *5 of this Act or under the Fugitive Offenders Act, 1881.*

Person arrested not to be detained unless order or warrant received.

44 & 45 Vict., c. 69.

44 & 45 Vict., c. 69.

[*Ibid*, s. 17.]

(4) In the case of *a* person arrested or detained under *this* section, the provisions of the Code of Criminal Procedure *for the time being in force* shall apply in the same manner as if such person were accused of committing in British India the offence with which he is charged.

Bail.

V of 1898.

Surrender to Political Agents.

[*Ibid*, s. 11.]

5. *(1)* Where an *extradition* offence has been committed or is supposed to have been committed by a person, not being a European British subject, in any *country or place outside British India*, and such person escapes into or is in British India, *and* the Political Agent *in or* for such *country or place* issues a warrant, *addressed* to the Magistrate of any district in which such person is believed to be, for his arrest and delivery at a place and to *an officer* to be named in the warrant, *such Magistrate may act in pursuance of such warrant and may give directions accordingly.*

Warrant may be issued in certain cases by a Political Agent.

[*Ibid*, s. 13.]

(2) A warrant issued *as mentioned in sub-section* (1) shall be executed in the manner provided by the law for the time being in force with reference to the execution of warrants, and the accused person, when arrested, shall, unless released in accordance with the provisions of *this Act*, be forwarded to the place and delivered to the officer named in the warrant.

Execution of such warrant.

V of 1898. [New.]

(3) The provisions of the Code of Criminal Procedure for the time being in force in relation to proclamation and attachment in the case of persons absconding shall, with any necessary modifications, apply where any warrant has been received by a Magistrate under this section as if the warrant had been issued by himself.

Proclamation and attachment of persons absconding.

6. *(1) Where* a Political Agent *has* directed by endorsement *on any such warrant that the person for whose arrest it is issued may be released on executing* a bond with sufficient sureties for his attendance before the officer *named* in the warrant at a specified time *and place*, the Magistrate to whom the warrant is *addressed* shall take such security and release such person from custody.

Release on giving security.

[XXI of 1879, s. 12A.]

(2) Where security is taken under this section, the Magistrate shall certify the fact to the Political Agent *who issued* the warrant, and shall retain the bond.

Magistrate to retain bond.

(3) If the person bound by any such bond does not appear *at the place and time stated*, the Magistrate may, on being satisfied as to his default, issue a warrant directing that he be re-arrested and handed over to *the* officer named *in the bond.*

Re-arrest in case of default.

[*Ibid*, s. 12B.]

(4) In the case of *any* bond executed *under this section*, the Magistrate may exercise the powers conferred by the Code of Criminal Procedure *for the time being in force in relation to taking a deposit in lieu of the execution of a bond and with respect to the forfeiture of bonds and the discharge of sureties.*

Power to take deposit in lieu of bond, etc.

[*Ibid*, s. 12C.]

V of 1898.

Crimes committed at sea.

7. *Where the Government of any country or place outside British India makes a requisition for the surrender of a person accused of an extradition offence committed on board any vessel on the high seas which comes into any port of British India, the Local Government and a Magistrate having jurisdiction in such port may exercise the powers conferred by this Act.*

Extradition offence committed at sea.

[New.]

Convicted Persons: Abetment, etc.

8. *(1) The provisions of this Act with reference to accused persons shall, with any necessary modifications, apply to the case of a person who, having been convicted of an offence in any country or place outside British India, has escaped into or is in British India before his sentence has expired.*

Act extends to convicted persons.

[New.]

(2) Every person who is accused or convicted of abetting any extradition offence, or of assisting the escape of any person accused of an extradition offence, shall be deemed, for the purposes of this Act, to be accused or convicted of having committed such offence, and shall be liable to be arrested and surrendered accordingly.

Abettors.

[36 & 37 Vict., c. 60, s. 3.]

9. *(1) A person accused of an offence committed within British India, not being the offence for which his surrender is asked, or undergoing sentence under any conviction in British India, shall not be surrendered or handed over to the Government of any country or place outside British India, until after he has been discharged, whether by acquittal or by expiration of his sentence or otherwise.*

Persons in custody on charge or conviction within British India.

[33 & 34 Vict., c. 52, s. 3 (3).]

(2) Where a person accused or convicted of any offence is surrendered to the Government of India or to any Local Government by the Government of any country or place outside British India, such person shall not, until he has been restored or had an opportunity of returning to such country or place, be triable or tried for any offence committed prior to his surrender other than such offence or offences as may be proved by the facts on which the surrender is grounded.

[*Ibid*, s. 19.]

General Provisions.

[New.]

10. *It shall be lawful for any person to whom a warrant is directed in pursuance of the provisions of this Act, to receive, hold in custody and convey the person mentioned in the warrant to the place named in the warrant and, if such person escapes out of any custody to which he may be delivered in pursuance of such warrant, he may be re-taken as a person accused of an offence against the law of British India may be re-taken upon an escape.*

Lawfulness of arrest and re-taking.

[New.]

11. *The Government of India or the Local Government may, by order, stay any proceedings taken under this Act, and may direct any warrant issued under this Act to be cancelled, and the person for whose arrest such warrant has been issued to be discharged.*

Power of Government to discharge persons in custody.

[New.]

12. *The provisions of this Act shall apply to an offence or to an extradition offence, as the case may be, committed before the passing of this Act, and to an offence in respect of which a Court of British India has concurrent jurisdiction.*

Application of Act to crimes committed before its commencement.

Evidence.

[33 & 34 Vict., c. 52, ss. 14, 15.]

13. *(1) In any proceedings under this Act, exhibits and depositions (whether received or taken in the presence of the person against whom they are used or not) and copies thereof, and official certificates of facts and judicial documents stating facts, may, if duly authenticated, be received as evidence.*

Exhibits, depositions, etc.

(2) Warrants, depositions or statements on oath which purport to have been issued, received or taken by any Court of Justice outside British India, or copies thereof, and certificates of, or judicial documents stating the fact of, conviction before any such Court, shall be deemed duly authenticated,—

(a) if the warrant purports to be signed by a Judge, Magistrate or Officer of the State or country where the same was issued or acting in or for such State or country:

(b) if the depositions or statements or copies thereof purport to be certified, under the hand of a Judge, Magistrate or Officer of the State or country where the same were taken, or acting in or for such State or country, to be the original depositions or statements or to be true copies thereof, as the case may require:

(c) if the certificate of, or judicial document stating the fact of, a conviction purports to be certified by a Judge, Magistrate or Officer of the State or country where the conviction took place or acting in or for such State or country:

(d) if the warrants, depositions, statements, copies, certificates and judicial documents, as the case may be, are authenticated by the oath of some witness or by the official seal of a minister of the State where the same were respectively issued, taken or given.

[XXI of 1879, s. 19.]

14. *(1)* The testimony of any witness may be obtained in relation to any criminal matter pending in any Court of tribunal in *any country or place outside British India* in like manner as it may be obtained in any civil matter under the provisions of the Code of Civil Procedure *for the time being in force with respect to commissions*, and the provisions of that *Code relating thereto* shall be construed as if the term "suit" included a *criminal* proceeding.

Evidence on commission in criminal matter.

XIV of 1882.

(2) No proceeding shall be taken under this section where the offence is of a political character, *unless the evidence is required for a British Court or tribunal.*

(3) If any question arises as to the political character of the offence, the matter shall be referred to the Governor General in Council for determination.

Fugitive Offenders from one part of Her Majesty's dominions to another.

[Sec. 44 & 45 Vict., c. 69, s. 32.]

15. *For the purpose of applying and carrying into effect in British India the provisions of the Fugitive Offenders Act, 1881, the following provisions are hereby made:—*

Application of Fugitive Offenders Act, 1881.

44 & 45 Vict., c. 69.

(a) the powers conferred on "Governors" of British possessions may be exercised by any Local Government:

(b) the powers conferred on a "Superior Court" may be exercised by any Judge of a High Court:

(c) the powers conferred on a "Magistrate" may be exercised by any Magistrate of the first class or by any Magistrate empowered by the Local Government in that behalf:

(d) the offences committed in British India to which the Act applies, are piracy, treason and any offence punishable under the Indian Penal Code with rigorous imprisonment for a term of twelve months or more or with any greater punishment.

XLV of 1860.

Rules.

[XXI of 1879, s. 18.]

16. *(1)* The Governor General in Council may make rules to carry out the purposes of this Act.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the confinement, diet and prison discipline of British subjects (*whether* Europeans *or others*) imprisoned by Political Agents under this Act:

(b) the removal of *prisoners* accused *or in custody* under this Act, and their control and maintenance until such time as they are handed over to the persons named in the warrant as entitled to receive them:

(c) the seizure and disposition of any property which is the subject of, or required for proof of, any alleged offence to which this Act applies:

(d) the pursuit and arrest in British India, by officers of the Thagi and Dakaiti Department or other specially authorised persons, of persons accused of extradition offences committed elsewhere: and

(e) the procedure and practice to be observed in extradition proceedings.

(3) Rules made under this section shall have effect as if enacted by this Act.

Saving for Treaties.

[*Ibid*, s. 1, last paragraph.]

17. Nothing in this Act shall *derogate from* the provisions of any treaty for the extradition of offenders, and the procedure provided by any such treaty shall be followed in *any* case to which it applies, *and the provisions of this Act shall be modified accordingly.*

Act not to derogate from treaties.

Repeal.

[XXI of 1879, s. 2.]

18. The Acts mentioned in the *second* schedule are hereby repealed to the extent *specified* in the fourth column thereof.

Repeal.

THE FIRST SCHEDULE.

EXTRADITION OFFENCES.

[*See section 2, clause (c).*]

[The sections referred to are the sections of the Indian Penal Code.]

Culpable homicide (sections 299 to 304).
Attempt to murder (section 307).
Thagi (sections 310, 311).
Causing hurt (sections 323 to 333).
Resistance to arrest (section 224).
Offences relating to coin and stamps (sections 230 to 263A).
Forgery, using forged documents, etc. (sections 463 to 477).
Cheating (sections 415 to 420).
Fraudulent deeds, etc. (sections 421 to 424).
Frauds upon creditors (section 206).
Rape and unnatural offences (sections 375 to 377).
Wrongful confinement (sections 347, 348).
Kidnapping and slavery (sections 360 to 373).
Causing miscarriage, and abandonment of child (sections 312 to 317).
Theft, extortion, robbery, etc. (sections 378 to 414).
Mischief (sections 425 to 440).
Lurking house-trespass (sections 443, 446).
Desertion from any body of Imperial Service Troops.
Piracy by law of nations.
Sinking or destroying a vessel at sea or attempting or conspiring to do so.
Assault on board a ship on the high seas with intent to destroy life or to do grievous bodily harm.
Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the Master.
Any offence against any section of the Indian Penal Code or against any other law which may, from time to time, be specified by the Governor General in Council by notification in the *Gazette of India*.

THE SECOND SCHEDULE.

ENACTMENTS REPEALED.

(*See section 18.*)

Year.	No.	Short title.	Extent of repeal.
1879	XXI	The Foreign Jurisdiction and Extradition Act, 1879.	In the title, the words "and for the extradition of criminals." In the preamble, *the words* "and to the extradition of criminals." In section 1, the words "and Extradition" and the last sentence; sections 11 to 17A; clause (2) of section 18; section 19; and the schedule.
1895	IX	The Extradition (India) Act, 1895.	The whole Act.
1896	V	The Foreign Jurisdiction and Extradition Act (1879) Amendment Act, 1896.	The whole Act.

STATEMENT OF OBJECTS AND REASONS.

ALTHOUGH the Foreign Jurisdiction and Extradition Act, 1879 (XXI of 1879), has since its enactment been amended and supplemented on more than one occasion, practical difficulties still arise in its administration, and not a few questions may be raised as to its scope and the construction of some of its provisions. Thus, as regards extradition, the Government have, on the one hand, been confronted with the advice that section 14 of the Act has no application to a requisition for surrender made by a Native State in India; while, on the other, a doubt suggested as to whether the section can be applied where such a demand is presented by or on behalf of an European State led a few years ago to the passing of a supplementary enactment in the form of the Extradition (India) Act, 1895 (IX of 1895). Next, it has been pointed out that the law, as it stands, contemplates the extradition of "accused" or "suspected" persons only, the result being that there is no procedure applicable to the case of a convicted criminal who has escaped into British India or has been surrendered on the demand of the British Government. Again, the passing of the Fugitive Offenders Act, 1881 (44 & 45 Vict., c. 69), has introduced, in respect of criminals seeking refuge from other parts of His Majesty's dominions, a procedure which is not consistent with that prescribed by the law of British India. Various matters of administrative importance, moreover, such as the means of enforcing, by proclamation and attachment against absconders, warrants issued in extradition proceedings, and the method of dealing with applications for the surrender of persons under trial or sentence in British India for offences other than those for which their extradition is desired, or still unprovided for. And, finally, as regards foreign jurisdiction, the provisions of the law are surrounded by difficulties, some of which do not merely refer to matters of construction, but go to the root of the legislation represented by the Act of 1879 by raising doubts as to the extent of its validity. For, regard being had to the comparatively limited powers possessed by the Legislature in India, it would seem that the exercise of foreign jurisdiction is a matter which cannot be fully and effectively provided for by an Act passed by the Governor General in Council at a meeting held for the purpose of making laws and regulations.

2. In these circumstances, the necessity for further legislation has for some time past been engaging the attention of the Government of India, and is, it is thought, established. The proposals at first formulated took the shape of a consolidating and amending Bill, repealing and re-enacting, with the modifications desired, the whole of the Act of 1879, which relates, as its short title indicates, to both foreign jurisdiction and extradition. But the two subjects are, in reality, quite distinct; in England they are dealt with by different Statutes, while in India they were, prior to 1872, similarly dealt with by Acts I of 1849 and VII of 1854; and the Courts before which extradition cases come for disposal, are by no means always the same as those which have to exercise foreign jurisdiction. Although, then, it appears to have been deliberately decided, when Act XI of 1872, eventually superseded by Act XXI of 1879, was passed, to "frame a general Act relating to foreign jurisdiction *and* extradition," the Government of India have, after careful consideration and communication with His Majesty's Secretary of State, arrived at the conclusion that the law will probably be clearer and more intelligible if the two matters are once more kept apart; and it is on this basis that the question is now approached.

3. The present Bill is exclusively confined to the subject of extradition. The legislation required in this country has to make provision for the extradition of criminals in cases of two different kinds. The Government here may, in the first place, be asked by a friendly State to surrender a person in fulfilment of the obligations imposed by a treaty to which the Extradition Act, 1870 (33 & 34 Vict., c. 52), applies; and, where this is so, it seems expedient that the provisions of the English Statute – and more especially those which are intended for the protection of accused persons – should be followed as closely as may be. In the second place, the surrender of an accused or convicted person may be sought by a Native State in India, or by a *neighbouring* Asiatic State, in pursuance of the terms of a treaty or friendly understanding to which the Government of India is a party; and in such a case it is desirable and sufficient that the procedure prescribed should be both simple and expeditious. This distinction has been observed in the present Bill, the details of which are explained in the annexed *Notes on Clauses*.

T. RALEIGH.

The 7th February 1901.

Notes on Clause.

Clause 2.—The definitions of "conviction," "convicted person," "accused person," "extradition offence" and "warrant" have been taken from s. 26 of the Extradition Act, 1870 (33 & 34 Vict., c. 52).

The expression "rules" has been defined so as to include forms, as is not infrequently done in English Statutes. It may be useful to prescribe forms for the guidance of officers proceeding under the proposed Act, and it is important that the sufficiency of any forms so prescribed should be recognised.

The definition of "Political Agent," which is to be found in Act XXI of 1879, has been omitted, as it has been given a place in the General Clauses Act, 1897 (X of 1897), s. 3 (*40*).

Clause 3.—The procedure here laid down has, for the reason already given, been modelled on the Statute of 1870, and follows the English procedure as closely as the circumstances of this country will permit. The person whose surrender is sought for under it, will have a right to submit a statement showing cause against his extradition; and, if an important question of law is raised thereby, it may be referred for decision to the High Court. It is apprehended that in ordinary cases no such reference will be necessary, and it has been left entirely to the Executive Government to decide whether or not any reference should be made.

The clause, like the corresponding provisions in the Acts of 1872 and 1879, refers to *all* offences. By the Act of 1854, however, the provision was confined to "heinous offences," and it should perhaps be considered whether it might not with advantage here be limited to "extradition offences."

In sub-clause (*1*) the words "if it thinks fit" have been inserted in order to make it as clear as possible that there are cases in which the Government may decline to order any judicial inquiry; as, for example, where the alleged offence is merely political, where it is obviously trivial, or where there is an ulterior motive or an absence of good faith.

Sub-clause (*4*) is entirely new. Under the English Statute, the test for extradition is whether the Magistrate would commit for trial. The Indian Act of 1879 fixes no test and leaves it to the Government to determine, as best it can, whether the person concerned should be surrendered or not. But surely the Government ought not to be called upon to decide that question unless a *prima facie* case at least has been disclosed to the Magistrate, and the sub-clause has been drawn accordingly.

In order that clause 3 may be thoroughly effective, it may be thought expedient to issue a confirming Order of His Majesty in Council suspending the operation in India of the Statute of 1870. Section 23 of that Statute governs Asiatic treaties; but, when an extradition treaty has been made by the Government in England and the Statute is applied by Order in Council, the Statute apparently applies throughout His Majesty's Dominions unless the Order expressly excepts any part of them. The consequence is that the procedure under the Statute will oust the procedure under any Indian Act, if the person to be extradited belongs to a country which has an extradition treaty with England. The inconvenience likely to arise from the supersession of the local by the unfamiliar English procedure appears to have been considered and provided for by Parliament; for s. 18 of the Statute enacts that, if the Legislature of any British possession passes an extradition law, an Order in Council may either suspend the operation of the Statute in that possession, or direct that the local law shall have effect as if it were part of the Statute. If such an Order should be made, then the Extradition (India) Act, 1895 (IX of 1895), which aims at adapting the Statute of 1870 to India, may, as proposed by clause 18 of the Bill, be repealed, and all extraditions from British India, other than those effected through Political Agents as contemplated by clause 5, would thereafter be governed by the provisions of clause 3.

Clause 4.—In sub-clause (*1*) a reference to cases falling under the Fugitive Offenders Act, 1881 (44 & 45 Vict., c. 69), has been inserted, and in this connection sub-clause (*3*) has been amplified because the period of detention authorized by that Statute is only one month.

The provisions of paragraph 2 of s. 15 of the Act of 1879 have been recast in sub-clause (*2*) so as to require a report to the Local Government in every case.

Clause 5.—Where surrender is applied for through a Political Agent, which is the practice almost invariably followed in the case of extradition to any Native State in India, a simple and expeditious procedure is, as has already been stated, all that seems to be required. No inquiry by the Magistrate to whom the warrant is addressed is necessary, and no reference to the High Court need be provided for.

Sub-clause (*3*) has been added in order to remove all doubt as to the applicability, in the case of warrants in extradition proceedings, of the useful provisions of the Criminal Procedure Code as to the proclamation of absconders and the attachment of their property.

Clause 7.—This is a new provision, which may be found useful.

Clause 8.—As already stated, Act XXI of 1879 is apparently confined to the extradition of "accused" or "suspected" persons. Sub-clause (*1*) of this clause is intended to cover the case of an escaped convict and also that of a person who is serving a sentence for another offence in a Native State at the time when his extradition is demanded by the British Government. A case of the latter kind actually occurred, and the Native State concerned agreed to hand over the criminal on the condition that, when he had been dealt

with in British India for his offence there, he should be returned to undergo the unexpired portion of his sentence. It was found, however, that there was no law which directly authorized such return.

Sub-clause (*2*), which is new, aims at extending the provisions of the proposed Act to abettors. It is borrowed from section 3 of the Extradition Act, 1873 (36 & 37 Vict., c. 60).

Clause 9.—These new provisions have been included with the object of expressly laying down the law where application is made for the extradition of a person undergoing a sentence in British India, or where a person is extradited to British India for one offence and appears to have committed another offence prior to his surrender for the first. Sub-clauses (*1*) and (*2*) have been taken from the Extradition Act, 1870 (33 & 34 Vict., c. 52), sections 3 (*3*) and 19, respectively.

Clause 10 will make it clear that a person for whose extradition a warrant is issued, may, for the purposes of his extradition, lawfully be arrested, confined and retaken in the event of escape.

Clause 11.—It is thought expedient that the executive should have power to interfere at any stage, if for any reason it be deemed desirable to stay extradition proceedings in a particular case.

Clause 12 is new, but requires no explanation.

Clause 13.—These provisions are copied from sections 14 and 15 of the Extradition Act, 1870 (33 & 34 Vict., c. 52). *Cf.* also section 29 of the Fugitive Offenders Act, 1881 (44 & 45 Vict., c. 69).

Clause 14.—Section 19 of the Act of 1879 provides that evidence shall not be taken on commission by a Court in British India when the alleged offence is of a political character, but it does not provide by what authority that question is to be determined. It is suggested by sub-clause (*3*) of this clause that the Governor General in Council is the proper authority. It will be observed that cases in which evidence is required for a British Court or tribunal, have, by the addition of a few words to sub-clause (*2*), been excepted from the general rule against the taking of evidence on commission.

Clause 15.—By this clause it is proposed to exercise the powers conferred by section 32 of the Fugitive Offenders Act, 1881 (44 & 45 Vict., c. 69).

Clause 16.—The rule-making power has been somewhat enlarged, and in particular provision has been made for dealing with the surrender of property as well as of criminals, and for the pursuit and arrest in British India of persons accused of extradition offences committed elsewhere. All rules made—and, therefore, forms prescribed—under the Act will be placed beyond the range of criticism by being declared to have effect as if enacted by the Act itself.

Clause 17.—This clause is taken, with some drafting alterations, from the concluding portion of s. 1 of the Act of 1879. It is thus restored to the position which it occupied in the Act of 1872.

J. M. MACPHERSON,
Secy. to the Govt. of India, Leg. Dept.

(Republished by order of the Governor in Council.)

M. HAMMICK,
Ag. Secy. to Govt., Leg. Dept.

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BILL OF THE GOVERNMENT OF INDIA.

Bills introduced in the Council of the Governor General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

The following Report of the Select Committee on the Bill to consolidate and amend the law relating to Emigration to the labour-districts of Assam and the Bill to make better provision for the health, supervision and control of emigrants proceeding to or from the labour-districts of Assam was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 22nd February, 1901:—

WE, the undersigned, Members of the Select Committees to which the Bill to consolidate and amend the law relating to Emigration to the labour-districts of Assam and the Bill to make better provision for the health, supervision and control of Emigrants proceeding to or from the labour-districts of Assam were referred, have considered the Bills and the papers noted in the margin and have now the honour to submit this our Report, with the Assam Labour and Emigration Bill as amended by us annexed thereto.

Assam Labour and Emigration Bill.

From High Court, Calcutta, No. 3071, dated 9th December, 1899 [Paper No. 1].
From Chief Commissioner, Central Provinces, No. 10240, dated 16th December, 1899 [Paper No. 2].
From Government, North-Western Provinces and Oudh, No. 4534, dated 23rd December, 1899, and enclosure [Papers No. 3].
From Indian Association, No. D.—99-63, dated 22nd December, 1899 [Paper No. 4].
From Chief Commissioner, Assam, No. 51-T., dated 25th December, 1899, and enclosures, No. 61-T., dated 28th December, 1899, and enclosures; and No. 102-T., dated 10th January, 1900, and enclosure [Papers No. 5].
From Government, Madras, No. 7, dated 4th January, 1900, and enclosure [Papers No. 6.]
From Government, Madras, No. 85, dated 30th January, 1900, and enclosure [Papers No. 7].
From Government, Bengal, No. 1066, dated 1st March, 1900, and enclosures [Papers No. 8].
From Chief Commissioner, Assam, Nos. 65-L., and L.-3927-J., dated 10th September, 1900, and enclosures [Papers No. 9].
Endorsement by Revenue and Agricultural Department, No. 1618—41—1, dated 15th October, 1900, and enclosures [Papers No. 10].
From certain Representatives of Tea Companies, London, dated 14th December, 1900, and appendix [Papers No. 11].
Endorsement by Revenue and Agricultural Department, No. 338—14-2, dated 4th February, 1901, and enclosures [Papers No. 12].
From Government, Bengal, No. 302-T., dated 18th January, 1901, and enclosure [Papers No. 13].

Assam Emigrants' Health Bill.

From Chief Commissioner, Coorg, No. 2657, dated 10th November, 1899 [Paper No. 1].
From Officiating Agent to Governor-General in Baluchistan, No. 8900, dated 17th November, 1899 [Paper No. 2].
From Registrar, High Court, Calcutta, No. 3073, dated 9th December, 1899 [Paper No. 3].
From Government, Burma, No. 169—1-I-2, dated 8th December, 1899, and enclosure [Papers No. 4].
From Government, Bombay, No. 5750, dated 12th December, 1899 [Paper No. 5].
From Chief Commissioner, Central Provinces, No. 10240, dated 16th December, 1899 [Paper No. 6].
From Chief Commissioner, Ajmer-Merwara, No. 1362—690, dated 20th December, 1899, and enclosure [Papers No. 7].
From Government, Punjab, No. 1852, dated 20th December, 1899, and enclosures [Papers No. 8].
From Government, North-Western Provinces and Oudh, No. 4533, dated 23rd December, 1899 [Paper No. 9].
From Resident, Hyderabad, No. 383, dated 23rd December, 1899 [Paper No. 10].
From Chief Commissioner, Assam, No. 51-T., dated 25th December, 1899 [Paper No. 11].
From Government, Madras, No. 9, dated 4th January, 1900, and enclosure [Papers No. 12].
From Government, Bengal, No. 904, dated 20th February, 1900, and enclosures [Papers No. 13].

2. As will be seen from an examination of the provisions of our amended Bill, we have proposed the incorporation of the provisions of the Emigrant's Health Bill with those of the Assam Labour and Emigration Bill, which latter Bill will thus provide for the health, supervision and control of assisted emigrants, as well as of contract labourers, when proceeding to the labour-districts. At present these matters are dealt with by two sets of provisions, namely, in the case of contract labourers by the provisions of

the Assam Labour and Emigration Act, 1882 (I of 1882), and of the rules made thereunder, and in the case of assisted emigrants by the rules made under the Inland Emigrants' Health Act, 1889 (Bengal Act I of 1889). We can see no reason why this somewhat confusing state of the law should be continued, or why the transport of both classes of emigrants should not be dealt with in one Act, the more especially when that Act will regulate to some extent the conditions under which assisted emigration may take place (see Chapter V of Bill annexed). The various alterations in the Labour and Emigration Bill which this expansion of its provisions entails are explained in the notes on the clauses of that Bill which appear below.

3. All the modifications of any importance proposed by us in the Labour and Emigration Bill are noted in the following statement, in which, for convenience of reference, the clauses referred to are arranged under the different chapters. The clauses cited are the clauses of the revised Bill appended to the Report.

CHAPTER I.

PRELIMINARY.

Clause 2.—The definition of "agent" is taken from the Health Bill with certain drafting modifications necessary to adapt it to the provisions of this Bill. The definitions of "garden-sardar" and "recruiting-district" are new. The reason for the former definition is given in the note on clause 56, *infra*. We have also provided for cases in which persons are unable to write by declaring that in such cases "sign" and "signature" shall include finger-impressions.

Clause 3.—We have slightly expanded the last words of the first paragraph of this clause so as to enable the Local Government to prohibit emigration otherwise than in accordance with certain specified provisions of the Act, in order to make the power conferred more elastic. It has been pointed out that the effect of the issue of a notification under this clause prohibiting recruitment for emigration to a labour-district, either absolutely or otherwise than in accordance with the provisions of the Act, might be to cause inconvenience to the employers of labour in such district unless due notice is given. We have, therefore, added a proviso to sub-clause (1) declaring that a notification under the clause shall not take effect until the expiry of six months from the date of its publication, unless for any special reason the Local Government thinks it necessary to direct that it shall take effect at an earlier date. Our intention by these last words is to give the Local Government power to deal exceptionally with cases in which, owing to political or other reasons, a postponement of the operation of the notification for six months would be inexpedient.

CHAPTER II.

LABOUR-CONTRACTS GENERALLY.

Clause 5.—We have proposed some important amendments in sub-clause (1) of this clause which in the Bill as introduced required every labour-contract to stipulate for a minimum monthly wage throughout the period of contract for a completed daily task of not less than six rupees in the case of a man and five rupees in the case of a woman, in lieu of the existing minimum wage of five rupees in the case of a man and four rupees in the case of a woman for the first three years, and six rupees in the case of a man and five in that of a woman for the fourth year. After very careful consideration of the question in all its bearings, we have come to the conclusion that, though some increase in the present minimum wage is desirable in the interest of labourers, the increase proposed in the Bill as introduced would, if adopted, impose an excessive burden on employers. The newly joined labourer needs special protection, as he is often unable for some months after his first employment, owing to his weakly condition and want of skill, to complete the daily task allotted to him, and therefore to earn the minimum wage prescribed by the present law. To meet such cases we have proposed in our amended sub-clause that all such labourers should be entitled, unless the Inspector certifies that they are physically fit to perform a whole task, to receive full wages for the performance of a half task during the first six months of their contracts. With this concession we think that the present minimum rate of wage may be maintained for the first year. We think, however, that labourers are justly entitled to claim some increase of wage in the second and third years, and we have proposed that this should be eight annas a month, so that male labourers will draw Rs. 5-8 and female labourers Rs. 4-8 in those years and the present maximum wage of six and five rupees respectively in their fourth year.

Clause 9, proviso.—We have recast this proviso so as to render a woman incapable of binding herself by a labour-contract if her husband or lawful guardian, if any, objects. We consider that in this form the proviso is not open to the practical objections which were taken to it in its original form, when the consent of the husband or guardian was required in every case, while it will go a long way towards removing the scandal caused by the recruitment of lone women without the knowledge of their husbands or guardians.

Clause 11.—We have expanded the last words of the clause so as to make them provide for cases in which two or more estates belonging to the same owner are in charge of the same employer.

Clause 12.—We have, at the suggestion of the Chief Commissioner of Assam, widened this clause so as to make it clear that it covers the expenses of temporary detention as well as those connected with the actually sending back of the persons repatriated.

We have recast sub-clauses (*a*), (*b*) and (*c*) of this clause on lines proposed by the Tezpur Conference [whose proceedings are recorded in the papers accompanying the letter from the Chief Commissioner of Assam, No. 51-T., dated 25th December, 1900 (Papers No. 5)] for the reasons given by the Chief Commissioner of Assam, who supports these proposals of the Conference. We have also adopted a new sub-clause (2) proposed by the Conference, which provides for the recovery by the employer from the contractor of the amount of any sum which may have been recovered from the former, and have added a further sub-clause making a certified copy of the order of the Local Government under clause 10 or clause 11 and the receipt granted to the employer for the expenses paid by him conclusive evidence of the title of the employer to recover such expenses from the contractor.

CHAPTER III.

RECRUITMENT BY CONTRACTORS, SUB-CONTRACTORS AND RECRUITERS.

Clause 14.—In order to emphasize the importance of character in the selection of contractors and sub-contractors, we have specifically limited the Superintendent's power of licensing the same to persons fitted by character to act as contractors or sub-contractors. We have also inserted a like limitation in clause 25 which relates to recruiters.

Clause 21.—In order to prevent labourers being received into a contractor's depot at a distance from the place where they were recruited, we have added words to this clause permitting depots to be maintained for specific local areas only.

Clause 22.—To meet a suggestion of the North-Western Provinces Government, we have omitted the word "District" before "Magistrate" in sub-clause (2) of this clause, thus empowering Sub-divisional Magistrates to supervise depots.

Clause 29.—The object of our alteration in this clause is to specify more clearly than was done in the Bill as introduced the Magistrate by whom a recruiter's license must be countersigned.

Clause 34.—We have adopted sub-clauses (1) and (2) of this clause as they stood in the Bill as introduced. One of our Hon'ble colleagues (the Hon'ble Mr. Cotton) was, however, desirous of amending them so as to require the Registering-officer to satisfy himself, not only as to the identity of every person brought before him for registration, but, further, that he had been recruited within the area to which the recruiter's license extends. Though the Hon'ble Member attached great importance to these amendments, we were unable to accept them, as they did not appear to us to be either necessary or practicable, while they tended in our opinion to hamper recruitment.

Sub-clauses (3) and (4) are new Their object is to prescribe the procedure to be followed when women are brought before the Registering-officer for registration under this chapter. They provide a safeguard in the case of this class of labourers in addition to that contained in the proviso to clause 9, which we have noticed above.

Clause 40.—The object of our redraft of sub-clause (1) of this clause is to make it clear, in cases in which a contractor has more than one depot, to which of those depots a labourer who has been registered must be conveyed by the recruiter.

Clause 44.—In accordance with a suggestion made at the Tezpur Conference, we have substituted for the word "recruited" in the proviso to this clause the words and figures "registered under section 34, sub-section (2)," in order to make it clear that except when another place is directed by the Local Government, the labour-contract must be executed in the district of registration.

Clause 46.—We have inserted words in this clause directly empowering the employer or his agent to select the medical man who is to make the further medical examination provided for in the clause, and we have assimilated the terms of the certificate to be given by such medical men to those prescribed for medical certificates in the case of persons recruited by garden sardars in clause 73.

Clause 47.—We have expanded the latter part of this clause so as to provide for cases in which special agreements for fees may be made with the medical officer employed to conduct the examination referred to in clause 46.

Clause 54.—We have omitted from this clause the words providing for the payment of interest on sums which contractors are required to pay under the immediately preceding clauses, and have also omitted the similar words which occur in other clauses, as the amounts involved are very trifling and the facility for the recovery of sums due under the Act given by clause 215 of the Bill as introduced is so great that it does not seem necessary now to take any account of interest either here or elsewhere in the Bill.

Clause 55.—In order to make the provisions of this clause more precise we have substituted the words "place where they are to labour" for the words "labour-district," and we have added a proviso, on the analogy of that contained in clause 40, which relates to conveyance of labourers to depot, requiring the person who accompanies labourers from a depot to a labour-district to hold a certificate of fitness from the Superintendent of Emigration.

CHAPTER IV.

RECRUITMENT OF GARDEN-SARDARS AND LOCAL AGENTS.

Clause 56.—In order, as far as possible, to prevent the employment of *arkatis* and other unlicensed recruiters as "garden-sardars," we have inserted a definition of this term in clause 2 of the Bill, by which it is limited to persons *employed on any estate and* deputed by their employers to engage labourers under the Act. We have also added words to this clause empowering an employer to cancel a garden-sardar's certificate at any time.

Clause 59.—As an additional check in order to make sure that the person is a *bonâ fide* garden-sardar, we have inserted words in this clause requiring the Inspector or Magistrate to satisfy himself, as far as possible, before countersigning a garden-sardar's certificate, that the man is employed on the estate of which the person granting the certificate is in charge.

Clause 60.—We have, for the convenience of the parties concerned, added words to sub-clause (2) permitting a garden-sardar obtaining a fresh certificate to appear before any Magistrate specified in the notice sent him by the District Magistrate for the purpose of accepting and signing such fresh certificate in his presence.

Clause 61.—In order to remove any obscurity as to the meaning, we have added words to the clause to make it clear that the countersignature from which the term of a garden-sardar's certificate is to run is that of the Magistrate or Inspector in the labour-district.

Clause 62.—We have modified sub-clause (*2*) and added a new sub-clause (*3*) with the object of limiting the powers of subordinate Magistrates to cases in which the District or Sub-divisional Magistrate has expressly delegated to them his powers under the clause.

Clause 63.—We have radrafted this clause so as to make its provisions give effect more accurately than they appeared to us to do in the Bill as introduced to what is obviously the intention of the clause. We have also, in consequence of a suggestion made by the Government of Bengal, made provision in a new sub-clause (*3*) for the forwarding to their destinations of labourers who were in charge of garden-sardars whose certificates have been cancelled.

Clause 64.—We have made extensive alterations in this clause. In the first place we have made its provisions applicable to cases in which a local agent is to represent more than one employer and thus dispensed with clause 66 of the Bill as introduced. Then we have expressly limited the functions of local agents to matters connected with the supervision of garden-sardars under the chapter. Next we have, in accordance with the suggestion of the Tezpur Conference, provided that no person who in the opinion of the Superintendent has a share or interest in any contractor's business shall be licensed. Lastly we have included so much of clause 65 of the Bill as introduced as must be retained after the above amendments have been made as sub-clause (2) of this clause.

Clause 65 is new. It is intended to take the place of clauses 67 to 69 of the Bill as introduced, which provide for the direct recruitment of labourers by local agents in certain cases, a practice which experience has shown to be inimical to the interests of employers. It provides for a new class of agents, styled "selecting agents," who are to be licensed on the application of employers and whose duties are to be limited to the selection on behalf of the employers of labourers recruited by contractors. This new clause as it stands will, we are informed by our Hon'ble Colleagues who represent their interests, provide for all that is required by the employers of labour in Assam, and, as the matter affects such employers exclusively, and there does not appear to us to be any objection on principle to the creation of such a class of agents, we recommend that the clause be adopted in lieu of clauses 67 to 69 of the Bill as introduced.

Clause 68.—We have added words to this clause to provide for such other Registering officers as the Local Government may appoint for the area to bring the clause into conformity with clause 33 of the Bill as introduced.

Clause 72.—We have omitted the words in sub-clauses (*1*) and (*4*) postponing the execution of labour-contracts until the lapse of three days from the date of registration, as we see no reason for imposing this restriction, which does not exist in the present law, on recruitment by garden-sardars. In sub-clause (*3*) we have made slight drafting alterations.

Clause 74.—We have amended this clause so as to permit of private agreements in the same manner as we have proposed in the case of clause 47.

Clause 75.—We have substituted a reference to the place of entering into the labour-contract instead of one to the place of registration as in the Bill as introduced in the opening words of this clause and have made certain consequential alterations in the rest of the clause.

Clause 79.—Here again we have made a substitution of a similar nature to that noticed in the case of clause 75.

Clause 87.—We have on the suggestion of the Bengal Government generalised this clause which was specifically limited to Calcutta in the Bill as introduced, as it may hereafter be required elsewhere.

Clause 88.—The slight alterations we have proposed in this clause are unimportant and merely consequential on those made in the preceding clause.

Clause 89.—This clause is new. Its object is to provide for the recovery from the garden-sardar, or other person liable, of the cost of providing such escort for the return-journey of any labourer or other person concerning whom an order has been made under the immediately preceding clauses as the Magistrate may think necessary.

CHAPTER V.

ENGAGEMENT OF EMIGRANTS OTHERWISE THAN UNDER CHAPTERS III AND IV.

Clause 90.—We have suggested various alterations in this clause.

With the object of making it clear that the special procedure for engagement of emigrants through specially employed garden-sardars, for which this clause provides, can only be brought into operation after the issue of a notification under clause 3, we have prefixed words to the clause indicating that the Local Government can only issue a notification under the clause when a notification under clause 3, prohibiting emigration save in accordance with the provisions of the Act therein specified, has been published.

On the suggestion of the Chief Commissioner of Assam, we have required the permit for which sub-clause (*a*) provides to be in such form as the Local Government may direct, and we have added words to the same sub-clause prohibiting the grant of permits to garden-sardars who have not resided for six months on an estate.

In order to make the requirement of sub-clause (*f*) as to reporting himself more elastic, we have substituted, for the fixed period of three days of his arrival within which a garden-sardar must, under the Bill as introduced, report himself to the Magistrate, words enabling him to make such report any time before he engages persons to emigrate.

As in the corresponding provision regarding certificated garden-sardars (clause 63), we have limited the power of cancelling permits given by sub-clause (*i*) to District Magistrates, and we have added a provision requiring such Magistrate to give notice of the cancellation to the employer and the Inspector or Magistrate who countersigned the permit.

Clause 91.—We have slightly altered the opening words of the clause to give clearer effect to what we understand to be its object, namely, to permit of engagement of persons to emigrate in special cases by means of approved agencies or by associations of employers, and, in order to prevent the misapplication of sub-clause (*a*), we have specifically declared that the garden-sardars to which it refers must hold permits granted under clause 90.

As clause 95 of the Bill as introduced, which provides for the suspension, etc., of recruitment under the two last preceding clauses, seemed to us to be unnecessary, we have omitted it.

Clause 92 is a reproduction in a modified form of sub-clause (2) of clause 3 of the Bill. It legalizes, where no notification may have issued under clause 3, the engaging and assisting of persons to emigrate outside the preceding provisions of the proposed new law.

Clause 93 is new. It specifies the provisions of the Bill which alone are to apply in the case of persons engaged or assisted to emigrate outside the provisions of previous Chapters of the Bill. All these provisions already apply in such cases, but it is hoped that the specification of them in this manner in one clause may prevent doubts being raised as to the construction of the Act when it becomes law.

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CHAPTER VI.

TRANSPORT.

Clause 94 is new. It is a general provision directing all persons who forward or accompany labourers or emigrants to follow the prescribed routes and to conform to the prescribed rules.

Clause 105.—We have added words to this clause to make it clear that it only refers to labourers in respect of whom way-bills are by law required. Otherwise we have made no addition to or alteration of the provisions of this chapter.

CHAPTER VII.

PROVISIONS AS TO THE LABOUR-DISTRICTS.

Clause 120.—In pursuance of a suggestion made by the Government of Bengal, we have inserted words in this clause which will make it necessary for the Inspector or Magistrate to consider any cause which may be shewn by the employer to the contrary before cancelling any labourer's contract.

Clause 122.—We have added words requiring the register which has to be kept under this clause to include the dependants of labourers and persons employed on an estate, an addition recommended by the Chief Commissioner of Assam.

Clause 125.—We have omitted sub-clause (2) which was repealed in the original Act I of 1882 by Act V of 1897 and was apparently re-inserted in the Bill as introduced by oversight, the weekly holiday being provided for in clause 124, sub-clause (3).

We have also added a new sub-clause (3) directing employers to pay their labourers the wages earned by them during the preceding month on or before the fifteenth day of each month, as we consider it unreasonable that labourers should be kept waiting for their wages for a longer period.

Clause 136.—We have added words to sub-clause (7) so as to make the reference which was inserted in the Bill as introduced to rules under section 134 more complete.

Clause 137.—We have made some slight drafting alterations in the latter part of this clause, as we understand that it is almost invariably "practicable" to appoint employers of labour to be members of committees summoned under this clause.

Clause 140.—On the suggestion of our Hon'ble Colleagues (Messrs. Buckingham and Henderson) we have expanded sub-clause (3) of this clause so as to make it clear that it requires labourers, who have been released from their obligation to labour on an estate declared unfit for the residence of labourers, to labour on any other estate belonging to the same owner or in charge of the same employer in the same labour-district. We think that it is unreasonable to limit such estates, as would appear to be the case under the existing law, to those in charge of the same employer.

Clause 143.—On the suggestion of the same gentlemen we have added words to this clause directing the Local Government to cause an employer to be furnished with a certified copy of the Medical Officer's report under this clause. We understand that this direction is in accordance with existing practice.

Clause 151.—We have inserted words to make it clear that, notwithstanding the new provision in clause 125 as to the date of payment, wages commence to be in arrear from the first day of the month succeeding that in which they were earned.

Clause 153.—This is a new clause. It is intended to be an additional safeguard for the protection of labourers on any particular badly managed estate whose condition appears to the Local Government to be unsatisfactory owing to the insufficiency of their earnings to maintain them in health and comfort. In such cases the Local Government is empowered under this clause to direct, after such inquiry as it thinks necessary and after giving the employer an opportunity of showing cause against the order, that the labour-contracts of such labourers be cancelled.

Clause 156.—Our attention has been drawn to the fact that sub-clause (3) of this clause makes no provision for the case of a person who, having completed four years' service under a labour-contract and having entered into a new labour-contract for one year, wishes to redeem the unexpired portion of his new contract. We have therefore added a proviso to the sub-clause enabling such a person to redeem his new contract on payment of two rupees for each month of the unexpired portion, an amount which appears to be reasonable in all the circumstances of such a case.

Clauses 160 and 161.—The slight additions which we have suggested in these clauses have the same object as those we have suggested in the earlier part of clause 12, namely, to provide for cases in which temporary detention is necessary before a person is repatriated.

CHAPTER VIII.

RULES.

Clause 163.—We have made very extensive alterations in this clause, as we have re-arranged its sub-clauses and embodied in it the provisions of clause 3 of the Health Bill. Further, we have revised the language of a number of the sub-clauses which relate to transport in order to make them applicable to the case both of contract-labourers and assisted emigrants, as the transport to the labour-districts of both of these classes, will, in future, as we have explained above (see paragraph 2), be regulated under the provisions of the Bill when it becomes law. Lastly, we have provided for the special rule-making power as to detention and inspection of vessels, which was given by clause 165 of the Bill as introduced, by the addition of a new sub-clause (*j*) to this clause, and thus dispensed altogether with the last-mentioned clause.

CHAPTER IX.

PENALTIES AND PROCEDURE.

Clause 164.—Having regard to the serious nature of the offence (recruitment in contravention of the Act) with which this clause deals, we have enhanced the penalty from one month to six. We have, however, limited the fine which may be imposed to a total amount of five hundred rupees, instead of permitting it to extend to that amount in respect of every person wrongly recruited.

Clause 165.—This clause is new, its object being to provide for the punishment of recruiters who intentionally misdescribe persons produced for registration as labourers. We consider that this offence is one for which a special penalty is desirable.

Clauses 170 to 173.—We have inserted words in all these clauses to make it clear that they are limited to garden-sardars holding certificates under Chapter IV of the Act. We have also in clause 171, sub-clauses (*b*) and (*c*), substituted references to the date of execution of the labour-contract instead of references to the date of registration, and in clause 172 raised the term of imprisonment from three to six months and omitted the limit of the amount of fine, as we consider the gravity of the offence for which sub-clause (*a*) of this clause provides demands this enhanced penalty.

Clause 175 is new. It imposes a penalty of fine, which may extend to one thousand rupees, on every local agent or selecting agent who has or acquires any interest in a contractor's business or works for hire or reward in the interest of a contractor, and seems to us to be a very necessary provision for the protection of the employers of local agents and selecting agents.

Clause 184.—We have considerably altered this clause. Having regard to the provisions of clauses 168 and 169, we think that the provisions of this clause should be expressly limited to labourers who have executed labour-contracts, and that it should be made an offence for such a labourer to refuse or neglect to proceed "to the place where he is to labour" and not merely, as in the Bill as introduced, "from the district in which he was registered" On the other hand, we have reduced the penalty to imprisonment for one month, which we consider sufficient for such cases.

Clause 193.—We have omitted the words in this clause of the Bill as introduced which made a labourer liable to forfeit his wages for the period of his absence, as they appear to us to be superfluous seeing that a labourer's wages depend on his performance of a certain task. We have also omitted the provision requiring the labour to pay to his employer a sum not exceeding four annas for each day of absence, as we have provided in an addition to clause 205 for the endorsement of such days of absence on the labour-contract.

Clause 195.—We have slightly altered the language used in sub-clauses (1) and (2) of this clause, which provides for the arrest of a deserter without warrant, in order to make it clear that the person who can act on behalf of an employer must be authorised by him in this behalf.

Clause 202.—We have slightly altered the language of this clause in order to make it clear that the employer of a labourer sentenced to imprisonment may at once, on his being so sentenced, apply for the cancellation of the sentence.

Clause 205.—In accordance with a suggestion made by the Tezpur Conference, which was accepted by the Chief Commissioner of Assam, we have, by the addition of four sub-clauses to this clause, restored with some modifications the existing law as contained in section 182A of Act I of 1882, which was omitted from the Bill as introduced. By our new sub-clause (2) we have provided for the endorsement on the labourer's contract by the Magistrate who convicts a labourer of unlawful absence under clause 193 or desertion under clause 198, of the period of the labourer's absence or desertion; but we have, by our new sub-clause (3), excluded cases of desertion in which the labour-contract has been cancelled under clause 200 or in which more than one year has elapsed from the expiry of the original term of the labour-contract, or more than three years have elapsed from the date when the

labourer deserted to the date of his conviction; and we have further, by our new sub-clause (4), declared that the term of imprisonment shall in certain cases be deducted from the term of service. Our new sub-clause (5) corresponds to the second proviso to section 182A of the existing Act.

CHAPTER X.

MISCELLANEOUS.

Clause 218.—As there is a "Labour Transport Fund" in Bengal as well as Assam, we have omitted the word "Assam" from the title given to the fund in this clause as well as elsewhere in the Bill.

THE FIRST SCHEDULE.

FORM OF LABOUR-CONTRACT.

We propose to add a note to this form explaining that the employer is required (see clause 5 *supra*) to pay a full wage for half the daily tasks during the first six months unless the Inspector certifies that the labourer is able to perform the full task.

THE SECOND SCHEDULE.

ENACTMENTS REPEALED.

As the provisions of the Health Bill have been incorporated in this Bill, we have added to the list of enactments in this Schedule the portion of Act V of 1897 and the Inland Emigrants' Health Act, 1889, which the Health Bill proposed for repeal.

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

ASSAM LABOUR AND EMIGRATION BILL.

In English.

Gazette.	*Date.*
Gazette of India	14th October 1899.
Fort St. George Gazette	24th October 1899.
Calcutta Gazette	25th October 1899.
North-Western Provinces and Oudh Government Gazette ..	21st October 1899.
Central Provinces Gazette	21st October 1899.
Assam Gazette	28th October 1899.

In the Vernaculars.

Province.	*Language.*	*Date.*
Madras	Telugu	12th December 1899.
Bengal	Bengali	28th November 1899.
	Hindi	19th December 1899.
	Uriya	18th February 1900.
North-Western Provinces and Oudh	Urdu	2nd December 1899.
	Hindi	29th November 1899.
Central Provinces	Bengali	19th December 1899.
Assam		

ASSAM EMIGRANTS' HEALTH BILL.

In English.

Gazette.	*Date.*
Gazette of India	14th October 1899.
Fort Saint George Gazette	20th October 1899.
Bombay Government Gazette	19th October 1899.
Calcutta Gazette	25th October 1899.
North-Western Provinces and Oudh Government Gazette ..	21st October 1899.
Punjab Government Gazette	19th October 1899.
Burma Gazette	4th November 1899.
Central Provinces Gazette	21st October 1899.
Assam Gazette	28th October 1899.
Coorg District Gazette	1st November 1899.
Sind Official Gazette	26th October 1899.

In the Vernaculars.

Province.	Language.	Date.
Madras	Telugu	21st November 1899.
Bombay	Marathi	7th December 1899.
	Gujarathi	7th December 1899.
Bengal	Bengali	14th November 1899.
	Hindi	5th December 1899.
	Uriya	23rd December 1899.
North-Western Provinces and Oudh.	Urdu	25th November 1899.
Punjab	Urdu	23rd November 1899.
Burma	Burmese	11th November 1899.
Central Provinces ..	Hindi	29th November 1899.
Assam	Bengali	25th November 1899.

5. We think that the two Bills referred to us have not been so altered in substance by their consolidation into one measure or otherwise as to require republication, and we recommend that the Bill which we now present and which is attached to this Report be passed.

C. M. RIVAZ.
T. RALEIGH.
J. BUCKINGHAM.*
ALLAN ARTHUR. †
H. J. S. COTTON. ‡
C. W. BOLTON.
ROBERT H. HENDERSON. §

The 19th February 1901.

* Subject to note of dissent on clause 5, sub-clause (4).
† Subject to separate minute of dissent.
‡ Subject to a note on clause 5 of the Bill.
§ Subject to separate minute of dissent.

I ACCEPT the main lines of the Bill, but I take strong exception to clause 5, sub-clause (4), *viz.*, the increase in wages for the second and third years, on the grounds that the necessity for the proposed enhancement has not been substantiated, and that the evidence placed before the Select Committee clearly shows that coolies are at present in a far better position financially than they have ever been. It has further been demonstrated that the wages earned are considerably in excess of the actual requirements of the tea-garden labourer, and the necessaries of life are generally cheaper than they have been during the last twenty years or more.

Another matter deserving of consideration is that wages in Assam are generally higher than in the tea-districts of Bengal, where coolies emigrate under a free system, for a similar description of labour. The tea-industry is not in a position to bear such an additional tax, as the enhancement of wages for the second and third years would most assuredly mean a general rise in wages throughout the Province.

J. BUCKINGHAM.

I AM strongly opposed to the raising of the minimum wage for the second and third years as provided in clause 5, sub-clause (4). No convincing evidence has in my opinion been brought forward in Select Committee to justify in ordinary times an increase in the wage, while to press for an increase at the present time, when the tea-industry is admittedly face to face with a crisis, seems to me inconsiderate and unwise, not only in the interests of the tea-garden proprietor but also in the interests of the labour-classes. The effect of an increase in wage can only be to make it more difficult for the employer of labour in the tea-districts to give employment to the labourer, a serious consideration when it is remembered that only a year ago His Excellency the Viceroy was pleading for millions in India who were starving.

ALLAN ARTHUR.

I AM glad to identify myself with the Report and with the draft Bill which will now be presented to Council. But with the permission of His Excellency the President of the Council I desire to place on record a summary of the reasons why I am unable to concur in the recommendation of the Committee to abandon the provisions of clause 5 of the Bill introduced into Council, which required

every labour-contract to stipulate for a minimum monthly wage of not less than six rupees in the case of a man and five rupees in the case of a woman throughout the period of agreement, in lieu of the existing minimum wage of five rupees in the case of a man and four rupees in the case of a woman for the first three years and six rupees in the case of a man and five in that of a woman for the fourth year of the term of agreement. My reasons may be categorically summarised as follows:—

1. It has been found by experience and it follows from the peculiar nature of a penal contract that it is absolutely necessary for the protection of the labourer who enters into such a contract to make it by law obligatory upon the employer to pay a reasonable wage for his services.

2. By Act VI (B.C.) of 1865 a minimum monthly rate of wages was fixed by the legislature. The rate so fixed "after communication with persons who had a thorough acquaintance with the state of the labour-market in the Eastern Districts," and which the Select Committee of that time were "assured by those deeply interested in the cultivation of tea to be an equitable and reasonable minimum rate," was Rs. 5 for male adults and Rs. 4 for females.

3. The status of the labourer under this Act was that of a monthly labourer receiving a certain wage which could not under any circumstances be reduced by the employer. Save only for incapacity due to sickness, etc., wilful absence from work or wilful negligence or indolence, and then only by the order of the Protector or on conviction before a Magistrate, could the labourer receive less than the statutory rate.

4. It was found in practice impossible to enforce the payment of this fixed wage, and Act I of 1882, which is the present law, provided for payment of monthly wages at the rate of Rs. 5 and 4 for a completed daily task and when such task was not completed for the payment of monthly wages calculated at the same rate in proportion to the amount of work actually done.

5. As a fact, the average rate of wages drawn by Act labourers in Assam has never actually been so high as Rs. 5 for a man and Rs. 4 for a woman, and as a fact the wages fixed for the labourer under the Act of 1865, even if he worked no overtime whatever, are higher than the average wages including overtime, advances and sick allowances earned in any of the past seventeen years by labourers under the Act of 1882.

6. There has occurred in Assam as well as in other parts of India a gradual and general rise in the wages of unskilled labour in which tea-garden coolies under penal contracts have not participated. This general rise in Assam amounts on an average during the past twenty-five years to 44 per cent.

7. The present average rate of wages paid to unskilled labour in Assam is more than double that of the minimum wage prescribed by Act I of 1882.

8. The minimum rate of wage prescribed by the present law is insufficient, not only because it is little more than the coolie is able to earn at his own doors without emigrating, but it is far less than he can earn in the neighbouring coal-mines or in Calcutta or in the tea-gardens of the Duars, where he gets practically all the advantages he gets in Assam without the disadvantage of a penal contract for a term of years. The "jungly" coolie, who is expected to serve for five rupees a month in Assam as an *adscriptus glebæ*, is able to earn from six to ten rupees a month in service as a free man much nearer to his home.

9. The minimum rate prescribed by the law has always been insufficient to procure suitable labour for the Assam tea-districts. So long ago as the 27th December 1868, the then Lieutenant-Governor of Bengal, Sir William Grey, wrote:—"The simple fact is that the wages * * * * are not sufficient to induce people who are in good circumstances to run the risks of emigration in order to secure them. It is perfectly clear that the wages paid will not tempt in ordinary years and for a continuance anything like first-class labourers." What was true more than thirty years ago is now more true than ever. There is a regularly established business of buying and selling labour, and employers now pay for every labourer recruited under penal contract a sum varying from Rs. 120 to 150, whereas a quarter of a century ago they paid for the same class of coolie about Rs. 50 or 60. The difference in price, or on an average about Rs. 80 for a coolie, represents the increased cost now incurred by the tea-industry in procuring labour. The average number of Act I labourers imported by contractors into Assam during the five years from 1895 to 1899, inclusive, is 16,093, and at a cost of Rs. 80 per head the average annual net increased loss to the industry during this period has been nearly 13 lakhs of rupees. The evidence recorded by the Labour Commission of 1896 shows where this money has gone. It has filled the pockets of an army of agents, contractors, daffadars and arkatis. It is money which would not have been spent if the rate of wages offered were as sufficient to secure suitable labour for the Assam tea-districts as it was twenty-five years ago. The rate was notoriously insufficient then, and it is by the measure of this difference the more insufficient now. The total annual loss incurred by the tea-industry on account of these buying and selling transactions, which are so objectionable on other grounds, cannot be estimated at less than 16 lakhs of rupees.

10. The insufficiency of wages leads to the importation of a bad and even the worst class of labour. This has always been a great practical difficulty with the tea-industry, and it augments year by year. It is one of the principal causes of the excessive mortality among Act labourers in Assam which during the past thirteen years, from 1887 to 1899 inclusive, has averaged 53·2 per thousand. It must be remembered that this is the mortality among adults in the prime of life. It amounts to what would be considered a very heavy mortality if all ages were included. It is at least twice as heavy as it would be if the rate of wages were sufficient to enable the employers to reject all but healthy labourers. The total average mortality among Act labourers in the Province during this period has been 6,175. If half of these could have been maintained alive, an annual saving, at the estimated rate of Rs. 130 per head, amounting to Rs. 4,01,310, would have been effected. Apart from all considerations of humanity, the industry is thus a heavy loser from paying wages on a scale which is insufficient to attract strong and healthy labourers.

11. It remains for me to say that it is only in years of scarcity in the recruiting districts that even well-managed gardens are able to recruit coolies of a good class through garden-sardars at present rates, and that it is unfortunately a fact that there are very few employers who are able to recruit all the coolies they require through garden-sardars. Until a reasonable market-rate of wage is offered to Assam coolies, it will always be necessary to buy them at an extravagant and, I fear, increasing price, which, with such difficult and risky work as the crimping of labour implies, will always be demanded by, and always will be paid to, the contractor.

12. I am obliged to add that I have found in certain cases that the wages paid to labourers are insufficient to maintain them in a healthy condition. It is not an uncommon experience of Inspectors to report regarding tea gardens, where the coolies have an underfed and anæmic appearance, where the death-rate is high, often in spite of good sanitary arrangements, and desertions are numerous, indicating discontent among the labour-force, that the chief cause for this unsatisfactory state of things is the insufficiency of wages. In tea as in every other great industry there are a number of concerns, which owing to one cause or another are not prosperous and which are carried on with difficulty, yielding little or no profit, and in such cases there is the strongest temptation to the managers to effect a short-sighted economy by increasing tasks and cutting down wages. I have repeatedly brought to notice the insufficiency of the wages paid to labourers under contract, and I am expressing myself with studious moderation when I say that I believe that one of the causes of the heavy mortality among Act coolies in the Province is that they do not always receive a living wage.

13. The objection taken by the majority of the Select Committee to the increase in the rate of wages proposed in the Bill as introduced is that, if it were adopted, it would impose an excessive burden on employers. Whether this would be so or not may be a subject for discussion, but I think I may claim to have shown that adherence to the existing rate imposes an excessive burden on employers which would not be borne if the market-rate of wages were paid to Act labourers. I deny, however, altogether that the increase proposed would have the result of putting employers to such additional expense as would deal a dangerous blow to the industry. There is no reason why with a suitable adjustment of tasks the increase of wages should involve any increase of expenditure in the majority of gardens where the coolies are now well treated and contented. I do not anticipate that there would be any practical change in the condition of the labour-force on gardens where the tasks are at present light and the wages, including overtime payments, are already sufficient: but I do expect that the increase of wage would ameliorate the condition of the labourers in those ill-managed estates on which full tasks are exacted for the present insufficient legal wage and no margin is left to the coolie for earning anything in addition.

14. There is no force in the argument that an increase of wages followed by an augmentation of tasks would be no increase at all. The truth is that the proposed increase in the statutory minimum rate of wages is not likely to produce any effect upon the first-class labourers who make, and will continue to make, large profits from overtime work, and it would not in itself, unless accompanied by the reduction in the rate of tasks which I am thankful the Committee have been pleased to accept, produce any effect on newly arrived coolies who are unable to do a full day's work; but it will immensely benefit the great mass of labourers who are content to, and can, perform the present task and will therefore get through a slightly augmented task in return for higher wages, but will, as they do now, get little or nothing from overtime.

15. If it be urged that the raising of task-rates in proportion to the increase in wages would be a matter of difficulty, that it would cause inconvenience and not be understood by the coolies, that it might upset the labour-force and cause discontent, I would reply that some inconvenience will no doubt be caused by a general alteration of task-rates, but there is no reason to suppose that it would be serious. Task-rates in tea gardens are not uniformly or rigidly laid down. They vary from garden to garden and from time to time, in some cases from day to day, and from one part of a garden to another, under conditions and circumstances which are constantly changing. All industries are liable to some occasional disturbance in respect of wages, and the tea-industry cannot expect to be altogether exempt.

H. J. S. COTTON.

I APPROVE of the Bill as amended by the members of the Select Committee, with the exception of sub-clause (4) of clause 5.

I consider that the proposed enhancement of wages is unnecessary, and that it is not justified by any increase in the cost of living in the labour-districts, or by any corresponding rise of wages in the tea-districts of Bengal or in the Province of Assam or, generally speaking, in other districts of India.

In my opinion the wages earned by the labourers on tea-estates are sufficient to permit of their living in a thoroughly comfortable manner. On the other hand, in the present very critical state of the industry, the proposed increase of wages would prove ruinous to, and result in the closure of, many estates, and would thus ultimately affect in the most injurious manner the position and prospects of not only the whole labouring population of the tea-estates (for whose benefit the rise in wages is intended) but also those of many others whose prosperity is dependent on that of the tea-industry.

ROBERT H. HENDERSON.

No. II.

THE ASSAM LABOUR AND EMIGRATION BILL.

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192. Unlawful absence from work.
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194. Statement of deserters.
195. Deserter may be apprehended without warrant.
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202. Portion of sentence may be cancelled on application of employer.
203. Expense of forwarding labourer to be paid by employer.
204. Conviction not to operate as a release.
205. Endorsement on contract of imprisonment for offence against Act.
206. Endorsement on contract of period of any other imprisonment.
207. Periods endorsed to be added to term of contract.
208. Other person enticing away, harbouring or employing labourer under labour-contract.
209. Failure to forward contract under section 118 or to cause labourer to appear under section 120.
210. Employer or other person neglecting to send labourer before Magistrate as provided by section 146.
211. Employer refusing to endorse labour-contract, etc.
212. Employer or other person neglecting to comply with request of labourer wishing to redeem unexpired term.
213. Abetment.
214. Place of trial for offences.

CHAPTER X.

MISCELLANEOUS.

215. Recovery of sums due under Act.
216. Wages due under labour-contract a charge upon estate.
217. Owner of estate for time being has all rights and remedies in respect of labour-contracts charged on it.
218. Fines, fees and rates to be credited to Labour Transport Fund.
219. Duty of Assistant Inspector.
220. Powers of officers under this Act to be exercisable from time to time.
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222. Notifications not to affect prior acts, etc.
223. Repeal.

THE FIRST SCHEDULE.—FORM OF LABOUR-CONTRACT BETWEEN LABOURER AND EMPLOYER.

THE SECOND SCHEDULE.—ENACTMENTS REPEALED.

[The marginal references, save where the Health Bill is quoted, are to the sections of Act I of 1882, as amended by Acts XII of 1891, VII of 1893 and V of 1897. The amendments proposed by the Select Committee are printed in antique type.]

No. II.

A Bill to consolidate and amend the law relating to Emigration to the Labour-districts of Assam.

WHEREAS it is expedient to consolidate and amend the law relating to emigration to the labour-districts of Assam; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

[1.] **1.** (*1*) This Act may be called the Assam Labour and Emigration Act, 1901. Short title, extent and commencement.

(*2*) It extends—

(*a*) to the *Provinces* of Bengal (*including the Santhál Parganas*), the North-Western Provinces, Oudh and Assam, the Central Provinces and the District of Ganjam *in the Province of Madras*; and

(*b*) to such other *parts* of **British India** as the *Local Government* may, with the previous sanction of the Governor General in Council, by notification in the **local official** Gazette, direct.

(*3*) It shall come into force—

(i) in the territories mentioned in clause (*a*) *of sub-section* (*2*), at once; and

(ii) in any territories to which it may be extended by a notification under clause (*b*) *of the said sub-section*, on such day as may be specified in that behalf in the notification.

[3.] **2.** (*1*) In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(*a*) **"agent" means a garden-sardar or other person engaging or assisting any native of India to emigrate under Chapter V:** [Health Bill, cl. 2 (*a*).]

(*b*) "Assistant Inspector" means an Assistant Inspector of Labourers appointed under this Act:

(*c*) "contractor" means a contractor licensed under this Act:

(*d*) "dependant" includes any woman (not being a labourer), any child and any aged or incapacitated relative or friend accompanying any labourer with the consent of a contractor, sub-contractor, recruiter, local agent or garden-sardar, **or accompanying any emigrant with the consent of an agent:**

(*e*) "emigrate" denotes the departure of any native of India (not being a native of a labour-district) of the age of sixteen years or upwards from any part of the territories in which this Act may for the time being be in force, for the purpose of labouring for hire in a labour-district otherwise than as a domestic servant:

(*f*) "employer" means the chief person for the time being in charge of any estate upon which labourers or more than fifty other persons are employed:

(*g*) "estate" means the land upon which any labourers or more than fifty other persons have been engaged to labour:

(*h*) **"garden-sardar" means a person employed on an estate and deputed by his employer to engage labourers:**

(*i*) "Inspector" means an Inspector of Labourers appointed under this Act:

(*j*) "labour-contract" *means* a contract, **penalty enforceable** under this Act, to labour for hire in a labour-district otherwise than as a *domestic servant*:

(*k*) "labour-district" means any of the districts of Lakhimpur, Sibsagar, Nowgong, Darrang, Kamrup, Goalpara, Cachar and Sylhet *in the Province of Assam*;

(*l*) "labourer" means any person bound by a labour-contract, and includes any person registered as such under section 34 or section **69**:

(*m*) "local agent" means a local agent licensed under this Act:

(*n*) "Magistrate" means a District Magistrate, Subdivisional Magistrate *or* other person appointed by the Local Government to perform the functions of a Magistrate under this Act:

(*o*) "recruiter" means a recruiter licensed under this Act:

(*p*) **"recruiting district" meansa district in which this Act is for the time being in force, other than a labour-district:**

(*q*) "Registering-officer" means a Registering-officer appointed under this Act:

(*r*) **"sign" and "signature" include, in the case of persons unable to write, finger-impressions:**

(*s*) "sub-contractor" means a sub-contractor licensed under this Act: and

(*t*) "Superintendent" means a Superintendent of Emigration appointed under this Act.

IX of 1872. (*2*) All words defined in the Indian Contract Act, 1872, and used in this Act *shall be deemed to* have the meanings respectively assigned to them by that Act.

[5.] **3.** The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, prohibit all *persons from recruiting, engaging, inducing or assisting any native of India, or any specified class of natives of India, to emigrate from the whole or any specified part of the Province to any labour-district or any specified portion of any labour-district, either absolutely or otherwise than in accordance with* **such of the provisions of this Act as may be specified in the notification:** Local Government may prohibit recruitment, etc., for emigration to any labour-district or part thereof either absolutely or otherwise than under certain provisions of Act.

Provided that a notification under this section shall not take effect until the expiry of six months from the date of its publication in the Gazette, unless for any special reason the Local Government thinks it necessary to direct that the notification is to take effect at an earlier date.

[8.] **4.** (*1*) The Local Government may appoint so many persons as it thinks necessary to be Superintendents of Emigration, Registering-officers, Embarkation Agents, Debarkation Agents, Inspectors of Labourers, Assistant Inspectors of Labourers and Medical Inspectors, under this Act respectively, and, with respect to any such officer, may, subject to the control of the Governor General in Council, declare the local area situate in the *Province* within which he shall exercise the powers and perform the duties conferred and imposed upon him by this Act or any rule thereunder. Appointment of officers.

(*2*) Every person so appointed shall be deemed *to be* a public servant within the meaning of the Indian Penal Code. XLV of 1860.

CHAPTER II.

LABOUR-CONTRACTS GENERALLY.

[9, §§ 1, 2 and 3.] **5.** (*1*) Every labour-contract shall be in writing *in the form set forth in the first schedule*, and shall be executed *as hereinafter provided* in duplicate on substantial paper. Essentials of labour-contracts.

(*2*) Every *labour*-contract shall specify—

(*a*) the names of the labourer and his employer;

(*b*) the term for which the labourer is to labour;

(*c*) *the* monthly wages in money *of the labourer* and the price at which rice is to be supplied to him;

(*d*) the labour-district in which, and, if the labourer so requests, the estate on which, *the labourer* is to labour.

(*3*) No *labour*-contract shall be made for a term exceeding four years or, if the contract is entered into under the provisions of section *118*, for a term exceeding one year, commencing from the date of its execution.

(*4*) **No labour-contract shall stipulate for a less rate of monthly wages than—**

for the first year, five rupees in the case of a man and four rupees in the case of a woman:

for the second and third years, five rupees eight annas in the case of a man and four rupees eight annas in the case of a woman: and

for the fourth year, six rupees in the case of a man and five rupees in the case of a woman:

Provided that the payment of wages under a labour-contract at the stipulated rate shall during the first six months after the arrival of the labourer in the labour-district where he is first employed be contingent on the completion of half the daily task regulated in accordance with the provisions of this Act, unless an Inspector has certified that the labourer is physically fit to perform the whole of such task:

Provided also that in all other cases the payment of wages at the stipulated rate shall be contingent on the completion of such daily task.

[9, § 4.] **6.** No contract made *otherwise than* in accordance with the provisions of section 5 shall be enforceable under this Act as a labour-contract against the labourer entering into it. Contracts not enforceable as labour-contracts unless made in accordance with section 5.

[9A.] **7.** Unless *his labour*-contract contains a specific obligation to *that* effect, no labourer shall be bound by *it* to undertake any work involving underground labour in mines. In absence of specific obligation, underground labour not obligatory.

[10.] Where contract does not specify estate, labourer to be deemed to have contracted to labour on any estate in charge of employer and situate in labour-district.

8. Unless *his* labour-contract specifies the particular estate on which *he* is to labour, *a* labourer shall be deemed to have contracted to labour on any estate in charge of the employer for whom he has contracted to labour, and situate in the labour-district specified in the contract:

Provided that no labourer shall, without his consent, be separated from his dependants (if any) or from any other labourer, *being his or her* wife, husband, son or daughter.

[11.] IX of 1872. Persons who may enter into labour-contracts.

9. Notwithstanding anything to the contrary in the Indian Contract Act, 1872, any person of the age of sixteen years or upwards *may* enter into a labour-contract:

Provided that no woman shall be capable of binding herself by a labour-contract if *her husband or lawful guardian* (*if any*) objects.

[11 A.] Power of Local Government to cancel contract in case of wrongful recruitment.

10. (*1*) *Where* the Local Government, after such inquiry as it thinks sufficient, is of opinion that any labourer was recruited or conveyed to a labour-district, or compelled or induced to enter into a labour-contract, by any coercion, undue influence, fraud or misrepresentation, or that any such irregularity has occurred in connection with his recruitment or the execution of his contract as makes it just to rescind his contract, the Local Government may, by order in writing, direct the labour-contract of the labourer to be cancelled.

(*2*) On receipt of an order *made under sub-section* (*1*), the Superintendent, Inspector or Magistrate shall cancel the *labour*-contract referred to *in the order*, and shall thereupon make endorsement that it has been so cancelled on the labourer's copy of the *labour*-contract, or, if *that copy* is not forthcoming, shall give to the labourer a certificate to *the like* effect.

[11 B.] Power to cancel contract of labourer related to labourer whose contract is cancelled.

11. Where the labour-contract of a labourer is or has been cancelled under section *10*, the Local Government may, *in* its discretion and on the application of the labourer concerned, cancel the labour-contract of any labourer, being the wife, husband, father, mother, son or daughter of the labourer whose labour-contract is or has been cancelled, who may have entered into a labour-contract at the same place with the same employer or, in the case of *a* labour-contract cancelled in the labour-districts, may be employed on any estate belonging to the same owner or under charge of the same employer.

[11 C.] Repatriation of labourers whose contracts are cancelled.

12. (*1*) Subject to any orders which the Local Government may *make* in this behalf, the Superintendent, Inspector or Magistrate may detain and send back to his native district any labourer, together with his dependants (if any), whose *labour*-contract has been cancelled under section *10* or section 11, and may recover the whole or any part of the expenses incurred during such detention or in so sending him back as follows, namely:—

(*a*) *in the case of a labourer* in a recruiting district, if the labourer has been recruited under Chapter III, *from the contractor at whose depôt the labourer* executed his labour-contract;

(*b*) *in the case of a labourer* in a recruiting *district*, if the labourer has been recruited under Chapter IV, *from the employer by whom the certificate of the garden-sardar concerned was granted, or from the local agent of the employer; and,*

(*c*) *in the case of a labourer* in a labour-district, from the employer on whose estate the labourer *is* under contract to labour, or, if the labourer has been recruited under Chapter III, either from such employer or from the contractor at whose depôt the labourer executed the labour-contract, as to the Inspector or Magistrate may seem expedient.

(2) In the case of a labourer recruited under Chapter III, when the whole or any part of such expenses have been recovered from the employer, the employer shall be entitled to recover the same from the contractor at whose depôt the labourer executed the labour-contract.

(3) A certified copy of the order in writing of the Local Government under section 10 or section 11 and the receipt granted to the employer for such expenses shall be conclusive evidence of the title of the employer to recover such expenses from the contractor.

[11 D.] Escort for repatriated labourer.

13. (*1*) *Where* a labourer is sent back to his native district under section *12*, the Superintendent, Inspector or Magistrate may provide an escort or make such other arrangements as *he* may *think* necessary for ensuring that *the* labourer is actually conveyed to *his native* district.

(*2*) Any expenditure incurred in providing such escort or making such arrangements *as aforesaid* may be recovered as part of the amount expended in sending *the* labourer back to his native district.

CHAPTER III.

RECRUITMENT BY CONTRACTORS, SUB-CONTRACTORS AND RECRUITERS.

Contractors and sub-contractors.

[12.] Licensing of contractors and sub-contractors.

14. Any Superintendent specially empowered in this behalf by the Local Government may grant to persons fitted by character to act as contractors licenses to be contractors within the whole or any part of the local area for which *the* Superintendent has been appointed; *and* may also, on the application of any contractor, grant to persons fitted by character to act as sub-contractors licenses to be sub-contractors, on behalf of *the* contractor, within the whole or any part of the local area for which *the* contractor is licensed.

[13.] Fee for, and form of, contractors' and sub-contractors' licenses.

15. Every license *granted under section 14* shall be in such form, and subject to the payment of such fee, not exceeding, in the case of a contractor, one hundred rupees, and, in the case of a sub-contractor, fifty rupees, as the Local Government may, by rule, prescribe.

[14.] Duration of contractors' and sub-contractors' licenses and cancellation thereof.

16. (*1*) No license shall be granted *under section 14*, for a longer period than one year from the date thereof, and, if the licensee fails to comply with any of the provisions of this Act or the rules thereunder, or is guilty of any other misconduct, *his* license may be cancelled by the Superintendent who granted the same.

(*2*) A contractor or sub-contractor may, within one month from the date of any order of a Superintendent cancelling his license *under sub-section* (*1*), appeal against the order to the Local Government, *and* the *decision* of the Local Government *thereon* shall be final.

[15.] Duties of contractors.

17. Every contractor shall, in addition to the special duties *imposed upon him by this Act*, afford such information to the Superintendent and furnish him with such returns and reports as *the Superintendent* may, subject to any rules *made* by the Local Government in this behalf, require.

[16.] Sub-contractor to act on behalf of only one contractor.

18. No sub-contractor shall be licensed to act on behalf of more than one contractor.

[17.] Contractor or sub-contractor acting as recruiter.

19. A contractor or sub-contractor may act as a recruiter, and shall, when so acting, be subject to all the provisions *of this Act* relating to recruiters.

[18.] Liability of contractors for sub-contractors' and recruiters' acts and defaults.

20. (*1*) Every contractor shall be liable for the acts and defaults as a sub-contractor or recruiter of any person licensed to be a sub-contractor or recruiter on his behalf, and all payments which, under this Act or any rule thereunder, any person *so licensed* is *required* to make, *may, in case of default, be recovered from the contractor concerned.*

(*2*) The Superintendent may cancel the license of any contractor where the license of any person so licensed on behalf *of the contractor* is liable to be cancelled under this Act.

(*3*) Nothing in this section shall be deemed to render a contractor criminally liable for any act or default on the part of any person *so* licensed on his behalf.

[19.] Contractor to establish depôts.

21. Every contractor shall establish and maintain, at such places and for such local areas as the Local Government may direct, suitable depôts for the reception and lodging, previous to their despatch to the labour-districts, of labourers engaged by him or by sub-contractors or recruiters licensed on his behalf, and shall provide at his own expense all necessary food, clothing and medical treatment for *any* labourers *so engaged* during their stay at *the* depôts.

[20.] Inspection and supervision of depôts.

22. (*1*) No depôt shall be used for the reception and lodging of labourers until it has been inspected and approved of by the Superintendent and the Medical Inspector.

(*2*) Every depôt shall be under the supervision of the Superintendent, the Magistrate or such other officer as the Local Government may appoint in this behalf, and shall be open at all times to inspection by the Superintendent, the Magistrate or such officer *as aforesaid*, and the Medical Inspector.

(*3*) Where the Superintendent considers that any depôt is unhealthy, or has become unsuitable for the purpose for which it was established, he may, by order in writing, prohibit the use of *the* depôt for the reception and lodging of labourers.

[21.] Establishment of hospital-depôts.

23. In addition to the depôts hereinbefore provided for, the Local Government may establish separate hospital-depôts for the reception of labourers suffering from dangerously infectious or contagious diseases.

[22.] Contractor to contribute towards establishment and maintenance of hospital-depôt.

24. (*1*) Where *a* hospital-depôt is established under section 23, the Local Government may require any contractor having a depôt in the neighbourhood of *the* hospital-depôt to contribute to the expense of the establishment and maintenance of the hospital-depôt such reasonable sum as it may direct, *and may recover the same* from *the* contractor.

(*2*) Every hospital-depôt *established under section 23* shall be under the charge of a medical officer appointed by the Local Government.

(*3*) Any Medical Inspector may direct the transfer of any labourer from a depôt established within the local limits of his jurisdiction to a hospital-depôt established *under section 23* within *the said* local limits.

Recruiters.

[23.] Licensing of recruiters.

25. Any Superintendent empowered in this behalf by the Local Government may, on the application of a contractor or of any sub-contractor acting on behalf of a contractor, grant to persons fitted by character to be employed in engaging labourers licenses to be recruiters on behalf of *the* contractor within the whole or any specified part of the local area for which *the* contractor has been licensed:

Provided that no person shall be granted a license under this section to be a recruiter on behalf of more than one contractor or to act as such within the local limits of more than one district.

[24.] Form of, and fee for, recruiter's license.

26. Every license *granted under section 25* shall be in such form, and subject to the payment of such fee, not exceeding sixteen rupees, as the Local Government may, by rule, prescribe.

[25.] Duration of recruiter's license.

27. No license shall be granted *under section 25* for a longer period than one year from the date thereof; and, if the licensee fails to comply with any of the provisions of this Act or the rules thereunder, or is guilty of any other misconduct, *his* license may be cancelled by the Superintendent who granted the same.

[26.] Recruiter to hold certificate from contractor or sub-contractor.

28. Every recruiter shall hold a certificate in writing authorizing him to act as such and signed by the contractor or sub-contractor on whose application he was licensed.

[27.] Magistrate's countersignature of recruiter's license.

29. (*1*) No recruiter shall engage or attempt to engage any person as a labourer unless *his* license bears the countersignature of a *Magistrate* having jurisdiction in the district or sub-division for which he is licensed.

(*2*) No Magistrate shall countersign a recruiter's license unless and until he has satisfied himself by such inquiry as he thinks fit that the licensee is not, by character or from any other cause, unfitted to be a recruiter under this Act, that he holds the certificate *prescribed by* section 28, and that sufficient and proper accommodation has been provided in a suitable place and is available for such labourers, or persons intending to become labourers, as may be collected by *him* pending their removal to a depôt.

[28.] Magistrate to supervise accommodation.

30. (*1*) Every Magistrate shall have, for the supervision, inspection and regulation of *any* place within the local limits of his jurisdiction *in which* accommodation

is provided *under section 29, sub-section (2)*, the same powers as are by this Act conferred on the Superintendent in respect of depôts.

(2) *The* District or any Subdivisional Magistrate may authorize any Magistrate subordinate to him, or any officer of police above the rank of sub-inspector, to visit and inspect such places *as aforesaid* at any time; and all recruiters or other persons in charge of such places *as aforesaid* shall afford to subordinate Magistrates and officers of police so authorized every facility for *visiting and inspecting them*.

[29.] **31.** (1) Where any Magistrate who has countersigned a recruiter's license afterwards finds reason to think that the licensee is, by character or from any other cause, unfitted to be a recruiter under this Act, or that the accommodation provided under section *29, sub-section* (2), has become insufficient or improper or has ceased to be available, or that the place in which it is provided has become unsuitable, he may require the licensee to produce his license and may cancel his countersignature thereon, or he may impound the license and send it for cancellation to the Superintendent who granted the same.

Cancellation of Magistrate's countersignature in certain cases.

(2) Every Magistrate refusing to countersign a recruiter's license or cancelling his countersignature thereon shall at once report *his* refusal or cancellation and the grounds thereof to the Superintendent who granted *the* license.

Procedure before arrival at Depôts.

[30.] **32.** (1) Every recruiter who desires to engage any person as a labourer shall appear with *the* person before such medical officer as the Local Government may appoint *in this behalf* within the local limits of the jurisdiction of the Magistrate by whom *the* recruiter's license was countersigned, or, if no medical officer has been *so* appointed, before such mdical officer as the Registering-officer before whom *the* person is taken for registration as hereinafter provided may direct.

Intending labourer to be taken for examination to medical officer.

(2) The medical officer shall thereupon examine *the* person, and shall, if satisfied that he is in a fit state of health to proceed to the labour-district in which he intends to labour, *and is not incapacitated, by reason of any obvious bodily defect or infirmity, for labour in the labour-districts*, give him a certificate to that effect.

[31.] **33.** Every person who obtains a certificate under section *32*, together with any persons about to proceed to a labour-district as his dependants, shall thereupon be brought by the recruiter before the Registering-officer having jurisdiction within the local area for which *the* recruiter is licensed, *or before such other Registering-officer as the Local Government may appoint for that local area*. The recruiter shall, at the same time, produce and show his license to *the* Registering-officer.

If certified to be fit, intending labourer to be brought before Registering-officer.

[32.] **34.** (1) The Registering-officer shall thereupon inspect the certificate given under section *32* and the license of the recruiter, and, if he finds that *the* certificate has been duly given and that the recruiter is duly licensed, shall then examine *the* person *brought before him under section 33* with reference to his intended labour-contract, and explain the same to him.

Examination and registration of intending labourer.

(2) *Where* it appears that *the* person *so brought before the Registering-officer* is competent to enter into *the intended labour*-contract, and understands the same as regards the locality, the period and nature of the service, and the rate of wages and the price at which rice is to be supplied to him, that the terms thereof are in accordance with law, that he has not been induced to agree to enter thereinto by any coercion, undue influence, fraud, misrepresentation or mistake, and that he is willing to fulfil the same, the Registering-officer shall register, in a book to be kept for the purpose, such particulars regarding him and the persons (if any) whom he wishes to have registered as his dependants as the Local Government may, by rule, prescribe; and the labourer and his dependants (if any) shall thereupon be deemed to be registered under this Act.

(3) Where any woman is produced before a Registering-officer for the purpose of being registered under this section, the Registering-officer shall, after such inquiry as may be necessary to satisfy him of the identity of her husband or lawful guardian, as the case may be, and, after such examination as may be necessary to satisfy him of the consent of such husband or lawful guardian, place on record in writing under his own signature that such husband or lawful guardian has consented to her entering into a labour-contract, and such record shall also be subscribed by the husband or lawful guardian with his signature.

(4) In the case of any such woman who is alleged to be a widow or of an unmarried woman who is stated to have no lawful guardian living, the Registering-officer shall satisfy himself by the evidence of at least one witness that her husband is dead or that she has no lawful guardian, as the case may be, and shall record such evidence in writing under his own signature.

[New.] **35.** (1) *Where the Registering-officer refuses to register a person as a labourer under this Act, he shall report his refusal to the District or Subdivisional Magistrate or other officer appointed by the Local Government in this behalf, and such Magistrate or officer as aforesaid may make such arrangements as he may think necessary for securing the return of the person and his dependants (if any) to their homes and for their proper housing and support in the interval. In the case of any male under the age of sixteen years or of any female recruited in circumstances which appear to be suspicious, the arrangements may include the provision of an escort home.*

Arrangements to be made for return home of intending labourer whose registration is refused.

(2) *Any expenditure incurred under sub-section (1) may be recovered from the contractor or recruiter concerned, or both.*

[33.] **36.** The Registering-officer shall furnish to *every* person registered *under section 34, sub-section* (2), a certified copy written on substantial paper of *the* particulars *referred to therein*.

Copy of registration to be given to labourer.

[34.] **37.** Every *Registering*-officer registering a person under section *34, sub-section* (2), shall forthwith forward a certified copy of *the* particulars *referred to therein* and the original certificate of the medical officer regarding *the person* to the Superintendent having jurisdiction over the depôt to which *the* person is to proceed.

Copy of registration and medical certificate to be sent to Superintendent.

[35.] **38.** For every person produced before a Registering-officer for the purpose of being registered *under section 34, sub-section* (2), the recruiter shall pay to the *Registering*-officer such fee, not exceeding one rupee, as the Local Government may, by rule, *prescribe*.

Fee for registration.

[36.] **39.** No recruiter shall remove or attempt to remove any person to a depôt, or induce or attempt to induce him to go to a depôt, or to leave the local limits of the jurisdiction of the Registering-officer before whom *he* ought to be brought under section *33*, or aid or attempt to aid him in going to a depôt, or leaving any such local limits *as aforesaid*, unless and until *he* has been registered under section *34, sub-section* (2).

Recruiter when to remove person to depôt.

[37.] **40.** (1) **After a labourer has been registered under section 34, sub-section (2), the Registering-officer shall direct the recruiter to convey the labourer with all convenient despatch to a depôt established by the contractor on whose behalf the recruiter has been licensed, and shall specify the depôt to which the labourer is to be conveyed.**

Conveyance of labourer to depôt.

(2) *Every* labourer shall, while proceeding to the depôt, be accompanied throughout the journey either by the recruiter himself, or by a competent person deputed by him with the approval of the Registering-officer by whom *the* labourer *has* been registered.

(3) The Registering-officer shall give to *every* person so deputed a certificate, under his signature, stating that he has been deputed for the journey to the depôt.

[38.] **41.** Every recruiter or person deputed by him *under section 40, sub-section* (2), shall, throughout the journey to the depôt, provide *the* labourer and his dependants (if any) with proper and sufficient food and lodging.

Recruiter to provide food and lodging for labourer on journey.

Procedure at Contractors' Depôts.

[39.] **42.** Within twenty-four hours after *the arrival of* a labourer at a depôt, the contractor by whom *the* depôt is maintained, or the person in charge thereof, shall give to the Superintendent, within the local limits of whose jurisdiction *the* depôt is situate, a notice in writing, in such form and containing such particulars as the Local Government may, by rule, prescribe, of the arrival *of the labourer*.

Contractor to report arrival of labourer.

[40.] **43.** (1) The Medical Inspector shall, as soon as may be after *the arrival of* a labourer at a depôt, examine *the* labourer and his dependants (if any) to ascertain that they are in a fit state of health to undertake the journey to the labour-district to which they intend to proceed, *and, in the case of the labourer, that he is also not incapacitated, by reason of any obvious bodily defect or infirmity, for labour in the labour-districts.*

Duties of Medical Inspector.

(2) The Medical Inspector shall give a certificate to the Superintendent stating whether he is or is not satisfied *that* the labourer and his dependants (if any) *are in a fit state of health* to undertake *the* journey, *and, in the case of the labourer, that he is also not incapacitated as aforesaid.*

[41.] **44.** *Where* the Medical Inspector gives a certificate under section *43, sub-section* (2), with respect to any labourer, and there is, in the opinion of the Superintendent, no valid reason why *the* labourer should not enter into *the intended* labour-contract, *the* labourer and the employer with whom he intends to contract, or the person appearing on behalf of *the* employer, shall, *after the lapse of three, and* within thirty days after *the date of* the arrival of the labourer at the depôt, execute *the* labour-contract in the presence of the Superintendent:

On grant of certificate, labourer to enter into labour-contract.

Provided that no labour-contract shall be executed as aforesaid except in the district in which the labourer was **registered under section 34, sub-section (2),** *or at such other place within the Province as the Local Government may direct.*

[42.] **45.** (1) Before *any* labourer executes *a labour*-contract, *under section 44*, the Superintendent shall personally explain it to him, and shall, after the same has been executed by *him* and *by* his employer or the person appearing on behalf of *his* employer, attest *the labour*-contract and certify at the foot thereof that he has personally explained the same to the labourer.

Contract to be explained to labourer by Superintendent, and abstract and copies to be made.

(2) An abstract of every *labour*-contract, *so executed* shall be entered in a register to be kept by the Superintendent for the purpose; and, after the abstract has been so entered, one copy of the *labour*-contract shall be given to the labourer and the other to his employer or the agent of his employer.

[42-A.] **46.** *Where* the employer with whom any labourer intends to contract, or a person appearing on behalf *of the* employer, has given notice to the Superintendent that, before any labour-contract is entered into by him or on his behalf with any labourer, the labourer shall be examined by a medical man **selected by such employer or person appearing on behalf of the employer and shall be** certified by him to be **physically and constitutionally fit for labour** in the labour-district in which the estate of *the* employer is situate, the Superintendent shall not permit *the* labourer to execute a labour-contract, until such *medical* certificate *as aforesaid* has been produced and shown to him.

Power for employer to require further medical certificate as to fitness to labour previous to contract.

[42-B.] **47.** *Where* the employer or the person appearing on his behalf has directed that *the* examination *referred to in section 46* shall be made by a medical officer in the service of *the* Government, such officer *as aforesaid*, making the examination shall be entitled to receive from the employer **such person such fees as may be agreed upon, or, if no agreement has been entered into, then** such fee for each labourer so examined as the Local Government, **by general or special order,** may *direct*.

Fee of medical officer when in Government Service for examination under section 46.

[43.] **48.** In *any of* the following cases, namely:—

Power to cancel contract and order payment of expenses of return of labourer in certain cases.

(*a*) where the Medical Inspector, on making the examination required by section 43, *sub-section* (1), or at any subsequent time during the stay at the depôt of a labourer, finds that *the* labourer is or has become unfit to undertake the journey to the labour-district to which he intends to proceed, *or that the labourer is incapacitated, by reason of any obvious bodily defect or infirmity, for labour in the labour-districts*, and the Superintendent considers that *the* labourer has not dishonestly represented himself as fit to undertake *the* journey; or

(*b*) where the Superintendent finds that any such irregularity has occurred in the recruitment or treatment by the recruiter of *a* labourer as makes it just to refuse to permit a labour-contract to be executed or to rescind *a labour*-contract *which has been* executed; or

(*c*) where the contractor on whose behalf or by whom *a* labourer has been registered does not, *after the lapse of three, and* within thirty, days after *the date of* the arrival of *the* labourer at the depôt, tender to him a labour-contract for execution under section *44*, or the employer **or the person appearing on his behalf** refuses or neglects to execute *the* contract as required by that section;

the Superintendent may cancel the labour-contract executed by *the* labourer, and in that *event*, or if no labour-contract has been executed, may order the contractor at once to pay *the* labourer such reasonable sum as *the Superintendent may think* necessary to enable *the labourer* to return to the place at which he was registered *or to his native district, as to the Superintendent may seem fit*, and such further sum by way of compensation as the Superintendent thinks reasonable; and may take *such* other steps *as he may* think necessary for the conveyance of *the* labourer to such place **or district** *as aforesaid*.

[44.] **49.** (*1*) Any labourer who, from his state of health, is, in the opinion of the Medical Inspector, unfit to undertake *the* return journey, shall be entitled to be fed, lodged, clothed and (if necessary) medically treated at the depôt at the expense of the contractor by whom *the* depôt is maintained, until he is reported by the Medical Inspector to be fit to undertake *the* return journey.

Labourer when to be lodged, etc., at depôt till he can return home.

(*2*) *Where the* contractor negligently or wilfully omits to provide food, lodging, clothing or medical treatment for *the* labourer, the Superintendent may order the contractor at once to pay such reasonable sum as *the Superintendent may think* necessary to provide such food, lodging, clothing or medical treatment *as aforesaid*.

[45.] **50.** *Where* an order is made under section *48* with reference to a labourer, any person registered as his dependant, or any *other* labourer, being *his or her* wife, husband, son or daughter, may claim—

Like provisions in case of dependants and relatives.

(*a*) to be conveyed, at the expense of the contractor, with *the* labourer to the *same* place *as the labourer*; and,

(*b*) if *the* labourer is unable to travel, to be fed, lodged, clothed and (if necessary) medically treated in the depôt at the expense of the contractor until *the* labourer is able to travel;

and the Superintendent may include such expenses *as aforesaid* in an order made under section *48* or section *49* with respect to *the* labourer.

[46.] **51.** *Where*, upon the arrival of a labourer at a depôt, it appears that during the journey to the depôt *the* labourer or any person registered as his dependant has suffered ill-treatment at the hands of the recruiter or person deputed by *the recruiter* to accompany *the* labourer, or that *the* recruiter or such person *as aforesaid* has failed to provide the labourer or any person registered as his dependant with proper and sufficient food and lodging, the Superintendent may order the contractor by whom *the* depôt is maintained to pay *the* labourer a reasonable sum by way of compensation.

Compensation to labourer for ill-treatment on the journey.

[47.] **52.** *Where* the Medical Inspector has reason to think that any person registered as the dependant of a labourer is not in a fit state of health to undertake the journey to the labour-district to which the labourer intends to proceed, the Medical Inspector shall so certify to the Superintendent to whom notice of the arrival of *the* labourer was given. The provisions of sections *48* and *49* shall thereupon apply to *the* dependant as if he were a labourer, and the Superintendent may make such orders regarding him as he may make under those sections with regard to a labourer.

Procedure when dependant declared unfit to proceed to labour-district.

[48.] **53.** *In any such case as is provided for by section 52, the* labourer to whom *the* dependant is attached shall *further* be entitled, if he or she so wishes, and if he or she *is* the husband, wife, son or daughter of *the* dependant, to receive from the contractor at whose depôt he or she arrived, such reasonable sum as the *Superintendent may think* necessary to enable him or her to return to the place where he or she was registered, *or to his or her native district, as to the Superintendent may seem fit*. If *the* labourer so returns, then any other persons registered as his or her dependants, and any other labourer, being *his or her* wife, husband, son or daughter, shall also be entitled to receive a like sum from *the* contractor.

Labourer and relatives entitled to be returned with dependant.

[49.] **54.** On *the* failure of *a* contractor for *the space of* twenty-four hours to comply with an order of the Superintendent to pay any sum *required* to be paid under section *48*, section *49*, section *50*, section *51*, section *52* or section *53*, the Superintendent may pay the same to or on behalf of the labourer or dependant *concerned, and may recover it from the contractor*.

Failure of contractor to pay sums ordered to be paid under sections 48 to 53.

[50.] **55.** (*1*) All labourers despatched from a contractor's depôt to a labour-district shall during their journey *to the* **place where they are to labour** be accompanied by a person appointed by *the* contractor, **and no person shall be so appointed unless he holds a certificate of fitness signed by the Superintendent, who may cancel such certificate for any reason which seems to him sufficient.**

Provisions as to escort on journey and way-bill.

(*2*) *Every* person *appointed under sub-section* (*1*) shall take with him a way-bill in such form and containing such particulars and instructions as the Local Government may prescribe; he shall present *the* way-bill at all such places and to all such officers as may be thereupon indicated; and he shall carry out all instructions therein contained for his guidance.

CHAPTER IV.

RECRUITMENT BY GARDEN-SARDARS AND LOCAL AGENTS.

Garden-sardars.

[51.] **56.** (*1*) An employer may grant to any *garden-sardar* a certificate authorizing him, *in* such local area *within the limits of a single* **recruiting** *district* as may be specified in *the* certificate, to enter into labour-contracts with persons desirous of becoming

Employer may grant certificate to garden-sardar.

labourers upon any estate of which *the* employer is in charge, **and may cancel such certificate at any time.**

(*2*) *Where* any labourer **bound by a labour-contract** is granted a certificate under sub-section (*1*), his employment under *the* certificate shall be deemed to be employment under his labour-contract.

[52.] **57.** (*1*) Every certificate *granted to a garden-sardar under section 56, sub-section* (*1*), shall be in such form and shall contain such particulars as the *Chief Commissioner of Assam* may prescribe in this behalf.

Form and particulars to be contained in such certificate.

(*2*) Any employer granting a certificate to a garden-sardar *under section 56, sub-section* (*1*), may, before *the* certificate is accepted and signed as hereinafter provided, specify therein the name of the local agent (if any) to whom *the* garden-sardar is to report himself for orders, the time within which he is to return to *his* employer, and *such* other instructions for his *guidance as* he may think *fit*.

[53.] **58.** Every certificate *granted to a garden-sardar under section 56, sub-section* (*1*), shall be accepted and signed by the garden-sardar in the presence of the Inspector or *of* a Magistrate having jurisdiction over the place where the employer granting *the* certificate resides.

Certificate to be accepted and signed in presence of Inspector or Magistrate.

[54.] **59.** *The* Inspector or Magistrate shall inquire into the facts stated in *the* certificate, and, upon being satisfied of the truth of the *facts so stated*, shall, unless it appears to him that the person so accepting and signing *the* certificate is **not employed on an estate of which the person granting the certificate is in charge, or** is, by character or from any other cause, unfitted to be a garden-sardar, countersign and date *the* certificate.

Inspector's or Magistrate's countersignatnre of certificate.

[55.] **60.** (*1*) On the application of the employer by whom any certificate so countersigned has been granted to a garden-sardar, the Inspector or Magistrate may, without requiring the appearance of the garden-sardar or making the inquiry prescribed by section *59*, countersign a fresh certificate to be granted by the employer to the garden-sardar in renewal of any existing certificate.

Provision for grant of fresh certificate.

(*2*) Every fresh certificate *granted under sub-section* (*1*) shall be forwarded by the Inspector or Magistrate countersigning it to the *District* Magistrate of the district in which the garden-sardar to whom it is granted is employed; and *the garden-sardar* shall, on receiving notice from such *District* Magistrate *as aforesaid*, appear before him **or any Magistrate specified in the notice** and accept and sign *the* fresh certificate in his presence.

[56.] **61.** No certificate granted to a garden-sardar *under this Chapter* shall come into force unless and until it has been accepted and signed by the garden-sardar and countersigned by the Inspector or Magistrate *having jurisdiction over the place where the employer granting the certificate resides, and also by the District Magistrate of the district in which the garden-sardar is authorized by the certificate to enter into labour-contracts*, and no certificate *so granted* shall continue in force for a longer period than one year from the date of its countersignature by the said Inspector or Magistrate.

Certificate when to come into force, and duration thereof.

[57.] **62.** (*1*) Every garden-sardar shall provide sufficient and proper accommodation in a suitable place for such labourers, or persons intending to become labourers, as may be collected by him pending their removal to a labour-district.

Accommodation to be provided by garden-sardar.

(*2*) The *District or Subdivisional* Magistrate shall visit and inspect *the* accommodation *so provided*; and *every* garden-sardar or other person in charge of a place *in which accommodation is so provided* shall afford to such Magistrate every facility for *visiting and inspecting it*.

(3) The District or Subdivisional Magistrate may delegate the duty imposed on him by sub-section (2) to a Subordinate Magistrate or to an officer of police above the rank of sub-inspector.

(4) In every such place *as aforesaid* the garden-sardar providing the accommodation shall make such sanitary arrangements as the Local Government may prescribe.

63. (1) Where a garden-sardar commits a breach of any of the provisions of this Act or the rules thereunder, the Inspector or Magistrate who countersigned his certificate, or the District Magistrate who countersigned the certificate under section 61, or the Superintendent within whose jurisdiction the garden-sardar is employed, may cancel the certificate.

Cancellation of certificate in certain cases.

(2) Whenever one of the officers aforesaid cancels a certificate, he shall give notice of the fact to the other officers mentioned in sub-section (1) and to the employer of the garden-sardar; and whenever such a certificate is cancelled by the employer, notice of the fact shall be given by him to the officers aforesaid.

(3) When the certificate of a garden-sardar is cancelled under this section, any labourers or other persons of whom he is in charge may be forwarded to their destination under the care of any person appointed by the employer for that purpose and approved by the Superintendent.

Local Agents.

[58.] **64.** (*1*) Any Superintendent authorized in this behalf by the Local Government may, on the application of one or more employers, grant licenses to suitable persons to be local agents for the purpose of representing employers in all matters connected with the supervision of garden-sardars under this Chapter or section 90 or section 91 within such local area and for such period as *the* employer or employers so applying may desire:

Licensing and duties of local agents.

Provided that no contractor and no person who in the opinion of the Superintendent has a share or interest in any contractor's business shall be licensed as a local agent.

(*2*) A local agent shall furnish such information and make such returns as the Local Government may, by rule, prescribe.

[59.] **65.** Any Superintendent authorized in this behalf by the Local Government may, on the application of one or more employers, grant licenses, for such period as the employer or employers may desire, to suitable persons to be selecting agents, for the selection, on behalf of the employer or employers, of

Selecting agent.

labourers recruited by contractors, and such selecting agent shall furnish such information and make such returns as the Local Government may by rule prescribe:

Provided that no contractor or local agent and no person who in the opinion of the Superintendent has a share or interest in any contractor's business shall be licensed as a selecting agent:

Provided also that no such license shall be granted for more than one year from the date thereof:

Provided also that a license granted under this section may be cancelled by the Superintendent for any reason which seems to him sufficient.

[63.] **66.** Where any garden-sardar to whom a certificate has been granted under this *Chapter* by an employer commits any offence punishable under this Act, any local agent of *the* employer may prosecute the *garden*-sardar for *that* offence.

Prosecution of garden-sardars by local agents.

[64.] **67.** (*1*) The *District* Magistrate of any district within which a local agent acts as such may, by order *in writing*, cancel the license of *the* local agent if the employer so requires, or if it is shown to the satisfaction of the *District* Magistrate that the local agent has—

Cancellation of licenses of local agents.

(*a*) employed any contractor's recruiter to recruit or engage on his behalf persons to be labourers; or

(*b*) permitted persons engaged as labourers by or on behalf of any contractor to use the accommodation provided for the persons engaged as labourers by any garden-sardar under *the* local agent's control; or

(*c*) allowed any garden-sardar under his control to transfer persons engaged as labourers by *the garden*-sardar to contractors or to their recruiters or to any employer other than the employer by whom *the garden*-sardar's certificate was granted; or

(*d*) himself taken over persons engaged as labourers by any garden-sardar with intent to despatch them to any employer other than the employer by whom *the garden*-sardar's certificate was granted.

(*2*) *A local agent may*, within three months next after the date of *any* order *of a District Magistrate cancelling his license under sub-section* (*1*), *appeal against the order to the Local Government*, and the decision of the Local Government thereon shall be final.

Procedure to be followed by Garden-sardars.

[65.] **68.** Every garden-sardar who desires to engage any person as a labourer shall appear with *the* person, together with any *others* about to proceed to a labour-district as *his* dependants, before the Registering-officer having jurisdiction within the local area specified in the certificate of *the garden*-sardar or before such other Registering-officer as the Local Government may appoint for that local area.

Garden-sardar and labourer to appear before Registering-officer for registration.

[66.] **69.** (*1*) The Registering-officer shall thereupon inspect the certificate of the garden-sardar, and if he finds that *the* certificate is in force, shall examine, with reference to the intended labour-contract, the person *brought before him under section 68 whom it is desired to engage as a labourer*, and explain the *intended labour*-contract to *him*.

Examination and registration of persons engaged by garden-sardar.

(*2*) *Where* it appears that *the* person *so brought before the Registering-officer* is competent to enter into *the intended labour*-contract and understands the nature of the same as regards the locality, period and nature of the service, and the rate of wages and the price at which rice is to be supplied to him, that the terms thereof are in accordance with law, that he has not been induced to agree to enter thereinto by any coercion, undue influence, fraud, misrepresentation or mistake, and that he is willing to fulfil the same, the Registering-officer shall register, in a book to be kept for the purpose, such particulars regarding him and his dependants (if any) as the Local Government may, by rule, prescribe; and the labourer and his dependants (if any) shall thereupon be deemed to be registered under this Act.

[67.] **70.** (*1*) *Where* it appears to *the Registering*-officer that any *person brought before him under section* 68 is not in a fit state of health to undertake the journey to the labour-district to which he intends to proceed, *or, in the case of a labourer, that he is incapacitated, by reason of any obvious bodily defect or infirmity, for labour in the labour-districts*, the *Registering*-officer may, before registering *him under section* 69, *sub-section* (*2*), if himself a medical man, medically examine *him*, or, if not himself a medical man, send him to a medical man for *medical* examination.

Medical examination.

(*2*) If upon *medical* examination *any* person *so brought before a Registering-officer* is declared unfit to undertake the journey to *the labour-district or, in the case of a labourer, incapacitated, by reason of any obvious bodily defect or infirmity for labour in the labour-districts*, the *Registering*-officer may refuse to register *him*.

[68.] **71.** For every person *brought* before a Registering-officer *under section* 68 for the purpose of being registered as a labourer, the garden-sardar who appears with him shall pay to the Registering officer such fee, not exceeding one rupee, as the Local Government may direct.

Fee to be paid for every labourer produced for registration.

[69.] **72.** (*1*) Where a person has been registered under section 69, *sub-section* (*2*), he shall, within fifteen days *after* the *date* on which he was so registered, execute a labour-contract with the employer with whom he intends to contract.

Labour-contract to be executed.

(*2*) *The labour*-contract shall be signed in the presence of the Registering-officer by *the* person *so registered* and, on behalf of the employer, by the garden-sardar who appears with *him* before *the Registering*-officer. The *Registering*-officer shall satisfy himself that the *labour*-contract is in accordance with any instructions specified in the certificate of the garden-sardar; *and*, if *he* is so satisfied, shall, before the labourer signs the *labour*-contract, personally explain it to him and, after it has been executed as aforesaid, attest *it*, and certify at the foot thereof that he has personally explained it to the labourer.

(*3*) An abstract of every *labour*-contract *executed under this section* shall be entered in a register to be kept for the purpose by the Registering-officer, and a copy *thereof* shall then be given to the labourer and a copy to the garden-sardar or local agent.

(*4*) *Where* any garden-sardar without reasonable cause, refuses or neglects to execute a *labour*-contract with a labourer as required by *sub*-section (*2*) within fifteen days *after* the *date* on which *the labourer* was registered *under section* 69, *sub-section* (*2*), the Registering-officer may order *the garden*-sardar to pay to the labourer such reasonable compensation, not exceeding twenty rupees, as the *Registering*-officer *may* think fit.

[70.] **73.** *Where* the employer *of a garden-sardar* has, in the instructions specified in the certificate of the garden-sardar, directed that *every* labourer engaged by him shall before registration be examined by a competent medical man and certified by him to be in a fit state of health to undertake the journey to the labour-district to which *he* intends to proceed *and physically and constitutionally fit for labour in the labour-districts*, no Registering-officer shall register as a labourer any person appearing before him with *the garden*-sardar until such *medical* certificate as aforesaid has been produced and shown to him.

Procedure when employer requires medical examination previous to registration.

[71.] **74.** *Where* the employer *of a garden-sardar* has, in the instructions specified in the certificate of the garden-sardar, directed that *the* examination *referred to in section* 73 shall be made by a medical officer in the service of *the* Government, such officer *as aforesaid* making the examination shall be entitled to receive from the local agent or *garden*-sardar such fee, for each labourer so examined, as may be agreed upon, and, if no agreement has been entered into, such fee as the Local Government, by general or special order, may *direct*.

Fee of medical officer when in Government service for examination under section 73.

[72.] **75.** Unless and until a person whom it is desired to engage as a labourer under this Chapter has executed a labour-contract under section 72, no garden-sardar shall remove or attempt to remove him to a labour-district, or induce or attempt to induce him to go to a labour-district, or to leave the local area, or aid or attempt to aid him in proceeding to a labour-district.

Garden-sardar when to remove labourer to labour-district.

[73.] **76.** (*1*) A garden-sardar shall either himself accompany labourers engaged by him throughout their journey from the place in which the labour-contract was entered into, to the labour-district wherein they have contracted to labour, or shall send with them some competent person appointed by him with the approval of the local agent of his employer, or, if his employer has no local agent, with the approval of the officer by whom *the* labourers were registered.

Garden-sardar to accompany labourers or send competent person with them.

(*2*) When the number of labourers (exclusive of dependants) proceeding on their journey to a labour-district is more than twenty, for every twenty labourers so in excess, or for any number of labourers less than twenty so in excess, one additional garden-sardar or person so appointed by him shall accompany the labourers so proceeding.

[74.] **77.** A garden-sardar may, subject to the instructions specified in his certificate, engage any number of persons as labourers; and, subject to the provisions of section 76, any number of labourers may be despatched at the same time to the labour-districts.

No restriction on number of persons engaged by garden-sardar.

[75.] **78.** A garden-sardar may, with the previous consent in writing of the local agent of the employer by whom his certificate was granted, or, if *the* employer has no local agent, with the previous consent in writing of *the* employer, be appointed under section 76 as a competent person to accompany labourers other than those engaged by him.

Appointment in certain cases of garden-sardar to accompany labourers not engaged by him.

[76.] **79.** (*1*) Every garden-sardar or person appointed by him as aforesaid who accompanies labourers to the labour-districts shall present to the officer before whom the labourers have executed a contract under section 72 a way-bill in such form and containing such particulars and instructions as the Local Government may prescribe.

Provision for way-bill.

(*2*) *Every such garden-sardar or other person as aforesaid* shall also present *the* way-bill at all such places and to all such officers as may be thereupon indicated, and shall carry out all instructions therein contained for his guidance.

[77.] **80.** Every garden-sardar or person appointed by him as aforesaid who accompanies labourers to the labour-districts shall provide *the* labourers and their dependants (if any) with proper and sufficient food and lodging throughout the journey.

Garden-sardar to provide food and lodging for labourers and dependants on journey.

[78.] **81.** *Where* it appears to any Magistrate, on the complaint of a labourer at any place on the journey, that *the labourer* or any person registered as his dependant has suffered ill-treatment during the journey at the hands of the garden-sardar or person appointed by *the garden-sardar* accompanying *the* labourer, or that *the garden*-sardar or person *so appointed* has failed to provide *the* labourer or any of his dependants with proper and sufficient food and lodging, or has wilfully abandoned *the* labourer or any of his dependants, *the* Magistrate may either order the *garden*-sardar or person so appointed to pay to *the* labourer a reasonable sum by way of compensation, or may cancel the labour-contract entered into by *the* labourer and order *the garden-sardar* or person *so appointed* to pay to *the* labourer such reasonable sum as *the Magistrate may think* necessary to enable him with his dependants (if any) to return to the place at which he was registered, *or to his native district, as to the Magistrate may seem fit.*

Power for Magistrate in certain cases to award compensation or cancel contract.

[79.] **82.** On *the* failure for *the space of* twenty-four hours of any garden-sardar or person appointed by him as aforesaid to comply with an order *made* under section 81 to pay any sum, the Magistrate may pay the same to or on behalf of *the* labourer *concerned, and may recover it* from the employer by whom the certificate of *the* garden-sardar was granted, or from the local agent of *the* employer.

Procedure on failure of garden-sardar to comply with order.

[80.] **83.** Any Magistrate or Emigration Agent may, if himself a medical man, *medically* examine, and, if not himself a medical man, send for *medical* examination by a medical man, any labourer or dependant who, while on the journey to the district to which he intends to proceed, appears to *the* Magistrate or *Emigration Agent, as the case may be*, not to be in a fit state of health to proceed thereto.

Medical inspection of labourers *en route*.

[81.] **84.** *(1) Where any* labourer or dependant is, on examination *under section 83*, declared not to be in a fit state of health to undertake the journey to the labour-district to which he intends to proceed, the Magistrate or Embarkation Agent may order *the labourer or dependant* to be detained at such place as he *may* think *proper* until in a fit state of health to undertake *the* journey.

Detention and return of labourer declared when *en route* to be unfit to travel.

(2) In any such case as is provided for by sub-section (1), the labourer or dependant, when in a fit state of health to undertake the journey, shall, if the garden-sardar or person appointed by *the garden-sardar* accompanying *him*, or the employer by whom the certificate of *the garden-sardar* was granted, or his local agent, *so wishes*, be forwarded to *the labour-district, or, if otherwise, to his native district or the place where he was registered, as to the Magistrate or Embarkation Agent may seem fit.*

(3) While any labourer or dependant is detained *under sub-section (1)*, he shall be entitled to be fed, lodged, clothed and (if necessary) medically treated at the *expense* of the employer with whom *the* labourer, or the labourer to whom *the* dependant is attached, has contracted to labour.

[82.] **85.** *(1)* Where an order under section 84 has been made with reference to any labourer, any person registered as his dependant, and any *other* labourer being *his or her* wife or husband, shall be entitled,—

Dependants of labourer when to be fed, etc.

(a) until *the* labourer is in a fit state of health to undertake *the* journey, to be fed, lodged, clothed and (if necessary) medically treated at the place where *the* labourer is detained, and at the cost of the employer with whom *the* labourer has contracted to labour, and

(b) to be sent back to *the same* place *(if any) as the labourer.*

(2) Where an order has been made *under sub-section (1)* with reference to any dependant, the labourer to whom *the dependant* is attached shall thereupon, until *the* defendant is in a fit state of health to undertake the journey to the labour-district, be entitled, if the labourer so wishes, and if he or she *is* the husband, wife, son or daughter of *the* dependant, to be fed, lodged, clothed and (if necessary) medically treated at the place where *the* dependant is detained and at the cost of the employer with whom *the* labourer has contracted to labour; and *the* labourer shall, if he or she so wishes and if he or she is the husband, wife, son or daughter of *the* dependant, be sent back to *the same* place *(if any) as the dependant.*

(3) Where a labourer is entitled and claims to be so fed, lodged, clothed and (if necessary) medically treated, or to be so sent back, any person registered as his or her dependant, and any other labourer, being the wife or husband of *the* labourer, shall be entitled, as the case may be,—

(a) to be fed, lodged, clothed and (if necessary) medically treated at the place where *the* dependant is detained, and at the cost of *the* employer, until *the* dependant is in a fit state of health to undertake the journey to the labour-district, or

(b) to be sent back to the *same* place *as the labourer.*

[83.] **86.** *Where a* garden-sardar or person appointed by *a garden-sardar* accompanying any labourer or dependant fails to provide *the* labourer or dependant with food, lodging, clothing and medical treatment, or to send him back as required by section *84* or section *85*, the Magistrate or Embarkation Agent may order *the garden-*sardar or person *so appointed to* pay such sum as *the Magistrate or Embarkation Agent, as the case may be, may think* necessary to provide food, lodging, clothing and medical treatment, or to defray the cost of the return-journey of *the* labourer or dependant; and, on failure for *the space of* twenty-four hours of *the garden* sardar or person *so appointed* to comply with *the* order, *the Magistrate or Embarkation Agent, as the case may be,* may pay the sum specified in the order to or on behalf of *the* labourer or dependant *concerned, and may recover it from the employer by whom the certificate of the garden-sardar was granted, or from the local agent of the employer.*

Payment of expenses of detention and return-journey of labourer.

[84.] **87.** *(1) Where a* labour-contract has been executed by a garden-sardar on behalf of his employer, any local agent or other representative of *the* employer may require *the* labourer to appear before the Superintendent for the cancellation of *his labour*-contract.

Representative of employer may procure order from Superintendent cancelling the labour-contract on payment of expense of return.

(2) If, *when the labourer appears under sub-section (1), such* reasonable sum as *the Superintendent may think* necessary to enable *the* labourer and his dependants (if any) to return to *the native district of the labourer or to* the place at which he was registered, *as to the Superintendent may seem fit*, and such further sum (if any) by way of compensation as the Superintendent *may* think reasonable, *are* paid to *the* labourer in his presence, the Superintendent may declare the *labour*-contract cancelled, and, in that *event*, shall make an endorsement to *the like* effect on the labourer's copy of the *labour*-contract, and attest *the endorsement* with his signature.

[85.] **88.** *(1)* Where the Superintendent declares the labour-contract of any labourer to be cancelled, any other labourer who is the wife, husband, father, mother, son or daughter of the labourer and *has* entered into a labour-contract at the same place with the same employer, may claim to have her or his labour-contract cancelled at the same time.

Cancellation of contracts of relatives.

(2) Where a claim is made under sub-section *(1)*, the Superintendent shall declare the labour-contract of the claimant to be cancelled, and shall order the local agent or representative of the claimant's employer to pay to the claimant such reasonable sum as *the Superintendent may think* necessary to enable him and his dependants (if any) to return to the *same* place *as the labourer.*

(3) On *the* failure for *the space of* twenty-four hours of the local agent or representative to comply with *an* order *made under sub-section (2)*, the Superintendent may pay the sum specified in the order to or on behalf of the claimant *concerned, and may recover the same from the employer by whom the certificate of the garden-sardar was granted, or from the local agent* or representative who appears on behalf *of the employer.*

89. When an order is made under section 81, 86 or 88 for payment of the costs of the return journey of any labourer or other person, the Magistrate may order the garden-sardar or other person liable in respect of such costs to pay also the cost of providing such escort to accompany the labourer or other person during his return journey as the Magistrate may think necessary.

Cost of escort for repatriated labourer.

CHAPTER V.

ENGAGEMENT OF EMIGRANTS OTHERWISE THAN UNDER CHAPTERS III AND IV.

[New.] **90. When a notification has been published under section 3, prohibiting the recruiting, engaging, inducing or assisting natives of India, or any specified class of natives of India, to emigrate from the whole or any specified part of a Province to any labour-district or any specified portion of a labour-district otherwise than in accordance with the provisions of this Act therein specified,** *the Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, declare that specially employed garden-sardars, not being garden-sardars holding certificates granted under Chapter IV, may, in the* **part of the province specified in the notification under section 3,** *engage persons on behalf of their employers and assist persons so engaged to emigrate* **to such labour-district or specified portion of a labour-district** *subject to the following provisions, namely:—*

Special provisions as to engagement of emigrants through garden-sardars.

(a) The employer shall grant each garden-sardar specially employed by him under this section a permit in writing, **in such form as the Chief Commissioner of Assam may by rule prescribe,** *signed and dated, specifying the name of the garden-sardar and the* **recruiting** *district in which alone the garden-sardar may engage persons on behalf of his employer and assist them to emigrate:* **Provided that no such permit shall be granted to a garden-sardar who has not resided at least six months on the estate of the employer.**

(b) The employer shall in the permit certify that the garden-sardar named therein is a person employed on his estate, and shall specify the nature of his employment and the period of his residence on the estate.

(c) Every permit shall be presented by the garden-sardar named therein in person for countersignature to the Inspector or to the Magistrate having jurisdiction in the **place where the garden-sardar resides,** *and shall not be valid or have effect unless and until it is so countersigned.*

(d) The Inspector or Magistrate may refuse to countersign any permit, for any reason, to be recorded in writing, which he may think sufficient, and shall refuse to countersign a permit unless he is satisfied that the garden-sardar named therein is employed on the estate of his employer **and has resided at least six months on the estate** *and is a fit person to engage persons and assist them to emigrate.*

(e) When a permit is duly countersigned the garden-sardar named therein may proceed to the recruiting district and there himself engage persons on behalf of his employer and assist them to emigrate, subject to the provisions of this **Chapter.**

(f) Every garden-sardar so authorized shall, **on his arrival in the recruiting district and before he engages any person to emigrate,** *in person or in writing, report his arrival, and the place at which he intends principally to reside, to the District or Sub-divisional Magistrate, and shall, at least three days before his departure from the recruiting district, similarly report his intended departure and furnish a list, in such form as the Local Government may prescribe, containing the names and descriptions of the persons whom he has engaged and is assisting to emigrate.*

(g) Every garden-sardar shall either himself accompany all persons so engaged by him to the labour-district in which the estate of his employer is situate, or send them there in charge of another garden-sardar holding a permit under this section from the same employer to engage persons in the same recruiting district.

(h) No permit shall have effect for more than six months from the date of countersignature by the Inspector or Magistrate as aforesaid.

(i) Any permit granted under this section may be cancelled in the recruiting district by the District Magistrate for any reason, to be recorded in writing, which he may think sufficient. The fact of cancellation shall be endorsed by such Magistrate as aforesaid on the permit, and the permit shall thereupon become invalid and cease to have effect **A District Magistrate who cancels a permit under this clause shall give notice of such cancellation to the employer by whom it was signed and to the Inspector or Magistrate by whom it was countersigned.**

[New.] **91.** *The Local Government may, by notification in the local official Gazette, declare, in the case of any specified agency or* any *association of employers for purposes of* **engaging persons to emigrate** *formed and conducted in accordance with rules approved by the Local Government,—*

Special provision as to engagement of emigrants through approved agencies or associations.

(a) that garden-sardars working in the Province under the control of such agency or association as aforesaid and **holding permits granted and countersigned under section 90** *may, subject to such conditions as may be prescribed in the notification, engage persons and assist them to emigrate; and*

(b) that, in the case of garden-sardars holding certificates under Chapter IV and working in the Province under such control as aforesaid, any of the requirements of that Chapter may be dispensed with or relaxed in such manner as may be prescribed in the notification.

92. Subject to the provisions of section 3 and of any notification issued thereunder, nothing in this Act shall be deemed to prohibit any person from engaging or assisting natives of India to emigrate to a labour-district otherwise than in accordance with the provisions of Chapters III and IV and of sections 90 and 91.

Saving of engagement of emigrants otherwise than under foregoing provisions of Act.

Application of Act to persons engaged under this Chapter.

93. (1) The following provisions of this Act shall apply to the transport and employment of persons engaged or assisted to emigrate under this Chapter and not bound by labour-contracts, namely:—

(a) in Chapter VI (Transport):—
- (*i*) sections 94 and 95 (*routes and transport by sea*);
- (*ii*) sections 96 to 99 (*passenger licenses*);
- (*iii*) sections 100 and 101 (*Embarkation Agent's powers and returns by master*);
- (*iv*) section 103 (*medical officer*);
- (*v*) section 104 (*delay in departure*);
- (*vi*) sections 107 to 110 (*Magistrates' powers*);
- (*vii*) section 112 (*disinfection*);
- (*viii*) section 113 (*excess passengers*);
- (*ix*) section 114 (*breaches of Act and rules*) and
- (*x*) section 116 (*delegation of Magisterial powers*);

(b) in Chapter VII (Labour-districts);
- (*i*) section 122 (*registers and returns*);
- (*ii*) section 123 (*inspection*); and
- (*iii*) sections 159, 161 and 162 (*repatriation*);

(c) in Chapter VIII (Rules):
all powers conferred by section 163, except in so far as the same relate exclusively to labourers and their dependants;

(d) in Chapter IX (Penalties and Procedure);
- (*i*) sections 176, 177, 181, 182 and 183, (*offences connected with transport by river*), and
- (*ii*) sections 185 and 186 (*offences by employers*); and

(e) in Chapter X (Miscellaneous):
- (*i*) section 215 (*recovery of sums due*); and
- (*ii*) sections 218 to 223 (*fines, etc., Assistant Inspector, officers' powers, exemption, prior notifications, and repeal*).

(2) Except as indicated in sub-section (1), nothing in Chapters II to IV inclusive or in Chapters VI to X inclusive shall apply to persons engaged or assisted to emigrate under this Chapter and not bound by labour-contracts.

CHAPTER VI.

TRANSPORT.

Routes, etc.

Routes to be followed and rules observed.

94. Every person who forwards or accompanies labourers or emigrants under Chapter V or their dependants to a labour-district shall forward or take them by the prescribed route or one of the prescribed routes, and shall conform to the rules made under this Act, in so far as the said rules apply to himself and to the persons emigrating under his charge.

Transport by River.

[86.] Transport by sea to labour-districts.

95. Nothing in this Chapter shall apply to the transport by sea of natives of India to the labour-districts.

[87.] Vessels to carry more than twenty passengers to be ordinarily licensed.

96. (*1*) No master shall receive more than twenty passengers, being natives of India, on board his vessel for the purpose of transporting them to a labour-district, unless a license to carry passengers in *his* vessel has been granted to him *under this Chapter* by an Embarkation Agent duly empowered in that behalf by the Local Government.

(*2*) The Local Government may, by notification in the *local* official Gazette, exempt from the provisions of this section any vessel or class of vessels.

[88.] Application for license.

97. (*1*) The master or owner of any vessel who desires to obtain a license under this *Chapter* to carry passengers in *his* vessel shall make a written application for a license to an Embarkation Agent empowered as aforesaid.

(*2*) Every application *made under sub-section* (*1*) shall state such particulars respecting the vessel as the Local Government may, by rule, prescribe.

[89.] Grant of license.

98. *Where the* Embarkation Agent *to whom an application is made under section 97, sub-section* (*1*), is of opinion that the vessel is in all respects suitable for carrying passengers being natives of India to a labour-district, he shall give to the master of the vessel a license to carry passengers therein, specifying the number of passengers, being natives of India, who may be received on board.

[90.] Fee for license.

99. Such fee, not exceeding sixteen rupees, as the Local Government may, with reference to the size of *the* vessel, by rule, direct shall be paid for every license *granted under section 98, and* no license *so granted* shall be in force for more than one voyage:

Provided that *a license* may, with the previous sanction of the Local Government, *be granted under the said section* to the master of any vessel for any term not exceeding one year, on payment of such fee, not exceeding one hundred rupees, and on such conditions, as the Local Government may, by rule, *prescribe*.

[91.] Embarkation Agent may limit number to be received on board on any particular voyage.

100. (1) Any Embarkation Agent may, in accordance with such rules as the Local Government may *make* in this behalf, direct, by order in writing, that, on any particular voyage or part of a voyage, any master licensed *under this Chapter* shall not receive on board his vessel more than a specified number of passengers, being natives of India, which number shall be less than the number specified in the license granted to *the* master.

[92.] (2) In computing the number of persons on board a vessel, two children under the age of ten years shall, for the purposes of this *Chapter*, be reckoned as one person only.

[93.] Master to make returns.

101. Every master *licensed under this Chapter* shall keep such lists, submit such returns, and make such reports in regard to the passengers carried in his vessel, as the Local Government may, by rule, prescribe.

[94.] Provisions, clothing, medical and other officers, cooks, etc.

102. Every master *licensed under this Chapter* shall have on board his vessel carrying labourers and their dependants such supplies of provisions and clothing, and such medical and other officers, cooks and attendants, as the Local Government may, by rule, prescribe.

[95.] Medical officer to be licensed.

103. No medical officer shall be appointed to any vessel in respect of which a license is granted *under this Chapter*, unless he holds a license granted by such authority as the Local Government may appoint in that behalf; and any medical officer so licensed shall be forthwith removed from his appointment on the requisition of any officer empowered by the Local Government to make such *a* requisition.

Departure of Passenger-vessels and Procedure during Voyage.

[96.] Embarkation Agent may order departure of vessel if delay occurs.

104. Where it appears to an Embarkation Agent that the departure of a vessel in respect of which a license is granted *under this Chapter* is unduly delayed beyond the date fixed by *the* order of a Superintendent or *of* the Local Government, or notified by advertisement in the public press, for such departure, he may order the master of *the* vessel to proceed on his voyage at once.

[97.] Master to receive way-bills from Embarkation Agent.

105. (*1*) No master licensed *under this Chapter* shall proceed on a voyage with his vessel carrying labourers until he has received from the Embarkation Agent the way-bills relating to all labourers on board in respect of whom way-bills are required by this Act or by the rules made thereunder.

(*2*) The Embarkation Agent and the master of the vessel shall together personally ascertain that the number of such labourers on board corresponds with the number entered in *the* way-bill.

(*3*) The Embarkation Agent shall send a copy of *every* way-bill *granted under sub-section* (*1*) to the Magistrate of the labour-district to which such labourers are proceeding.

[98.] Labourers not finally to leave vessel at any place other than that mentioned in way-bill.

106. No master *licensed under this Chapter* shall cause or permit any labourer entered in any such way-bill finally to leave his vessel at any place other than that named in the way-bill as the destination of *the* labourer:

Provided that *nothing in* this section shall be deemed to prevent the master of a vessel from permitting such labourers to disembark at any place on the voyage so long as *the* disembarkation is not intended, or known to be likely, to be final, nor to prevent the final disembarkation of any such labourers or the transfer of such labourers with their dependants to another vessel in case of accident or unavoidable necessity:

Provided also that every such accident or necessity *as aforesaid* shall forthwith be reported by the master to the Embarkation Agent by whom he was licensed, and to the nearest Magistrate in the district within which *the* accident has occurred or *the* necessity has arisen.

[99.] Master to stop his vessel at certain places where there is a Magistrate.

107. (*1*) Every master licensed *under this Chapter* shall stop his vessel carrying passengers, being natives of India, at such places, being places where a Magistrate is stationed, and shall, unless the Magistrate permits him to depart earlier, remain at each such place for such time, not exceeding six hours of daylight, as the Local Government may direct.

(*2*) *The* master shall, on arriving at such a place *as aforesaid*, immediately report to the Magistrate the number of the crew and other persons on board, the general state of their health, and the number of deaths (if any) which have occurred among the persons who embarked on board his vessel.

[100.] Power for Magistrates to inspect vessels.

108. (*1*) *Any* Magistrate may, while a vessel in respect of which a license is granted *under this Chapter* is within the local limits of his jurisdiction, go on board *the* vessel and inspect *it* and all persons, being natives of India, on board.

(*2*) The master and officers of *any* such vessel *as aforesaid* shall afford to *the* Magistrate every facility for inspection, and give him all such information as he may reasonably require respecting the labourers or other persons on board the deaths (if any) which have occurred on board, and any other facts *affecting* the health of the passengers.

[101.] Power for Magistrates to regulate communication between vessels and land.

109. Any Magistrate may, while a vessel *in respect of which a license is granted under this Chapter* is within the local limits of his jurisdiction, regulate the communication between *the* vessel and the land, and prohibit all persons from leaving *the* vessel, and all persons on land from proceeding on board.

[102, first part.] Power for Magistrates to detain vessels for inspection and to detain sick native passengers.

110. (*1*) Any Magistrate may, if he has reason to believe that any passengers, being natives of India, on board a vessel within the local limits of his jurisdiction, *in respect of which a license is granted under this Chapter*, are, or are likely to be, affected with any dangerously infectious or contagious disease, detain *the* vessel and *depute* the civil medical officer of the district or *any* other qualified medical officer to inspect such passengers *as aforesaid* and to report on their health, stating whether any or what measures are requisite for the removal or prevention of *the dangerously infectious or contagious* disease.

(*2*) *On receiving the* report *of the medical officer so deputed*, the Magistrate may order any such passenger *as aforesaid who is* suffering from any *dangerously infectious or contagious* disease to be disembarked and detained for medical treatment.

[103.] Detention of sick labourers by Magistrate.

111. (*1*) *Where*, on receiving the report of *a* medical officer *deputed under section 110, sub-section* (*1*), it appears to a Magistrate that a labourer or any dependant of any such labourer, though not suffering from a *dangerously infectious or contagious* disease, is not in a fit state of health to proceed to the labour-district in which *the* labourer has contracted to labour, he may order *the* labourer or dependant to be detained, and shall cause all necessary arrangements to be made for *his* accommodation, support and medical treatment.

[104.] (*2*) *Any expenditure* incurred under *sub-section* (*1*) *may be recovered from the employer of the labourer concerned.*

[102, second part.] Power for Magistrate to detain vessel to be cleansed and disinfected.

112. (*1*) *Where*, in the opinion of a medical officer *deputed under section 110, sub-section* (*1*), it is dangerous to the health of the general body of the passengers to allow *the* vessel to proceed until measures have been taken to cleanse and disinfect her, the Magistrate may detain the vessel for a further period, not exceeding three days, for the purpose of carrying out *those* measures.

(*2*) *Any expenditure incurred under sub-section* (*1*) *may be recovered from the master or owner of the vessel.*

[105.] **113.** (*1*) Where it appears to a Magistrate making an inspection of a vessel, in respect of which a license is granted *under this Chapter*, that the number of passengers on board, being natives of India, is larger than the number specified in *the* license or than the number specified in an order of an Embarkation Agent made under section **100**, he may remove the excess number and detain them until another opportunity of forwarding them to their destination is found.

Measures to be taken if excess number of native passengers is found on board.

(*2*) *Any expenditure incurred in* maintaining passengers *detained under sub-section* (*1*) and *in* forwarding them to their destination may be recovered from the master or owner of *the* vessel.

[106.] **114.** Where *it appears to* a Magistrate making an inspection of a vessel in respect of which a license is granted *under this Chapter*, that any of the provisions of this Act or of any rule thereunder have not been complied with in respect of *the* vessel, he shall report the *fact* to the Embarkation Agent by whom *the* license was granted; and, if he considers it necessary to do so, he may detain the vessel until such provisions *as aforesaid* have been so complied with as to make it possible for the voyage to be further prosecuted with safety and reasonable comfort to the emigrants.

Infraction of the Act and rules to be reported.

[107.] **115.** (*1*) The Local Government may make rules *to* regulate—

Power to make rules regulating disembarkation and other matters.

(*a*) the disembarkation of labourers and their dependants, and their inspection and accommodation on arrival at their destinations:

(*b*) the detention of labourers *and their* dependants at debarkation-depôts:

(*c*) the forwarding of labourers to their destinations and the closing and return of way-bills by employers.

(*2*) *Any expenditure* incurred *in pursuance of any* rules *made under sub-section* (*1*) *may* be recovered from the employers of *the* labourers *concerned*.

[108.] **116.** The *District or Sub-divisional* Magistrate may authorize any subordinate Magistrate, medical officer or officer of police above the rank of sub-inspector to exercise the powers and authorities conferred, and to perform the duties imposed, on a Magistrate under sections 107 to 114.

Deputation of other officer to discharge the functions of a Magistrate under sections 107 to 114.

CHAPTER VII.

PROVISIONS AS TO THE LABOUR-DISTRICTS.

Annual Rate payable by Employers.

[109.] **117.** (*1*) Every employer shall, on the first day of January and the first day of July in each year, pay in respect of each labourer then in his employ such rate, not exceeding an annual sum of one rupee, as the Local Government may, by notification in the *local* official Gazette, direct.

Annual rate payable by employer.

[110.] (*2*) *On the failure of an* employer, for the space of one month after the receipt of a notice in such form and served in such manner as the Local Government may prescribe, to pay any sum due under *sub-section* (*1*), *the same may* be recovered from *him*.

Local labour-contracts.

[111.] **118.** (*1*) Any employer may enter into a labour-contract for a term, not exceeding one year commencing from the date of the execution of the *labour*-contract, with any native of India within the labour-district in which the estate *to* which *the labour*-contract *refers* is situate.

Labour-contracts executed in labour-districts between employer and native direct.

(*2*) Where an employer has *under sub-section* (*1*) executed a *labour*-contract within a labour-district, he shall, within one month from the date of the execution of *the labour*-contract, forward it in duplicate to the Inspector within the local limits of whose jurisdiction the estate is situate. On receipt of the *labour*-contract so forwarded, the Inspector shall enter an abstract thereof in a register to be kept by him for the purpose, and shall then give one copy of the *labour*-contract to the labourer and the other to his employer.

[111-A.] **119.** When, for the first time after the registration, *under section* **118**, *sub-section* (2), of a *labour*-contract with a labourer, the Inspector visits the estate on which *the* labourer is employed, the employer shall cause *the* labourer to appear before the Inspector for the purpose of having his contract verified, and *the* labourer may thereupon apply to the Inspector to cancel *his labour*-contract; and, if *the labourer* shows cause sufficient, in the opinion of the Inspector, to justify the cancellation *of his labour-contract*, the Inspector shall cancel the *same* and shall thereupon make an endorsement that it has been cancelled on the labourer's copy of the *labour*-contract, or, if *that* copy *is* not forthcoming, shall give to the labourer a certificate to *the like* effect.

Verification and cancellation of such contracts.

[111-B.] **120.** The Inspector or Magistrate may, either on the application of the employer or the labourer or of his own motion, require the employer to cause any labourer who has entered into a *labour*-contract under section **118** and is employed upon any estate within the local limits of the jurisdiction of the Inspector or Magistrate, to appear before him for the purpose of having his *labour*-contract verified; and, if *the* labourer applies to the Inspector or Magistrate to cancel his *labour*-contract and shows cause **which the Inspector or Magistrate, after considering any cause which may be shown by the employer to the contrary, considers sufficient** to justify *its* cancellation, the Inspector or Magistrate shall cancel the *same* as provided by section **119**.

Power of Inspector or Magistrate to require labourer who has executed such contract to appear before him.

[112.] **121.** (*1*) Notwithstanding the provisions of section **118**, an employer may enter into a labour-contract with any native of India in a labour-district for a term not exceeding four years commencing from the date of the execution of the *labour*-contract, if he appears, **or deputes some person to appear on his behalf**, with *the* native *of India*, before the Inspector or Magistrate within the local limits of whose jurisdiction the estate *to* which *the labour-contract refers* is situated.

Labour-contracts executed within labour-district before Inspector or Magistrate.

(*2*) *The* Inspector or Magistrate shall thereupon explain the labour-contract to *the* native *of India*, and shall, if satisfied that he is competent to enter into and understands the same, call upon him and the employer or **the person deputed as aforesaid** to execute it in his presence; and, if they execute it, shall attest *the* execution with his signature.

(*3*) An abstract of every labour-contract *executed under this section* shall be entered in a register to be kept by the Inspector or Magistrate for the purpose; and one copy of *the labour*-contract shall then be given to the labourer and the other to his employer or the **person deputed as aforesaid.**

(*4*) In respect of every labour-contract, an abstract whereof is registered under section **118** or under this section, the employer who executes *the labour*-contract in person or **the person deputed to execute the same on his behalf** shall pay to the Inspector or Magistrate such fee, not exceeding one rupee, as the Local Government may *direct*.

Employers' returns and Magistrates' inspections.

[113.] **122.** (*1*) Every employer shall keep such registers of all labourers and other persons employed on the estate of which he is in charge, **and of their dependants,** in such form, and shall make to the Inspector, within the local limits of whose jurisdiction *the* estate is situate, such periodical returns in writing, as the Local Government may, by rule, prescribe.

Registers to be kept and returns made by employers.

(*2*) The Inspector may examine *the* registers *so kept* and muster all labourers and other persons employed on any estate within *the said* local limits, and may verify the accuracy of the entries in *the* registers, or in any prescribed periodical return.

[114.] **123.** Any Inspector or Magistrate, or any person authorized by either of them in writing in this behalf, may enter and inspect all lands and houses wholly or partially used by or for labourers, or by or for any other natives of India employed on any estate, and may require that all such labourers or *other* natives *of India as aforesaid*, or any particular class or classes or individual or individuals of them, shall be brought before him, and that a copy of the labour-contract of any labourer shall be produced, and may make any inquiries which he thinks proper touching the condition or treatment of such labourers or other natives *of India as aforesaid* or any of them; and the employer shall be bound to comply with *every* requisition and to answer *every* inquiry *so made* to the best of his ability.

Power for Inspector, etc., to inspect lands and houses and to make requisitions and inquiries.

Regulation of Labour.

[115.] **124.** (*1*) Every employer shall prepare a schedule specifying the daily task to be executed by each labourer employed on the estate of which *the* employer is in charge, and may, from time to time, alter any schedule so prepared.

Schedule of daily tasks to be prepared.

(*2*) One copy of every schedule *prepared under sub-section* (*1*) shall be filed in a book, which shall be open to the examination of the Inspector, and *translations thereof, in such languages as the Chief Commissioner of Assam may direct*, shall be *affixed* in some conspicuous place accessible to the labourers to whom the schedule relates.

(*3*) The minimum payment for each daily task shall be the quotient resulting from dividing the monthly wage of the labourer concerned by the number of working days in the current month. The number of working days in *a* month shall be ascertained by deducting the number of Sundays from the whole number of days in the month.

[116.] **125.** (*1*) No labourer shall be bound to labour more than six days in one week, or more than six consecutive hours, or more than nine hours in one day.

Limitations on tasks and payment of wages.

(*2*) *Every* employer shall, on six days in each week, provide for each labourer work sufficient to enable him to earn at least his minimum daily wage; *and*, failing such due provision of work, the labourer shall, if he can show that he was able and willing to labour for the same, be entitled to claim his minimum daily wage.

(3) On or before the fifteenth day of each month the employer shall pay to every labourer in his employment the wages earned by the labourer during the preceding month and still unpaid.

[117.] **126.** (*1*) *Where* the Inspector considers that any schedule of daily tasks, or any part thereof, is unreasonable, he may, by order in writing, direct that *such* reduction *as is* specified in the order be made *in the scheduled daily* tasks.

Provisions for revision of schedule by Inspector subject to appeal to Committee.

(*2*) The employer shall at once make *the* reduction *so ordered*, but may, if dissatisfied with the order of the Inspector, by notice in writing, require the Inspector to *summon a* Committee *to inquire into the schedule*.

(*3*) Every Committee *summoned under sub-section* (*2*) shall consist of—

(*a*) the Inspector,

(*b*) some person to be nominated by the employer whose schedule is to be *inquired into*; and,

(*c*) if practicable, a medical officer.

(*4*) Where the employer fails to nominate a person within seven days after being thereunto requested in writing by the Inspector, the Inspector, instead of the employer so failing, may nominate a person.

(*5*) Where the Committee consists only of the Inspector and of a person nominated by the employer or Inspector, the Inspector shall have the casting vote.

[118.] **127.** (*1*) *Where the* Committee, or a majority thereof, is of opinion that the *scheduled* daily tasks or any of them are unreasonable, *the Committee* shall *order them to be* modified and reduced in such manner as *it may* think fit.

Committee to revise schedule.

(*2*) The employer shall thereupon alter *the* schedule accordingly, and copies *and translations* of the *same* so altered shall be filed and *affixed* in the manner *provided by* section 124, and shall, as between him and the labourers concerned, take the place of the former schedule.

[119.] **128.** (*1*) Notwithstanding anything contained in any schedule *of daily tasks*, the Inspector may order that any specified labourer, who is, in his opinion, unable from weakness to earn by his labour the sum of one anna and a half per diem, according to the schedule, shall receive, in lieu of actual earnings, subsistence-allowance at the rate of one anna and a half per diem, or diet on a scale to be approved by *the* Inspector.

Provision for weakly labourers.

(*2*) *Any* subsistence-allowance *ordered under sub-section* (*1*) *may* be recovered *from the employer of the labourer concerned*.

Incapacity for Labour.

[120.] **123.** (*1*) The Inspector within the local limits of whose jurisdiction a labourer is employed may release *the* labourer, for such period as he thinks fit, from performing his labour-contract, if he is, in the *opinion* of the Inspector, temporarily unfitted, by reason of sickness or *any* other sufficient cause, for the performance thereof.

Inspector may suspend contract of any labourer temporarily unfitted for labour.

(*2*) Every release *granted under sub-section* (*1*) shall be endorsed by the Inspector on the labour-contract, and the time during which the release continues shall not be reckoned as part of the term for which the labourer is bound to serve.

(*3*) Every labourer *released as aforesaid* shall, during *the* release, receive such subsistence-allowance from his employer as the Inspector *may* think sufficient.

[121.] **130.** (*1*) *Where* any labourer is compelled, *by reason of sickness*, to absent himself from work, he *shall* receive from his employer, for each day *on which he is so absent*, subsistence-allowance *at the rate* of one anna and a half, or, *if in* hospital, sick diet on a scale to be approved by the Inspector.

Labourer absent from sickness.

(*2*) *Where the period during which a labourer is so absent* exceeds the total number of thirty days in any one year, and the employer, as soon as *that* number is exceeded, gives the labourer a notice in writing to that effect, each day of absence in excess of *that* number shall be added to the term of the labour-contract, unless the labourer refunds to the employer the sum of one anna and a half for each day so in excess.

(*3*) The Inspector shall, from time to time, when visiting the estate, on the application of the employer, and may also at any other time, on the application of either the employer or *a* labourer, endorse on the labour-contract of the labourer, after such inquiry as *he* may *think* necessary, the number of days so to be added to the term thereof:

Provided that an employer, who omits to apply for *such* endorsement *as aforesaid at the time* when the Inspector is actually visiting the estate, shall, in the absence of sufficient reasons to the contrary shown to the satisfaction of the Inspector, be debarred from applying afterwards for endorsement in so far as days of absence which occurred prior to the date of the Inspector's last visit are concerned.

[122.] **131.** (*1*) *Where*, in the opinion of the Inspector, a labourer is permanently incapacitated for the performance of his labour-contract or any material part thereof, the Inspector shall certify to that effect *in writing* and deliver *the* certificate to the employer of *the* labourer or *to the* representative *of the employer*, and, from the date of *the* certificate, the labour-contract of *the* labourer shall wholly determine.

Discharge of labourer permanently incapacitated.

(*2*) Every labourer whose labour-contract so determines shall be entitled to receive from his employer such sum, not exceeding three months' wages, as the Inspector may award.

(*3*) *Every* sum *so awarded* and any *such* subsistence allowance *as is provided for by* section 129 *or section* 130 *may* be recovered *from the employer of the labourer concerned*.

Accommodation for Labourers.

[123.] **132.** Every employer shall be bound to provide for the labourers employed on the estate of which he is in charge such house-accommodation, water-supply and sanitary arrangements as the Local Government may, by rule, *prescribe*.

House-accommodation, water-supply and sanitary arrangements for labourers.

[124.] **133.** (*1*) Where the food-grain commonly used by any class of labourers is not procurable by *them* at reasonable prices in the local markets near the estate on which *they* are employed, their employer shall be bound to supply them *therewith* at a reasonable price.

Supply of food-grain for labourers.

(*2*) The Local Government may, by notification in the *local* official Gazette, *declare*, either generally or for each district or part of a district, what shall, for the purposes of this section, be deemed to be a reasonable price.

[125.] **134.** (*1*) Subject to *such* rules *as* the Local Government *may make* in this behalf, any Inspector may, by order *in writing*,—

Provisions for rationing.

(*a*) direct that, on any specified estate within the local limits of his jurisdiction, all labourers or any specified class of labourers shall be furnished by their employers with rations, cooked or uncooked, on such scale *and* for such period, not exceeding three months from the date of their arrival on the estate, as may be specified in *the* order;

(*b*) *direct that* any specified labourer *shall be exempt* from the effect of any general order *so made*, if he is satisfied that *the* labourer is able to earn a full wage and desires to provide himself with proper and sufficient food;

(*c*) direct that any specified labourer shall be furnished with *rations for any* term not exceeding six months, and renew *that direction* for a like term.

(*2*) The cost of each labourer's ration furnished to him in accordance with any *direction given* under sub-section (*1*) shall be calculated at current rates as determined by the Inspector, and shall be deducted from any wages earned by the labourer during the period for which *the direction* is in force.

[126.] **135.** *Where*, in the opinion of the Inspector, an employer does not provide such hospital-accommodation in a suitable place available to the labourers employed upon the estate of which he is in charge, or does not make such provision for the medical treatment of *his* labourers, as the Local Government may direct, the Local Government may require *the* employer to contribute to the support of a central hospital to be established, or to the pay of a medical officer to be appointed, such sum, proportionate to the number of labourers so employed, as it thinks fit.

Provision for hospital-accommodation and medical attendance.

[127.] **136.** (*1*) Any Inspector or Assistant Inspector, who is himself a Magistrate, may, with respect to any estate situate within the local limits of *his* jurisdiction, inquire whether the employer in charge of *the* estate has provided for his labourers house-accommodation, water-supply, sanitary arrangements, food-grains and rations in accordance with *any* rules *made* by

Enquiry whether employer has failed to provide accommodation, etc., as required by the rules.

the Local Government *under sections 132* or 134 or any notification issued under section 133.

(*2*) At the instance of any Inspector or Assistant Inspector, a similar inquiry may be made by a Magistrate.

(*3*) Every inquiry *under this section* shall be *made* at some place on, or within ten miles of, the estate to which it relates, and shall be conducted and dealt with as if it were an enquiry *by* a Magistrate under the Code of Criminal Procedure, 1898.

V of 1898.

Localities unfit for the Residence of Labourers.

[128.] **137.** (*1*) *Where*, in the opinion of the Inspector, an estate or portion of an estate situate within the local limits of his jurisdiction is, at any time, by reason of climate, situation or condition, unfit for the residence of labourers, or of any particular class of labourers, he shall give notice, in writing, of *his* opinion to the *District* Magistrate, *who* shall forthwith, by order in writing, summon a Committee to inquire into the matter.

Report by Inspector and inquiry by Committee.

(*2*) The *District* Magistrate may also of *his* own motion summon a Committee, *where*, either from his own observation or upon the report of an Inspector, Magistrate or medical officer, he is of opinion that an estate or portion of an estate is, for any of the reasons aforesaid, unfit for the residence of labourers or of any particular class of labourers.

(*3*) *Every* Committee *summoned under this section* shall consist of—

(*a*) the *District* Magistrate;
(*b*) the Inspector;
(*c*) the civil medical officer of the district; and
(*d*) one or more employers of labourers:

(*4*) Provided that, if the *District* Magistrate is unable to procure the service on *the* Committee of any employer of labourers, he may, with the previous sanction of the Commissioner of the division, appoint one or more persons qualified to serve on *the* Committee.

[128-A.] **138.** *Where* it appears to the Local Government, upon the report of an Inspector, Magistrate or medical officer—

Inquiry by Committee by order of Local Government.

(*a*) that an estate or portion of *an estate* is, for any of the reasons given in section 137, unfit for the residence of labourers or of any particular class of labourers, or

(*b*) that the percentage of mortality of labourers or of any particular class of labourers employed on an estate or on portion of an estate is such as would justify the institution of an inquiry by a medical officer under section 142,

the Local Government may direct the *District* Magistrate to summon a Committee under section 137; and the *District* Magistrate shall forthwith proceed to summon a Committee accordingly.

[129, § 1.] **139.** *Every* Committee *summoned under section 137 or section* 138 shall, as soon as may be, inquire into the healthiness of the estate or portion to which the order appointing *it* relates, and shall hear and record such information on the subject as the owner of *the* estate or portion, or the employer in charge thereof, or the Inspector, may desire to place before it.

Proceedings of Committee.

[129, §§ 2, 3 and 4.] **140.** (*1*) Where *the* Committee, or *a* majority thereof, is of opinion that *the* estate or portion, or any part of *the* estate or portion, is unfit for the residence of labourers generally, or of any particular class of labourers, *the Committee* shall record a finding to that effect.

Finding of Committee and consequences.

(*2*) Where *a* finding has been recorded *under sub-section* (*1*), no labourer, or no labourer of the particular class to which *the* finding relates, as the case may be, shall be bound by any labour-contract to labour on the estate or portion, or part of *the* estate or portion, as the case may be, which is found unfit for the residence of such labourers.

(*3*) Where a labourer is released under *sub-section* (*2*) from the performance of *his* labour-contract to labour on any estate, he shall be bound to labour on any other estate belonging to the same owner or in charge of the same employer and situate in the same labour-district; or, where the finding relates only to a portion of an estate, on any other portion of the same estate. Where the finding relates to the whole of any estate and the owner has no other estate or the employer has charge of no other estate in the same labour-district on which the labourer may be employed, the Inspector *shall cancel* the labour-contract of *the* labourer, and shall thereupon make an endorsement that it has been cancelled on the labourer's copy of the contract, or, if *that* copy *is* not forthcoming, shall give to the labourer a certificate to *the like* effect.

[129-A.] **141.** The Local Government may call for the proceedings of any Committee summoned under section *137*, or section 138, and, if the finding of *the* Committee is not unanimous, the Local Government may record any finding thereon which *the* Committee was competent to record, and *the* finding *so recorded by it* shall have the same effect as the finding of a Committee under section *140*.

Power for Local Government to pass orders on proceedings of Committees.

[130-A.] **142.** Where it appears to the Local Government or *to* the *District* Magistrate that the number of labourers employed on an estate who have died thereon, or on any portion thereof, during the last preceding twelve months, or that the average annual number of labourers employed on an estate who have died thereon, or on any portion thereof, during the last preceding three years, bears a larger proportion to the whole number of labourers employed thereon during such period of twelve months or three years, as the case may be, than seven per cent., the Local Government, or the *District* Magistrate, may *depute* the civil medical officer of the district or any other qualified medical officer to inquire into and report on the following matters, *namely*:—

Excessive mortality on estates.

(*a*) the cause or causes of the mortality;
(*b*) the want (if any) of due care or precaution, and of the adoption of proper and available sanitary measures on the part of the owner of *the* estate or portion thereof, or of the employer in charge of *the* estate or portion, causing or contributing *to the* mortality;
(*c*) the fitness or otherwise of *the* estate or portion for the residence of labourers:

Provided that, when the mortality among any particular class of labourers employed on an estate or any specified portion of an estate exceeds the percentage specified in this section, the Local Government, or *the District* Magistrate, may direct an inquiry under this section limited to *that* particular class of labourers.

[131.] **143.** *The* medical officer *deputed under section 142* shall, as soon as may be, inquire into *the* matters *referred to therein*, and shall hear and record such information relating *to those matters*

Medical officer to report.

as the owner of *the* estate or portion, or the employer in charge of the same, or the Inspector, may place before him, and shall visit and inspect *the* estate or portion, and shall make a report expressing the reasons for his opinion, and transmit the same to the Local Government together with the information so recorded and the notes of his inspection of *the* estate or portion, **and the Local Government shall cause the employer to be furnished with a certified copy of such report.**

[132.] **144.** *Where* the Local Government, after perusal and consideration of the said report, information and notes, is of opinion that *the* mortality was caused by the want, on the part of the owner of *the* estate or portion, or the employer in charge of the same, of due care or precaution or of the adoption or proper and available sanitary measures, or that *the* estate or portion is unfit for the residence of labourers or of any particular class of labourers, it may make a declaration in writing to that effect, *and the* declarati n *so made* shall have the same effect as the finding of a Committee under section 140.

Power for Local Government to declare estate unfit for residence.

[133.] **145.** (*1*) *Where* it appears to the Inspector that any estate or smaller area, which has been found, or declared under any of the *foregoing* provisions, to be unfit for the residence of labourers or of any particular class of labourers, has become fit for the residence of labourers or *of that* class of labourers, as the case may be, he shall, with the previous sanction of the *District* Magistrate of the district in which *the* estate or area is situate, give a certificate to that effect signed by him.

Power for Inspector to certify fitness of estate or portion found or declared to be unfit.

(*2*) *On the grant of a certificate under sub-section* (*1*), all such labourers as are mentioned or referred to in section 140, *sub-section* (*3*), whose contracts have not been cancelled by the Inspector under that section, shall again be bound to labour on the estate or area, as the case may be, to which the certificate relates for the unexpired periods (if any) of their respective contracts.

Complaints made by Labourers.

[134.] **146.** Where *a* labourer states to his employer, or any person acting on behalf of his employer, that he desires to make a complaint to the Inspector or to a Magistrate of personal ill-usage or breach, on the part of his employer or such person *as aforesaid*, of any *of the* provisions of this Act or of any rule thereunder, the person to whom *the* statement is made shall forthwith send *the* labourer to the Inspector or Magistrate within the local limits of whose jurisdiction the estate wherein he is employed is situate:

Labourer wishing to complain of personal ill-usage or breach of Act to be sent by employer to Inspector or Magistrate.

Provided that, *where* more than ten labourers at any one time so state their desire to make such a complaint, the person to whom the statement is made may, instead of sending *them* to such Inspector or Magistrate *as aforesaid*, give *the Inspector or Magistrate* notice in writing, of their complaint.

[135.] **147.** (*1*) Where a complaint is made to an Inspector or Magistrate *under section 146*, or where an Inspector or a Magistrate receives, *under that section*, notice in writing of a complaint, or *where an Inspector or a Magistrate* has other reasonable grounds for believing that an employer, or person acting on his behalf, has personally ill-used, or committed any *such* breach as *is* mentioned in section 146 in respect of, a labourer, *the* Inspector or Magistrate shall, as soon as may be, proceed to some place, not more than ten miles from the principal place of business of *the* employer, situate within the local limits of his jurisdiction, and inquire into the matter complained of:

Inspector or Magistrate how to proceed in case of complaint.

Provided that, if the place in which an Inspector or Magistrate has reasonable grounds for believing that *the* ill-usage or breach has been committed is situate beyond the local limits of his jurisdiction, he shall, instead of inquiring into the matter himself, forthwith send information thereof in writing to the Inspector or Magistrate within the local limits of whose jurisdiction *the* ill-usage or breach has been committed.

(*2*) For the purposes of *every* inquiry *made* under *sub*-section (*1*), the Inspector or Magistrate may summon and examine any person as a witness.

[136.] **148.** (*1*) *Where*, upon *an* inquiry made *under section 147* on the complaint of a labourer, the Inspector or Magistrate is of opinion that the complaint is untrue or frivolous or vexatious he shall dismiss the complaint; and in *that event* shall endorse on the employer's copy of the complainant's labour-contract the number of days during which the complainant has been absent from work in consequence of the inquiry, and the number of days so endorsed shall be added to the period for which the complainant contracted to labour.

Untrue or frivolous complaints.

(*2*) Every endorsement *made under sub-section* (*1*) shall be conclusive evidence that the complainant has absented himself from his labour voluntarily and without reasonable cause during the number of days so endorsed.

[137.] **149.** (*1*) Where a complaint is dismissed under section 148, the Inspector or Magistrate may award to the employer any reasonable compensation on account of *the* expense incurred by him in connection with the complaint, and shall endorse the amount of the compensation *so awarded* on the complainant's copy of the labour-contract.

Award of compensation to employer.

(*2*) The complainant shall be bound to pay the amount awarded *under sub-section* (*1*); and, in default of payment, his labour-contract shall not be deemed to have determined until he has worked off *the* amount at the rate of one day's labour for each four annas of *the same*.

[138.] **150.** (*1*) *Where*, upon *an* inquiry *made under section 147* by a Magistrate or by an Inspector who is a Magistrate, *the* Magistrate or Inspector is of opinion that there is sufficient ground for proceeding with the case, he shall dispose of the same according to law.

Complaints disclosing grounds for further proceedings.

(*2*) *Where* the Inspector is not a Magistrate and is of such opinion *as aforesaid*, he shall without delay send the complainant and his witnesses (if any) to the nearest Magistrate, who shall thereupon dispose of the case according to law.

[139.] **151.** (*1*) *Where*, upon the complaint of a labourer, it is proved to the satisfaction of a Magistrate, that the wages of *the* labourer are in arrear for two months after the first day of the month succeeding the month in which they were earned, or *where it is proved to the satisfaction of a Magistrate that* the wages of a person whose labour-contract has determined have been withheld for any period after determination, the Magistrate may award to *such* labourer or person *as aforesaid* the amount which appears to be then due to him, and also, by way of compensation, such further sum, not exceeding that amount, as to *the* Magistrate seems just.

Recovery of arrears of wages and compensation.

(*2*) *On the failure of an employer to pay any amount awarded under sub-section* (*1*), *the Magistrate may recover the same from the employer and pay it to the labourer or other person concerned.*

Power to cancel contract on conviction of employer or accumulation of arrears of wages.

152. (*1*) Where it is proved to the satisfaction of a Magistrate—

(*a*) that an employer, or any person placed by *an employer* in authority over a labourer, has been convicted of any offence causing injury to the person or loss or damage to the property of *the* labourer, and, under the Code of Criminal Procedure, *1898*, triable exclusively by the Court of Session; or

(*b*) that an employer or *any* person *placed by an employer in authority over a labourer* has been twice convicted of any such offence *as aforesaid* against *the* labourer and under the said Code triable by a Magistrate; or

(*c*) that the wages of a labourer are in arrear to an amount exceeding the whole of *his* wages for four months; or

(*d*) that a labourer has been compelled by his employer or by any person placed by his employer in authority over him to perform any labour while he was unfit for it, or has been subjected to ill-usage by his employer or any such person *as aforesaid*;

the Magistrate may, if he thinks fit, on the application of the labourer aggrieved, cancel the labour-contract of *the* labourer and award to him compensation not exceeding thirty rupees.

(*2*) Every cancel*lation under sub-section* (*1*) shall be certified by the Magistrate on the back of the labourer's copy of the labour-contract, or, if *that copy* is not forthcoming, by writing under the Magistrate's hand delivered to the labourer.

153. (1) Where it appears to the Local Government that the condition of the labourers on an estate, or of any class or any considerable number of them, is unsatisfactory owing to the insufficiency of their earnings to maintain them in health and comfort, the Local Government, after such inquiry as it thinks necessary, may direct that the labour-contract of all such labourers be cancelled.

Power to Local Government to cancel contracts of labourers whose condition is unsatisfactory owing to insufficiency of earnings.

(2) No labour-contract shall be cancelled under this section until the employer has been given an opportunity for showing cause why it should not be cancelled.

[140A.] **154.** Where the labour-contract of a labourer is or has been cancelled or *has* determined under section 119, *section 120*, *section 151* or *section 152*, the Inspector or Magistrate, as the case may be, may *in* his discretion and on the application of the labourer concerned cancel the labour-contract of any labourer employed on any estate belonging to the same employer, being *the* wife, husband, father, mother, son or daughter of the labourer whose labour-contract is or has been so cancelled or *has so* determined.

Power to cancel contract of labourer related to labourer whose contract is cancelled or determined.

Determination of Labour-contracts.

[141.] **155.** (*1*) Whenever a labour-contract determines, the employer shall endorse on the labourer's copy of the contract the fact of determination, or, if *that* copy *is* not forthcoming, shall give to the labourer a certificate *to the like effect*; and, *where* the employer refuses or neglects to do so, the Inspector may, on application by the labourer, make such endorsement or give such certificate *as aforesaid*.

Endorsement of determination on labour-contract.

(*2*) The employer shall give to the Inspector notice in writing of such determination *as aforesaid* within one month *after* the date thereof.

[142.] **156.** (*1*) *Where* a labourer is able and desirous to redeem the unexpired term of his labour-contract, or the labour-contract of any member of his family, by payment of a sum equivalent to the value of *the* unexpired term, *the* labourer may require his employer to take him, or allow him to go, before *the* Inspector within the local limits of whose jurisdiction he *is* employed; and, on his depositing such sum *as aforesaid* with *the* Inspector, the Inspector shall give notice to the employer to show cause within one week why the labourer should not be released from his contract.

Power to redeem labour-contract.

(*2*) If no sufficient cause is shown *as aforesaid*, the Inspector shall require *the* labourer's copy of the contract to be produced, and on production thereof shall endorse thereon a certificate that he has been released under this section from *his* contract, or, if *that* copy is not forthcoming, shall deliver to the labourer a certificate under his hand to *the like* effect; and shall, in either case, hold the sum so deposited to the credit of the employer of *the* labourer.

(*3*) The value of the unexpired term of a labour-contract shall, for the purposes of this section, be deemed to be the aggregate amount of one rupee for every month of the unexpired portion of the first year, of three rupees for every such month of the second year, and of five rupees for every such month of the third and fourth years of the original term of the contract:

Provided that, if a person who has completed four years' service under a labour-contract enters into a new labour-contract for one year, he shall not be entitled to redeem the unexpired portion of such new labour-contract unless on the payment of two rupees for each month of the said unexpired portion.

[142A.] **157.** (*1*) Where *the labour*-contract of a labourer determines at a time different from that of any other labourer who is the wife or husband of *that* labourer, the Inspector or Magistrate may, on the joint application of *both* labourers, equalize the terms of their respective contracts, and may, for this purpose, add to the term of the contract which expires first, and deduct from the term of the contract which expires last, in such proportions as may appear to him to be equitable.

Power to equalize terms of contract in case of husband and wife.

(*2*) Every addition or deduction from the term of any *labour*-contract *made under sub-section* (*1*) shall be certified by *the* Inspector or Magistrate on the back of both the employer's and the labourer's copies of the contract, or, if *those copies are* not forthcoming, by writing under the Inspector's or Magistrate's hand, copies of which shall be delivered to the employer and *the* labourer.

Repatriation of Labourers and Others.

[142-B.] **158.** (*1*) Where any labourer, not being a native of the labour-districts, whose *labour*-contract *has* determined under section *131*, desires to be sent back to his native district, the Inspector may, instead of awarding a sum as receivable by *the* labourer from his employer, as provided by that section, order the employer to deposit such amount, whether in excess of the three months' wages awardable under that section or otherwise, as shall, in the Inspector's opinion, be sufficient to cover the entire expenses of sending the labourer *back* to *his native* district. *The* amount shall be deposited by the employer in the Inspector's office and shall be expended by the Inspector in sending the labourer back to his native district.

Repatriation of labourer whose labour-contract has determined under section 131.

(*2*) On *the* failure *for the space of* twenty-four hours of *an* employer to *comply* with an order *made under sub-section* (*1*), the Inspector may *expend the amount specified in the order, and may recover the same from the employer of the labourer concerned.*

159. *Where* any person, being a native of India but not being a labourer, who has emigrated from his native district to a labour-district for the purpose of labouring for hire in any estate situate therein, or, being a dependant of any person who has so emigrated, has no means of subsistence and is, in the opinion of the Inspector or Magistrate, permanently incapacitated from earning his livelihood in a labour-district, the Inspector or Magistrate may, on the application of such person, send him back, together with his dependants (if any), to his native district, and may, subject to the control of the Local Government, charge the expenses incurred in so doing to the Labour Transport Fund *constituted under section 218.*

Repatriation of persons emigrating not under labour-contract who are physically incapacitated.

160. (*1*) Subject to any orders which the Local Government may *make* in this behalf, the Inspector or Magistrate may if, he thinks fit, detain and may send back to his native district any labourer, together with his dependants (if any), whose contract has been cancelled under section 119 or *section 120* on the ground of coercion, undue influence, fraud or misrepresentation, or of any irregularity in connection with his recruitment or the execution of his contract.

Repatriation of labourers wrongfully recruited.

(*2*) *Any expenditure incurred under sub-section* (*1*) *may be recovered* from the employer on whose estate *the* labourer *concerned* was under contract to labour.

161. (*1*) *Where* it appears to the Inspector or Magistrate, on complaint made before him or otherwise, that there is reason to suppose that any native of India, not being a labourer, has been induced by any coercion, undue influence, fraud or misrepresentation to emigrate to a labour-district, the Inspector or Magistrate shall call upon the employer on whose behalf *the* person was made or induced to emigrate, or to whose estate he is being or has been conveyed, or, if the employer cannot be communicated with without undue delay, upon his agent or any one *who is* accompanying or conveying *the* person or *has forwarded or otherwise assisted him to emigrate* to any labour-district or estate, to appear before the Inspector or Magistrate and show cause why *the* person should not be sent back to his native district.

Repatriation of persons not under *labour*-contract wrongfully recruited.

(*2*) *Where* the Inspector or Magistrate is of opinion, after such inquiry as he thinks sufficient, that *such* person *as aforesaid* was engaged or compelled or induced to emigrate by any such coercion, undue influence, fraud or misrepresentation as would justify his being sent back to his native district, the Inspector or Magistrate shall record a finding to that effect and shall, if necessary, detain the person and shall send him, if he so desires, together with any other persons dependent on him, back to his native district.

(*3*) Subject to any orders which the Local Government may *make* in this behalf, *any expenditure incurred* under this section may be recovered from the employer on whose behalf *the* person *concerned* was induced to emigrate or to whose estate he was being or had been conveyed, or, if the employer is not known, or if there is no employer, the person *who is* accompanying or conveying *the* person *concerned* or *has forwarded or otherwise assisted him to emigrate* to any labour-district or estate.

[142-F.] **162.** (*1*) *Where* a labourer or other person is sent back to his native district under section 158, *160* or *161*, the Inspector or Magistrate may provide an escort or make such other arrangements as *he* may *think* necessary for ensuring that *the* labourer or person is actually conveyed to *his native* district.

Arrangements may be made for escorting persons ordered to be repatriated.

(*2*) Any expenditure incurred *under sub-section* (*1*) may be recovered as part of the amount expended in sending *the* labourer or other person back to his native district.

CHAPTER VIII.

Rules.

[143.] **163.** (*1*) In addition to *the* powers *hereinbefore* conferred, the Local Government may make rules *to carry out any of the purposes and objects of this Act in the Province.*

General power for the Local Government to make rules.

(*2*) *In particular and without prejudice to the generality of the foregoing power, such rules may*—

(*a*) define and regulate the powers and duties of the several officers appointed by it under this Act;

(*b*) prescribe what returns and reports shall be made under this Act by any such officers *as aforesaid* or by any contractors or local agents within the *Province* and the form in which they shall be respectively so made;

(*c*) prescribe the forms of all registers, licenses, certificates, permits and notices required under this Act with respect to the *Province;*

(*d*) prescribe the fees to be paid for any license granted under this Act by any officer appointed by it, and for the registration of labourers or their dependants in any district *in the Province;*

(*e*) prescribe the particulars to be registered by a Registering-officer in respect of each person who is brought before him in any district *in the Province* for registration as a labourer or dependant;

(*f*) provide for the management and regulation of contractors' depôts and of hospital depôts situate within the *Province*, and for the support and medical treatment of labourers and their dependants passing through such depôts;

(*g*) provide for the accommodation, food, clothing and medical treatment of all labourers and their dependants detained on account of sickness by order of a Magistrate at any place within any district *in the Province;*

(*h*) prescribe the conditions upon which any officer appointed by it may grant licences to masters of vessels carrying passengers to any labour-district; provide for the ventilation, cleanliness and water-supply of such vessels in respect of which licenses are granted hereunder by any such officer; and prescribe the lists, returns and reports to be kept and submitted by the masters of such vessels;

(*i*) prescribe the description, quantity and quality of provisions, medical drugs and other stores to be taken on board such vessels carrying labourers when such vessels are within the *Province*, and the daily allowance to be issued to each labourer and dependant during the journey through *the same;* prescribe the number of officers, cooks and other servants to be carried on board such vessels; and provide generally for the accommodation of labourers and their dependants on such vessels;

[144.] (*j*) provide for the detention and inspection of such vessels and of all the passengers, being natives of India, carried in such vessels, while in transit through the Province;

(*k*) declare the routes through the *Province* by which labourers, emigrants under Chapter V and dependants shall travel to the labour-districts;

(*l*) prescribe the clothing to be supplied to labourers, emigrants under Chapter V and dependants while proceeding to the labour-districts through the *Province;*

[Health Bill, cl. 3 (*b*).] (*m*) require depôts and rest-houses to be provided by and at the cost of employers, contractors or agents for the accommodation of labourers, emigrants under Chapter V and dependants on any prescribed route, and provide for the sanitation and superintendence of such depôts and rest-houses;

[*ib.*, cl. 3 (*c*).] (*n*) prescribe the mode and the numerical strength of the parties in which labourers, emigrants under Chapter V and dependants are to travel, the arrangements to be made by and at the cost of employers, contractors or agents for facilitating the journey of labourers, emigrants under Chapter V and dependants, the length of daily marches by road, and the provision to be made by and at the cost of employers, contractors or agents for the carriage of labourers, emigrants under Chapter V and dependants when suffering from sickness;

[*ib.*, cl. 3 (*d*).] (*o*) regulate the food to be supplied by and at the cost of employers, contractors or agents to labourers, emigrants under Chapter V and dependants, and the provision to be made for the proper cooking of such food;

(*p*) regulate the water-supply to be maintained by and at the cost of employers, contractors or agents for the use of labourers, emigrants under Chapter V and dependants; [*ib.*, cl. 3 (*e*).]

(*q*) require suitable hospital-accommodation, medical treatment and maintenance to be provided by and at the cost of employers, contractors or agents for labourers, emigrants under Chapter V or dependants when suffering from sickness on their journey to a labour district; [*ib.*, cl. 3 (*g*).]

(*r*) regulate the arrangements to be made by and at the cost of employers, contractors or agents in case of the death of any labourer, emigrant under Chapter V or dependant during the journey to a labour-district; [*ib.*, cl. 3 (*h*).]

(*s*) prescribe the house-accommodation, water-supply, sanitary arrangements and amount and kind of food-grains to be provided by employers for their labourers, and regulate the rations to be supplied to labourers under this Act in the labour-districts *in the Province;* and

(*t*) provide for the hospital-accommodation and medical treatment of labourers in such labour-districts, and prescribe the nature, quality and quantity of medical drugs and other stores to be provided for such labourers.

[Health Bill, cl. 3 (4).] (3) Where an employer, contractor, agent or other person fails to perform any act which he is by any rule made under sub-section (2) required to perform, the Local Government may cause the act to be performed and the cost may be recovered from the employer, contractor or agent, as the case may be.

[145, §.1.] (4) *In making any rule under this Act the Local Government may direct that every breach thereof shall be punishable with fine* not exceeding in any case *five hundred rupees.*

[145, §.2.] (7) All rules made by the Local Government under this Act shall be published in the local official Gazette, and, *on such publication*, shall have *effect as if enacted by this Act.*

CHAPTER IX.

PENALTIES AND PROCEDURE.

[146.] **164.** Whoever knowingly *recruits, engages,* induces or assists, or attempts to *recruit, engage,* induce or assist, any *person* to emigrate in contravention of *any of the provisions of this Act or of any* notification *for the time being in force thereunder*, shall be punishable *with imprisonment for a term which may extend to* six months, *or* with fine which may extend to *five hundred* rupees, *or with both.*

Recruitment, etc., in contravention of Act or notification.

165. Whoever, being a recruiter, wilfully gives false information to a Registering-officer regarding the name, caste, native district or village of any person produced before such officer for

Wilful misdescription by recruiter.

registration as a labourer or regarding any other particulars required to be entered in the register prescribed by section 34, sub-section (2), shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

[147.] Recruiter removing, etc., unregistered person.

166. Whoever, being a recruiter,—

(*a*) removes, or attempts to remove, any person to a depôt before he has been registered under section *34*, or induces or attempts to induce him to go to a depôt or to leave the local limits of the jurisdiction of the Registering-officer before whom *he* ought to be brought under section *33*, or aids or attempts to aid *him* in going to a depôt or in leaving any such local limits *as aforesaid* before he has been so registered; or

(*b*) induces or attempts to induce any person who has been so registered to proceed to any place other than the depôt which has been established by the contractor on whose behalf *the* recruiter is licensed, or conveys or attempts to convey him to such place;

shall be punish*able* with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees in respect of every such person.

[148.] Recruiter not supplying proper food, etc.

167. (*1*) Whoever, being a recruiter or a person deputed by a recruiter to accompany labourers to a depôt, fails to provide any labourer or any dependant whom he accompanies on the journey to the depôt with proper and sufficient food and lodging, or otherwise ill-treats *the* labourer or dependant on *the* journey, shall be punish*able* with fine which may extend to fifty rupees; and, in default of payment of *the* fine within twenty-four hours, with imprisonment for a term which may extend to one month.

(*2*) The convicting Magistrate may award the whole or any portion of any fine levied under *sub*-section (*1*) as compensation to the labourer in respect of whom, or of whose dependant, *the* failure or ill-treatment has occurred.

[149.] Labourer refusing without reasonable cause to execute contract at depôt.

168. (*1*) Any labourer engaged by a recruiter who, having been registered under section *34*, without reasonable cause refuses or neglects when at the depôt to execute, *in accordance with the provisions of section 44*, a labour-contract in conformity with the terms made known to him when he was registered, shall be punish*able* with fine which may extend to the amount of the expense incurred in registering him and conveying him to the depôt and maintaining him therein; and, in default of payment of *the* fine, with imprisonment for a term which may extend to one month.

(*2*) Any labourer so punished may be forthwith discharged from the depôt.

(*3*) Every fine levied under *sub*-section (*1*) shall be paid to the contractor, sub-contractor or recruiter by whom such expense *as aforesaid* was incurred.

[150.] Labourer refusing to execute contract with garden-sardar.

169. (*1*) Any labourer registered under section 69 who, without reasonable cause, refuses or neglects to execute, *in accordance with the provisions of section* 72, a labour-contract in conformity with the terms made known to him when he was registered, shall be punish*able* with fine which may extend to twenty rupees or to the amount of the expense reasonably incurred by the garden-sardar in procuring his registration, whichever amount is least.

(*2*) Every fine levied under *sub*-section (*1*) shall be paid to the garden-sardar by whom such expense *as aforesaid* was incurred.

Garden-sardar failing to report himself, etc.

[151, first part.]

170. Whoever, being a garden-sardar holding a certificate under Chapter IV,—

(*a*) fails, within fourteen days after his arrival in the local area within which he is authorized to enter into contracts under this Act, to report himself to the local agent (if any) specified in his certificate; or

(*b*) fails, without sufficient cause, to return to his employer within the time specified in his certificate; or

(*c*) fails to account for the money advanced to him by his employer for the purpose of engaging labourers;

shall be punish*able* with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both;

and may, if a labourer under a labour-contract, on the application of his employer or of a person acting on behalf of the employer, be sent back or made over to his employer for the purpose of completing his term of service.

Garden-sardar, etc., abandoning labourers, etc.

[151, second part.]

171. Whoever, being a garden-sardar holding a certificate under Chapter IV or a person appointed under section *55* or section 76 to accompany labourers to a labour-district,—

(*a*) wilfully abandons any labourer or his dependant on the way to *the* labour-district; or

(*b*) removes or attempts to remove any person to a labour-district before he has executed a labour-contract in accordance with section 72; or

(*c*) induces or attempts to induce any person to go to a labour-district or to leave the local area specified in the certificate of *the garden*-sardar before he has executed a labour-contract as aforesaid, or aids or attempts to aid him in proceeding to a labour-district or in leaving any such local area *as aforesaid* before he has executed such a labour-contract;

shall be punish*able* with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Garden-sardar making over labourers to contractors, etc.

[152.]

172. (*1*) *Whoever, being a* garden-sardar holding a certificate under Chapter IV,—

(*a*) makes over to any contractor, sub-contractor or recruiter, or to the garden-sardar or local agent of any employer other than the employer by whom his certificate was granted, or, without authority from his employer, to any other person, any person whom he has engaged or intends to engage as a labourer; or

(*b*) places any such person *as aforesaid* in a contractor's depôt or in the place of accommodation provided by a recruiter in accordance with the provisions of section *29*, *sub-section* (*2*); or

(*c*) allows any person engaged as a labourer by any contractor or sub-contractor or recruiter to share the accommodation provided by him under section *62*;

shall be punish*able* with imprisonment for a term which may extend to six months, or, with fine, or with both, and his certificate may be impounded by the convicting Magistrate.

(*2*) Any Magistrate impounding a certificate under this section shall send it for cancellation to the Magistrate by whom it was countersigned.

[153.] Garden-sardar failing to comply with instructions endorsed on way-bill.

173. Any garden-sardar holding a certificate under Chapter IV or person appointed by him as provided by section 76, who accompanies labourers to the labour-districts and fails to present a way-bill as required by section 79, *sub-section* (*1*), or to carry out any of the instructions entered in *the* way-bill, shall be punish*able* with fine which may extend to twenty rupees.

[*New.*] *Unlawful* engagement of emigrants *by garden-sardar.*

174. *Whoever,*—

(*a*) *being a garden-sardar employed under a permit to engage* persons *and assist them to emigrate in accordance with the provisions of section 90, infringes any of the provisions of that section; or*

(*b*) *being a garden-sardar employed under the control of an agency or association to engage* persons *and assist them to emigrate in accordance with the provisions of section 91, infringes any of the conditions prescribed by or under that section;*

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees for every such infringement.

Local agent or selecting agent working with contractor.

175. Whoever, being a local agent licensed under section 64 or a selecting agent licensed under section 65, retains or acquires any interest in the business of a contractor or works for a contractor for hire or reward, shall be punishable with fine, which may extend to one thousand rupees.

[154.] Master receiving native passengers on board in contravention of Act.

176. (*1*) *Whoever,*—

(*a*) *being a* master not licensed under section *97*, in contravention of section *96*, *sub-section* (*1*), knowingly receives on board his vessel more than twenty passengers being natives of India; or,

(*b*) *being a* master licensed as aforesaid, knowingly receives on board his vessel any such passengers in excess of the number specified in his license or in any order of an Embarkation Agent under section 100 for the purpose of transporting them to a labour-district;

shall be punish*able* with fine which may extend to two hundred rupees for each passenger so received.

(*2*) Nothing in this section applies to the master of a vessel exempted under section 96, *sub-section* (*2*).

[155.] Fraudulent alteration of vessel after grant of license.

177. *Whoever, being a* master licensed under section *98*, with intent to defraud, does or suffers to be done any act or thing whereby the state of his vessel is altered, so that *the* vessel is unfit for the accommodation of the number of passengers specified in his license or in any order made under section 100 by an Embarkation Agent, shall be punish*able* with fine which may extend to two hundred rupees.

[156.] Master not complying with section *102*.

178. *Whoever, being a* master licensed *under section 98*, proceeds on his voyage with his vessel carrying labourers without having complied with the provisions of section *102*, shall be punish*able* with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees.

[157.] Master not complying with order under section *104*.

179. *Whoever, being a* master licensed *under section 98*, fails to comply with an order of an Embarkation Agent made under section *104*, shall be punish*able* with fine which may extend to two hundred rupees for each day during which he fails to comply with *the* order after the day on which the order was received by him.

[158.] Master permitting labourer to leave vessel contrary to section *106*.

180. *Whoever, being a* master licensed *under section 98*, causes or permits a labourer finally to leave his vessel *in contravention of* the provisions of section *106*, shall be punish*able* with fine which may extend to two hundred rupees for each labourer so leaving his vessel.

[159.] Master wilfully omitting to stop vessel at certain places.

181. *Whoever, being a* master licensed *under section 98*, wilfully omits to comply with the provisions of section *107*, shall be punish*able* with fine which may extend to two hundred rupees.

[160.] Person disobeying Magistrate's order as to communication between vessel and land.

182. *Whoever* disobeys any order made under section 109 by a Magistrate, shall be punish*able* with fine which may extend to two hundred rupees.

[161.] Master or medical officer disobeying or neglecting to enforce rules.

183. *Whoever, being a* master licensed *under section 98*, or a medical officer in charge of a vessel, wilfully omits or neglects to obey or enforce on board of *the* vessel any provision of this Act or any rule thereunder, shall be punish*able* with fine which may extend to two hundred rupees.

[162.] Labourer deserting, etc., after registration.

184. *Whoever*, having executed a labour-contract,

(*a*) deserts while on his journey from the district in which he has executed the labour-contract to a labour-district; or,

(*b*) without reasonable cause, refuses or neglects to proceed to the place where he is to labour or to embark in any vessel when called upon to do so by an Embarkation Agent;

shall be punish*able* with imprisonment for a term which may extend to one month.

[163.] Employer refusing or omitting to keep registers, etc.

185. *Whoever, being an* employer, refuses or wilfully omits to keep such registers or to make such periodical returns in writing to the Inspector as may be

prescribed by any rule made *under this Act*, or knowingly keeps an incorrect register or makes an incorrect return, or wilfully omits to prepare, file or *affix* a schedule as required by section 124, shall be punish*able* with fine which may extend to two hundred rupees.

[164.] **186.** *Whoever, being an* employer, or acting under the orders or on the behalf *of an employer*, wilfully obstructs any entry, inspection or inquiry, or omits to comply with any requisition made under section 123, shall for every such offence be punish*able* with fine which may extend to two hundred rupees.

Employer or other person obstructing inspection under section 123.

[165.] **187.** *Whoever, being an* employer, or acting under the orders or on the behalf *of an employer*, compels any labourer to perform any labour knowing that he is at the time unfit to perform such labour, shall be punish*able* with fine which may extend to two hundred rupees.

Employer or other person compelling labourer to perform labour for which he is unfit.

[166.] **188.** *Whoever* buys *any* rations which have been furnished under section *134* to a labourer, and *whoever, being a* labourer, sells any rations *so furnished to him*, shall be punish*able* with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees.

Persons buying labourer's rations.

[167.] **189.** (*1*) *Whoever, being an* employer, wilfully omits to provide house-accommodation, water-supply, sanitary arrangements, food-grains or rations in accordance with the provisions of this Act or any rule thereunder, shall be punish*able* with fine which may extend to five hundred rupees; and the convicting Magistrate may order him to comply with such provisions within a reasonable time to be fixed in the order.

Employer omitting to provide house-accommodation, etc.

(*2*) If the employer wilfully omits to comply with *the* order within the time so fixed, he shall be punish*able* with fine which may extend to one hundred rupees for each day during which *the* omission continues.

(*3*) If the employer fails to pay the fine *imposed under sub-section* (*2*), the person on whose account he has been acting shall be liable to pay *the same*.

[168.] **190.** *Whoever, being an* employer, fails to provide such hospital, accommodation for, or to make such provision for the medical care and treatment of, labourers, as is required by any rule made under this Act, shall be punish*able* with fine which may extend to two hundred rupees for each week during which *the* default continues.

Employer neglecting to provide hospital-accommodation.

[169.] **191.** Where any estate or portion thereof has been found under section *140*, or declared under section *144*, unfit for the residence of labourers or any class of labourers, as the case may be, every employer who, until a certificate has been given under section *145*, causes or permits such labourers or class of labourers to reside or labour upon *the* estate or portion shall be punish*able* with fine which may extend to two hundred rupees.

Employer causing labourer to reside on estate declared unfit for residence.

[179.] **192.** (*1*) Every employer may, on or before the fifteenth day of each month, send to the Inspector a statement in writing containing the names of all or any of his labourers who, voluntarily and without reasonable cause, absented themselves from labour during the preceding month, and specifying the periods of absence. When any employer *so* sends any statement, he shall, at the same time, notify to each labourer concerned the fact that he has done so.

Unlawful absence from work.

(*2*) *Every* Inspector who receives any statement *so sent* shall, if the employer so desires, when next visiting the estate on which the labourers to whom *the* statement relates are employed, inquire into each case of absence in the presence of the labourer concerned, and, if satisfied that the labourer has voluntarily and without reasonable cause absented himself, shall, unless the labourer consents to forfeit to his employer the sum of four annas for each day of absence, endorse *the* day-s of absence on the labour-contract of *the* labourer, and add them to the term of *the* contract.

(*3*) The Inspector may also, at any time other than that of his visit to the estate, on the application of either the employer or the labourer after due inquiry, endorse the days of absence on, and add them to the term of, the labour contract:

Provided that an employer who omits to apply for the endorsement of such days on any labourer's labour-contract when the Inspector is actually visiting the estate shall be debarred, in the absence of sufficient reasons to the contrary shown to the satisfaction of the Inspector, from applying afterwards for such endorsement so far as days of absence reported in statements sent to the Inspector previous to the date of his last visit are concerned.

Explanation.—Ill-treatment of *a* labourer by his employer, or failure of the employer to fulfil any condition of the labour-contract binding on the employer, *shall be deemed to be* reasonable cause within the meaning of this section. [171, Expln.]

[171.] **193.** *Whoever, being a* labourer, voluntarily and without reasonable cause, absents himself from his labour for more than seven consecutive days, or for more than seven days in any one month, shall be *punishable with* imprisonment for a term which may extend to fourteen days; and, in case *the* absence has extended to twenty days in any two consecutive months, *shall be punishable with* imprisonment for a term which may extend to one month.

Labourer absent without cause.

Explanation.—Ill-treatment of *a* labourer by his employer, or failure of the employer to fulfil any condition of the labour-contract binding on the employer, *shall be deemed to be* reasonable cause within the meaning of this section.

[171-A.] **194.** Every employer may, on or before the fifteenth day of each month, send to the Inspector a statement in writing in such form as the Local Government may prescribe containing the names of all or any of his labourers who have deserted from his service during the preceding month, or who, having deserted at any previous time, have been absent during the preceding month, or who, having deserted during the month or previously, have been arrested or have returned to his service during the preceding month.

Statement of deserters.

[175.] **195.** (*1*) *Where* any labourer deserts from his employer's service, *the* employer, or any person authorised by him in this behalf, may, without a warrant and without the assistance of any police-officer, arrest *the* labourer wherever he may be found:

Deserter may be apprehended without warrant.

Provided that, if *the* labourer *is* found within five miles of the place where a Magistrate resides or in the service of another employer, he shall not be arrested without warrant.

(*2*) Every police-officer shall assist in arresting any such labourer if so required by the employer or person authorised by him in this behalf.

(*3*) Whoever arrests a labourer under this section shall without delay take him to the police-station nearest to the place of the arrest; and if he fails to do so shall be punish*able* with fine which may extend to two hundred rupees.

196. (*1*) The police-officer in charge of such station shall, on the appearance of the parties, take down in writing the statements of the labourer arrested and of the person arresting the labourer.

Procedure at police-station.

(*2*) If the labourer admits the contract and does not claim to be forwarded to a Magistrate, the police-officer may permit the person arresting the labourer to convey him to the estate on which he is under contract to labour, and shall then transmit the statements recorded and a report of his proceedings to the Magistrate within the local limits of whose jurisdiction the police-station is situated.

(*3*) If the labourer does not admit the contract or claims to be forwarded to the Magistrate, or if, for any reason, it appears to the police-officer desirable that he should be so forwarded, the police-officer shall forthwith send *the* labourer, together with the statements recorded as aforesaid and a report of his proceedings, to the Magistrate within the local limits of whose jurisdiction the police-station is situated.

(*4*) If the estate on which the labourer is under contract to labour is not situate within the local limits of the jurisdiction of the Magistrate referred to in *sub-section* (*2*) *or sub-section* (*3*), *the* Magistrate shall forward the statements and report received by him from the police to the Magistrate within the local limits of whose jurisdiction such estate is situate. He shall also, when the labourer has been sent to him by the police, either forward the labourer to, or take security for his appearance before, such *other* Magistrate *as aforesaid*.

(*5*) On receipt of such statements and report, the Magistrate within the local limits of whose jurisdiction *the* estate *is situate* may, after making such inquiry as he considers desirable into the case, pass such order in accordance with law as he thinks proper. For the purpose of any such inquiry *the* Magistrate may, if he thinks fit, in any case in which the labourer arrested has not been sent to or appeared before him, require the labourer to appear before him.

[174.] **197.** Where an employer or a person acting on behalf *of an employer* complains to a Magistrate that a labourer has deserted from *the* employer's service, *the* Magistrate may, without previously examining the complainant, issue a summons for the attendance of *the* labourer, or a warrant for his arrest, and fix a day for hearing the complaint.

Procedure on complaint of desertion.

[175.] **198.** (*1*) *Whoever, being a* labourer, deserts from his employer's service, shall be punish*able* with imprisonment for a term which may extend to one month, or with fine which may extend to twenty rupees, or with both.

Punishment for desertion.

(*2*) For a second conviction for a like offence *the offender* shall be punish*able* with imprisonment for a term which may extend to two months, or with fine which may extend to fifty rupees, or with both.

(*3*) For a third and every subsequent conviction for a like offence *the offender* shall be punish*able* with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

[176.] **199.** (*1*) *Where* it appears to *a* Magistrate trying a labourer for deserting from his employer's service that such labourer was arrested without sufficient cause, *the* Magistrate may impose a fine, which may extend to fifty rupees, on the employer or person acting on his behalf by whom or at whose instance *the* labourer was arrested.

Compensation for wrongful arrest.

(*2*) The Magistrate may in his sentence direct that the whole or any part of *the* fine *levied under sub-section* (*1*) be paid by way of compensation to the labourer so arrested.

[177.] **200.** Where a labourer has actually suffered imprisonment for terms amounting in the whole to six months for desertion from his employer's service, the Inspector shall cancel the labour-contract of *the* labourer, and shall endorse on his copy of the contract a certificate of *the* cancellation; or, if *that* copy is not forthcoming, he shall give to the labourer a written certificate *to the like effect*.

Cancellation of contract by desertion.

[178.] **201.** *Whoever, being a* labourer, *is* guilty of habitual drunkenness, or wilfully disregards any sanitary regulation approved by the Inspector and duly notified for the guidance of the labourers on the estate on which *the* labourer is employed, shall be punish*able* with imprisonment for a term which may extend to one week, or with fine which may extend to five rupees.

Penalty for drunkenness or neglect of sanitary regulations.

[179.] **202.** (*1*) The employer of a labourer sentenced to imprisonment for any offence under this Act, or any person authorized to act in this behalf for *the* employer, may apply to the Magistrate that *the* labourer be made over to him for the purpose of completing his labour contract.

Portion of sentence may be cancelled on application of employer.

(*2*) On *an* application being made *under sub-section* (*1*), the Magistrate may, if he thinks fit, order that *the* labourer be made over or forwarded to his employer; and in that case *the* Magistrate shall cancel the sentence passed on the labourer or any unexpired portion of the same, and shall endorse on his copy of the labour-contract a certificate of *the* cancellation, or, if *that* copy *is* not forthcoming, shall give him a written certificate of *the* cancellation.

(*3*) Nothing in this section shall be deemed to affect the provisions of section *200*.

[180.] **203.** Every employer who obtains an order of a Magistrate for the making over or forwarding of any labourer shall be liable to defray the expense (if any) incurred in *the* making over or forwarding *of the labourer*; and shall, before the order is issued, deposit with the Magistrate a sum sufficient in the Magistrate's opinion to defray *that* expense.

Expense of forwarding labourer to be paid by employer.

[181.] **204.** (*1*) On the expiry of any sentence of imprisonment *passed on a labourer* for any offence under this Act, the Magistrate shall, subject to the provisions of section *200*, make *the* labourer over to any person appointed on the part of his employer to take charge of him; and no conviction under this Act or imprisonment *thereon* shall, save as aforesaid, operate as a release to any labourer from the terms of his labour-contract.

Conviction not to operate as a release.

(*2*) *Where* no person is present on the part of the employer to take charge of the labourer *on* the expiry of his sentence, the Magistrate shall forward *the* labourer to the principal place of

business of his employer situate within the local limits of *the* Magistrate's jurisdiction.

(3) *Any expenditure incurred under sub-section (2) may* be recovered from *the* employer *of the labourer concerned.*

[182.] **205.** (1) Where a labourer is sentenced to imprisonment for any offence under this Act *other than an offence under section 193 or section 198*, the Magistrate shall endorse on the employer's copy of the labour-contract the term for which *the labourer* is *so* sentenced.

Endorsement on contract of imprisonment for offence against Act.

(2) When a labourer is convicted of unlawful absence under section 193 or desertion under section 198, the Magistrate shall endorse the period of the labourer's absence or desertion on the employer's copy of the labour-contract.

(3) In case of desertion falling under sub-section (2) no endorsement shall be made if the labour-contract has been cancelled under section 200, or if more than one year has elapsed from the expiry of the original term of the labour-contract or more than three years have elapsed from the date when the labourer deserted, to the date of his conviction.

(4) The term of imprisonment to which a labourer is sentenced under section 193 or section 198 shall be deducted from the term of service to which he is bound by his original contract or by any endorsement made under sub-section (2).

(5) No endorsement shall be made in a case of desertion under sub-section (2) unless the employer has duly reported the particulars of the desertion as provided in section 194.

[182-B.] **206.** Where a labourer is sentenced to imprisonment for any time not exceeding three years for any offence other than an offence under this Act, the Court or Magistrate so sentencing him shall, if the employer or **a person acting on behalf of the employer** so requests, endorse on the employer's copy of the labour-contract the period for which the labourer is sentenced to imprisonment, or, if *that* period exceeds the unexpired term of the labour contract on the date of the sentence, so much of *that* period as is equal to *the* unexpired term.

Endorsement on contract of period of any other imprisonment.

[182-C.] **207.** The periods endorsed under *section 205 or section 206* shall be added to the term for which the labourer contracted to serve; and *the* labourer shall not be deemed to have performed his labour-contract *until* he has served for the term specified therein in addition to the periods so endorsed.

Periods endorsed to be added to term of contract.

[183.] **208.** (1) Whoever, knowing that a labourer is bound by his labour-contract to labour for any employer, voluntarily entices or attempts to entice *the* labourer to leave *his* employer, or harbours or employs any labourer who has, in contravention of the terms of his labour-contract, left his employer, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

Other person enticing away, harbouring or employing labourer under labour-contract.

(2) The convicting Magistrate may, in his discretion, award to the employer with whom *the* labourer has contracted the whole or any part of any fine levied under *sub-section (1)*.

[183-A.] **209.** Whoever, being bound under section *118*, *sub-section (2)*, to forward any labour-contract to the Inspector, or under section *120* to cause any labourer to appear before the Inspector or Magistrate, wilfully omits or neglects so to forward *the* labour-contract to the Inspector at or within the time specified, or to cause *the* labourer to appear before the Inspector or Magistrate within a reasonable time, shall be punish*able* with fine which may extend to two hundred rupees.

Failure to forward contract under section *118* or to cause labourer to appear under section *120*.

[184.] **210.** Whoever, being bound by section *146* to send any labourer *home*, or to give notice of any complaint to, an Inspector or Magistrate, refuses or neglects so to send *the* labourer or to give *the* notice, shall be punish*able* with fine which may extend to two hundred rupees.

Employer or other person neglecting to send labourer before Magistrate as provided by section 146.

[185.] **211.** *Whoever, being an* employer,—

Employer refusing to endorse labour-contract, etc.

(*a*) refuses or wilfully neglects to endorse the labourer's copy of his *labour-*contract as required by section *155*, or

(*b*) detains a labourer after the determination of his labour-contract; or

(*c*) fails to give to the Inspector notice in writing of such determination *as aforesaid* within one month *after* the date thereof;

shall be punish*able* with fine which may extend to two hundred rupees.

[186.] **212.** *Whoever, being an* employer or *a* person acting for an employer, refuses or neglects to comply with the request of a labourer made under section *156*, shall be punish*able* with fine which may extend to two hundred rupees.

Employer or other person neglecting to comply with request of labourer wishing to redeem unexpired term.

[187.] **213.** Whoever abets, within the meaning of the Indian Penal Code, any offence against this Act or any rule hereunder, shall be punish*able* with the punishment provided for *the* offence.

XLV of 1860.

Abetment.

[188.] **214.** Whoever commits any offence against this Act or any rule hereunder shall be triable for *the* offence in any place in which he may be found, as well as in any other place in which he might be tried under any law for the time being in force.

Place of trial for offences.

CHAPTER X.

MISCELLANEOUS.

[New, but see ss. 11-C, 22, etc., and *cf.* Act XX of 1891, s. 201.] **215.** *Every sum recoverable under this Act from any person may be recovered, on application to a Magistrate having jurisdiction where the person is for the time being resident, by the distress and sale of any moveable property within the limits of the Magistrate's jurisdiction belonging to that person.*

Recovery of sums due under Act.

[190.] **216.** All arrears of wages due under any labour-contract shall be a charge upon the estate upon which the labourer to whom *the* labour-contract relates has been engaged to labour; or, if he has engaged to labour upon any one of several estates managed by the same employer, shall be a charge upon that estate upon which *he* for the time being actually labours.

Wages due under labour-contract a charge upon estate.

[191.] **217.** (1) Whenever an estate on which any labourer has under this Act contracted to labour is transferred by act of parties or operation of law or devolves, the person to whom it is so transferred or on whom it devolves shall be bound by the labour-contract of *the* labourer in the same manner and to the same extent as the person by or from whom it is transferred or devolves would have been bound *thereby*, and shall have the same rights and remedies under *it* as such person would have had thereunder, if the estate had not been transferred or had not devolved.

Owner of estate for time being has all rights and remedies in respect of labour-contracts charged on it.

(2) No person who has ceased to be the owner of the estate upon which any labourer has under this Act contracted to labour shall be liable in respect of any breach of the labour-contract of *the* labourer which occurs after he has ceased to be owner.

[192.] **218.** (1) Subject to the power of a Magistrate under this Act to award fines in whole or in part as compensation to or for the benefit of any complainant or other person, the Local Government shall credit all fines, fees and rates levied and paid under this Act in the territories under its administration to a fund *to* be called the "Labour Transport Fund".

V of 1898.

Fines, fees and rates to be credited to Labour Transport Fund.

(2) *The Labour Transport* Fund shall be at the disposal of *the* Local Government, in such manner as the Government of India may direct, for paying the salaries and allowances of all officers and establishments appointed *by it* under this Act and their pensionary and leave-allowances, for meeting the cost of sending labourers and other persons back to their native districts, and generally for defraying the expenses of carrying out the purposes *and objects* of this Act and *any* rules *made by* the Local Government hereunder.

(3) The annual surplus accruing in *the Labour Transport* Fund shall be applied to reducing the annual rate or the registration-fees leviable under this Act, and not otherwise.

[194.] **219.** *Every* Assistant Inspector shall perform all such duties and exercise all such powers of an Inspector as he is authorized in writing by the Inspector to perform or exercise.

Duty of Assistant Inspector.

[195.] **220.** All powers conferred by this Act on any Superintendent, Medical Inspector, Emigration Agent or other officer may be exercised from time to time as occasion requires.

Powers of officers under this Act to be exercisable from time to time.

[4.] **221.** The *Chief Commissioner of Assam* may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, declare that any labour-district or *local* area therein shall, *on and with effect* from a day *to be fixed* in the notification, cease to be subject to all the provisions or any specified provision of this Act; and from *the* day *so fixed* such labour-district or *local* area *as aforesaid* shall cease to be subject to the provisions of this Act or to the provision so specified, as the case may be.

Power to exempt labour-district from Act.

[6.] **222.** The publication of *any* notification under *this* Act shall not affect any act done, offence committed or proceedings commenced before such publication.

Notifications not to affect prior acts, etc.

[2.] **223.** *The enactments mentioned in the second schedule are hereby repealed to the extent specified in the fourth column thereof.*

Repeal.

THE FIRST SCHEDULE.

FORM OF LABOUR-CONTRACT BETWEEN LABOURER AND EMPLOYER.

(See Section 5.)

This contract, made under the Assam Labour and Emigration Act, 1901, between *A B* (hereinafter called *the labourer*) of the one part and * [*C D* (**Representative,** *local agent* or *garden-sardar*) on behalf of] *E F* (hereinafter called *the employer*) on the other part, witnesseth that the said * [**representative** or *local agent* or *garden-sardar* on behalf of the said] employer doth hereby promise the said labourer that if he, the said labourer, do remain and labour † on the $\frac{\text{X estate}}{\text{Y estates}}$ ‡ of his said employer in the labour-district of for the term of years from the date of the execution of this contract, he, the said employer, will, from the date on which the said labourer commences to labour on *the said* $\frac{\text{estate}}{\text{estates}}$, pay or cause to be paid to the said labourer monthly wages at the rate of Rs. § for a completed daily task regulated in accordance with the provisions of the said Act, || and when such task as *aforesaid* is not completed, monthly wages calculated at the same rate in proportion to the amount of work actually done, and that during *the said* period he, the said employer, will supply to the said labourer rice at a price of Rs. per maund and will faithfully comply with all rules regarding house-accommodation, medical treatment and the supply of food-grains or rations to the said labourer which the Local Government may prescribe; and this contract further witnesseth that the said labourer doth hereby, in consideration of the aforesaid promise, agree so to remain and labour for the said employer. In witness whereof the said parties to these presents have hereunto set their hands at this day of 19 .

* Parts in brackets to be omitted if the contract is made without the intervention of **a representative,** local agent or garden-sardar.

† State nature of labour, if the labourer is to be required to work under the ground.

‡ As the case may be.

§ State rates for various periods of contract.

|| **[During the first six months of the contract the employer is to pay a full wage for half the daily task, unless an Inspector certifies that the labourer is able to perform a full task.]**

Signature of Labourer and of Employer (or of his Representative, Local Agent or Garden-sardar.

Form of Description of Labourer.

NAME.	Father's name.	Age.	Sex.	Caste.	RESIDING. District.	Thana.	Village.	Descriptive marks.

[Endorsement to be filled up by officer before whom the contract is executed.]

I hereby certify that, before the said *A B* signed this contract, I personally explained it to him.

Dated at } Signed
This day of } **Superintendent or** *Registering-officer or Inspector or Magistrate.*

[Endorsements on labourer's copy of contract to be filled up when the contract is determined or cancelled.]

I hereby certify that the foregoing contract has been determined by effluxion of time.

Dated at }
This day of } *Signature of Employer or Inspector.*

I hereby certify that the foregoing contract has been cancelled under the provisions of section of Act .

Dated at }
This day of } *Signature of Inspector or Magistrate.*

THE SECOND SCHEDULE.

ENACTMENTS REPEALED.

(See section 223.)

Year.	No.	Short title.	Extent of repeal.
		Act of the Governor General in Council.	
1882	I	The Assam Labour and Emigration Act, 1882.	The whole.
1891	XII	The Repealing and Amending Act, 1891.	So much of section 2 and the first schedule as relates to Act I of 1882.
1893	VII	The Inland Emigration Act, 1893.	The whole.
1897	V	The Repealing and Amending Act, 1897.	So much of section 2 and of the first and second schedules as relates to Act I of 1882 and Bengal Act I of 1889.
		Act of the Lieutenant-Governor of Bengal in Council.	
1889	I	The Inland Emigrants' Health Act, 1889.	The whole.

J. M. MACPHERSON,
Secy. to the Govt. of India, Leg. Dept.

(Republished by order of the Governor in Council.)

M. HAMMICK,
Ag. Secy. to Govt., Leg. Dept.

MADRAS: PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

PROCEEDINGS

OF THE

COUNCIL OF THE GOVERNOR GENERAL OF INDIA, ASSEMBLED FOR THE PURPOSE OF MAKING LAWS AND REGULATIONS.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., Cap. 67, and 55 & 56 Vict., Cap. 14).

The Council met at Government House, Calcutta, on Friday, the 22nd February 1901:—

PRESENT:

His Excellency Baron Curzon, P.C., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.
His Honour Sir John Woodburn, K.C.S.I., Lieutenant-Governor of Bengal.
The Hon'ble Major-General Sir E. H. H. Collen, G.C.I.E., C.B.
The Hon'ble Sir A. C. Trevor, K.C.S.I.
The Hon'ble Sir C. M. Rivaz, K.C.S.I.
The Hon'ble Mr. T. Raleigh.
The Hon'ble Sir E. FG. Law, K.C.M.G.
The Hon'ble M. R.Ry. Panappakkam Ananda Charlu Vidia Vinodha Avargal, Rai Bahadur, C.I.E.
The Hon'ble Kunwar Sir Harnam Singh, Ahluwalia, K.C.I.E., of Kapurthala.
The Hon'ble Mr. J. Buckingham, C.I.E.
The Hon'ble Mr. H. F. Evans, C.S.I.
The Hon'ble Rai Bahadur B. K. Bose, C.I.E.
The Hon'ble Sir Allan Arthur, *Kt.*
The Hon'ble Sir A. Wingate, K.C.I.E.
The Hon'ble Mr. D. M. Smeaton, C.S.I.
The Hon'ble Mr. H J. S. Cotton, C.S.I.
The Hon'ble Mr. C. W. Bolton, C.S.I.
The Hon'ble Mr. R. P. Ashton.

ASSAM LABOUR AND EMIGRATION BILL, AND ASSAM EMIGRANTS' HEALTH BILL.

The Hon'ble SIR CHARLES RIVAZ presented the Report of the Select Committee on the Bill to consolidate and amend the law relating to Emigration to the labour-districts of Assam, and on the Bill to make better provision for the health, supervision and control of Emigrants proceeding to or from the labour-districts of Assam. He said that, with His Excellency's permission, he proposed to ask the Council this day fortnight to take the Report into consideration.

INDIAN TOLLS (ARMY) BILL.

The Hon'ble SIR CHARLES RIVAZ moved that the Report of the Select Committee on the Bill to amend the law relating to the exemption from tolls of persons and property belonging to the Army be taken into consideration. He said :—"I explained the object of this Bill briefly and the modifications proposed by the Select Committee when I presented their Report at the last meeting of Council, and I need not trouble Hon'ble Members with any further remarks."

The motion was put and agreed to.

The Hon'ble SIR CHARLES RIVAZ moved that the Bill, as amended, be passed.

The Hon'ble MAJOR-GENERAL SIR EDWIN COLLEN said :—"After the explanation which has been given by my Hon'ble colleague Sir Charles Rivaz on previous occasions, I need not take up the time of the Council by enlarging upon the provisions of the Bill. But I should like to point out that this matter has received very ample consideration. It was recognized long ago that there was a great variety in the special exemptions scattered through the Indian Statute-book, and that it would be advisable that we should consolidate these and bring the whole subject into harmony with the provisions of the Army Act. The question was definitely taken up as far back as 1892. The Local Governments and Administrations were consulted, and their replies were very full, although some of the questions dealt with were by no means simple. In 1895 a departmental Committee was appointed, of which Major-General Maitland, now Secretary in the Military Department, was appointed Chairman, and, if I may be allowed, I should especially wish to acknowledge the labours of that Committee. A draft Bill was prepared and was generally approved. It has since gone through various stages of discussion, by the Government of India collectively, by reference to the Secretary of State, and again to Local Governments, and, finally, a Select Committee of this Council has reviewed it. It must be admitted, I think, that the subject has been exhaustively discussed, and that the proceedings have been marked by some deliberation. This Bill will simplify the enactments in India, it will bring the subject into line with the Army Act, and I therefore cordially support the Bill."

The motion was put and agreed to.

INDIAN PORTS BILL.

The Hon'ble MR. RALEIGH moved that the Report of the Select Committee on the Bill further to amend the Indian Ports Act, 1889, be taken into consideration.

The motion was put and agreed to.

The Hon'ble MR. RALEIGH moved that the Bill, as amended, be passed.

The motion was put and agreed to.

INDIAN FOREST (AMENDMENT) BILL.

The Hon'ble SIR CHARLES RIVAZ moved that the Bill further to amend the Indian Forest Act, 1878, be referred to a Select Committee consisting of the Hon'ble Mr. Raleigh, the Hon'ble Mr. Evans, the Hon'ble Rai Bahadur B. K. Bose, the Hon'ble Sir Andrew Wingate, the Hon'ble Rai Sri Ram Bahadur and the mover, with instructions to report within one month.

The motion was put and agreed to.

The Council adjourned to Friday, the 1st March, 1901.

Calcutta,
The 22nd February 1901.

J. M. MACPHERSON,
Secy. to the Govt. of India, Leg. Dept.

(Republished by order of the Governor in Council.)

M. HAMMICK,
Ag. Secy. to Govt., Leg. Dept.

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FORT ST. GEORGE GAZETTE SUPPLEMENT.

TUESDAY EVENING, MARCH 19, 1901.

PROCEEDINGS

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The Hon'ble Sir Allan Arthur, *Kt.*
The Hon'ble Sir A. Wingate, K.C.I.E.
The Hon'ble Mr. F. A. Nicholson, C.I.E.
The Hon'ble Mr. D. M. Smeaton, C.S.I.
The Hon'ble Mr. H. J. S. Cotton, C.S.I.
The Hon'ble Mr. C. W. Bolton, C.S.I.
The Hon'ble Rai Sri Ram Bahadur.
The Hon'ble Mr. R. P. Ashton.

* * * * *

RELIGIOUS ENDOWMENTS BILL.

The Hon'ble RAI BAHADUR P. ANANDA CHARLU moved that the Bill to amend Act XX of 1863 (*an Act to enable the Government to divest itself of the management of Religious Endowments*) be referred to a Select Committee consisting of the Hon'ble Sir Charles Rivaz, the Hon'ble Mr. Raleigh, the Hon'ble Kunwar Sir Harnam Singh, the Hon'ble Rai Bahadur B. K. Bose, the Hon'ble Mr. Smeaton, the

Hon'ble Rai Sri Ram Bahadur and the mover. He said:—"In placing before the Council t' that stands in my name, I beg leave to make a few brief explanatory remarks.

"One proposal I have made is to do away with the distinction under which cer[illegible]tee on the E, mosques and other religious institutions fall under the control of the Committees and[illegible]ng to the A[illegible]ot. In other words, the difference that has been made between section 3 and section 1 [illegible]and the mo[illegible]That distinction proceeds virtually on the assumption that the thing to be safeguarded [illegible]ting of Co[illegible]e trust-property or the object worshipped, but the trustee, to whom—speaking strictly [illegible]e merely confided. It looks as though the trustee had an inherent, inalienable and person[illegible]over-riding the claims of the object of worship and its endowments. It cannot be too s[illegible]mphasised, I venture to think, that the public and the vast body of worshippers are intere[illegible]passed. [illegible] question how the institutions are maintained and their property looked after—not in the question how a trustee derives or has derived his title. Yet the Act now in force has proceeded as if the latter of these questions was the paramount one. How this has come about is easily told.

"In the early part of the century that has just expired, the then Government considered it a part of their duty to exercise control, more or less, over one and all temples, mosques and other religious institutions in the country as well as over all endowments for charity. To realise this one has only to read the preambles and the provisions of Madras Regulation VII of 1817, and the kindred pieces of legislation in other parts, and the judgment of the Madras High Court at page 52, Volume V of its Reports. For nearly a quarter of a century since then, I may say the strong arm and the vigilant eye of the local representatives of the Government were extended over, and were felt by, all the institutions, whether the nomination of the trustee was or was not in the hands of the Government. In the beginning of the forties which followed, a change came over the spirit of the Government—a change which was unfortunate so far as it regarded the interests of the institutions—a change, the cause and the motive of which it is as purposeless as unprofitable to dwell upon here. Suffice it to say that the change was prompted, neither by any notion of thereby advancing the good of the institutions nor by any revised or refined ideas as to the strict functions of the State. I wish I could give some extracts from the mass of correspondence which the change led to; but I do not propose to trouble the Council with them. I may, however, say this, that there are indications in that correspondence showing how the change of policy—at any rate, the expediency of it—was not readily acquiesced in by at least a few of the Government officers who were in close touch with the institutions and their worshippers and were thus capable of fully grasping the exact situation. It is worthy of note, in this connection, that, so far as I know, no complaint of any sort or kind on the part of the worshippers, or any persons representing them or claiming to represent them, was made to evoke or precipitate that change of policy. All other considerations were absolutely subordinated to the single idea which was in the ascendant, viz., the idea that the Government and their officers should finally and effectually abdicate the attitude of that control which, as a fact, they had till then maintained. I, for one, have no quarrel with this stern and irrevocable resolve. I heartily approve of it. But the pity of it is that the Act which was to give effect to that resolve was not passed at once, but was delayed for over twenty years, *i.e.*, till 1863. If an Act was passed immediately when the change of policy was determined upon, the machinery, such as it is, which was embodied in the later legislative measure, would have, in all probability, embraced the supervision of nearly all of them or the bulk of them, as they were then under the actual control of the Government. But during the twenty and odd years which intervened, steps were executively taken which bereft some of the richest institutions of even the merest semblance of check and preventive control, such as the temples at Tripati and Trivellore. It goes without saying that, taking the average human nature for what it is, it is the inevitable tendency of unchecked freedom to fast degenerate into unbridled license. The aim of my proposal in question is to minimise, if not to neutralise, the disastrous results that have followed and to make better provision for the future. I have no sympathy with those who talk of vested interests in matters of this sort. If there is one office more than another, whose retention is or ought to be dependent on good behaviour, it is, I venture to think, the administration of sacred institutions. As I have had repeatedly to say, there can be no vested interest in doing wrong.

"The only objection, with an air of seriousness, which has been urged against my proposal is that many a zamindar or rich land-holder is the trustee of temples within his estate, and often spends his own money, over and above their income, and that it would be both wounding his dignity and doing him wrong to subject him to supervision of persons, much his inferiors. I know there are many zamindars who are all they ought to be and who are laudably open-handed as above described. Being what they are, they should be foremost (I should imagine) to cast aside the false pride imputed to them and offer their accounts for outside and authorised scrutiny, thus setting an encouraging example to the black sheep in their class and to all other less scrupulous men. To such of them as hanker after advertisement, this would perhaps be an excellent, annual celebration of their disinterested generosity. But I am afarid the plea of outraged dignity is too often a cloak to conceal deformities which cannot bear the fierce light of day; while the so-called inferiority of auditors and examiners of their accounts is utterly irrelevant when it is remembered that no question of social status can arise as to persons who are legally authorised to do a legal duty. I know too much to admit that the average zamindari human nature is, in any essential respects, different from ordinary human nature; and if an open door, as the adage says, would tempt a saint, it would tend no less to tempt the rich and the clever who may have the chance to draw but a mathematical line between *meum* and *tuum*. Even the apologists for the zamindars seem, after all, to concede that it would have a salutary effect, if they were called upon to render to the committees periodical accounts, by which, I take it, those accounts should be liable to be sifted and audited. I have virtually asked for no more. Such being the true state of the case, it is for Your Lordship and my Hon'ble colleagues to say whether the distinction I wish to see abolished should or should not endure. I am aware that an interested outcry has been raised by those who have the handling of the trust-funds. But it is significant that they are not backed up by the vast mass of worshippers, and that such would doubtless be the result in case such as finger the trusts had their sympathy and support. As for their not having flooded this Council with petitions, mahzarnamas and other representations in favour of the changes I have proposed, I do not wish that the bad lesson should ever be learnt that, even in Councils constituted such as this, sound arguments could not prevail unless supported by an outside multitudinous re-echo. I think I have a right to lay stress on the fact that, while there is no popular dissent from the proposals I have

[redacted]

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enough, and I take no exception to any part of it. I shall a[illegible]
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The Act had, therefore, to provide for filling up of vacancies which mds[illegible]
The provision it enacted was that it must be by election, and that Local G[illegible] should m[illegible]
rules for the purpose, including obviously the questions of who should elect and w[illegible]at qualifications the electors should possess. Having regard to the lapse of a generation since the Act was passed or since the Local Governments made rules in that behalf, and seeing that the system of election has received a wider application and greater development than at that time, I have in my Bill drawn up a scheme, to secure uniformity, on the lines on which electorates have been constructed for other purposes. By this I have, I find, brought a hornets' nest about my ears. I come face to face with an infinite diversity of destructive criticism, often mutually hostile, and with the touch-me-not attitude of the sensitive plant on this point; and I see little trace of any desire to suggest an alternative plan, illustrative of constructive, architectural skill. One piece of delicious criticism I have come in for by remembering previous pronouncements of the Government of India and by taking care not to clash with them, is too good to go unnoticed; for, it seems that, by excluding all the executive officers of Government from participating in the management, I have cast a deliberate and unmerited slur on those officers. This is a fair sample of the degree of mastery of prior literature with which my Bill was approached. I take no note of those who have a chronic dislike and a nervous horror for such words as 'election' and 'electorate' as applied to this country. I cheerfully agree to disagree with these, as it is perhaps no more their fault that their minds are non-receptive for the ideas suggested by these words than it is my fault that my mind is open to them. But I think that it is rather a pity that the objectors had not perceived that it was *the Legislature of 1863 and not my 'impudent' self* with whom the idea of election for this purpose really originated. If only men, prepared to tilt at me, had done me the kindness of comparing my schemes with the systems of election devised under the Temple Act,—notably the one by the Government of Madras,—there would have been very little to anger them; only I have not given prominence to pecuniary qualifications, though I unmistakably and inclusively implied them—a course I thought it necessary to take in the interests of orthodox classes with whom I have been in full touch and whom I should be the last to hoodwink or embarrass. Subject to this single feature—defective only to outward seeming—my plan for constructing an electorate is, I venture to think, just as faultless as any one else may suggest. If, therefore, the fulminations of the out-and-out foes of election are all the obstacle in my way, I would certainly not mind it, but press my proposal nevertheless. There are other reasons why I should leave it to a future time; and I know how other action may be taken to seek effect being given to it without meddling with the Imperial Act XX of 1863. I do not therefore desire to urge it if it is the sense of the Council that this also must be, for the present, left alone. With this is bound up my scheme of a Central Committee, meant to minimise the need for recourse to Courts.

"Quite apart from the foregoing proposals and absolutely unconnected with them are two other proposals of mine, on which I am particularly keen. One of them is that members of the Committees under the Act should hold their places for a term of years and not for life. As to the wisdom and expediency of this course, we have had quite recently Your Lordship's most authoritative pronouncement in matters connected with the direction of the University. I venture to think that the administration of the enormous funds which belong to the religious institutions of the country is not a less onerous function. With the powers of the Committee increased, as I shall presently suggest, very many capable and pious men would be glad to devote a few years of their life to the honorary work of looking after the affairs of their religious institutions as many have been ready to serve on the Municipal and Local Boards. But they would be deterred if they were to be tied down to those institutions all the days of their existence

"It may well be that the hope and prospect of getting rewards in the way of titles from the Government for good work on Municipal and Local Boards play an important part, as a friend of mine shrewdly observed to me. I nevertheless think that the consciousness of power to work with advantage and the satisfaction of winning the good opinion and well-merited praise of the mass of pious worshippers, who now stand aghast at their utter powerlessness, would afford a strong enough motive, besides the sure prospect of the trustees themselves being under a wholesome fear and improving, in the presence of a right in the Committees to interfere effectively, which is now absent. These observations are, I trust, enough to commend this proposal to your best and earnest consideration.

"There is but one other proposal of mine on which I am anxious to secure the sympathy and approval of the Council. It is my proposal to enlarge the powers of the Committees under section 13 of the existing Act. To my mind, it is the most important one; and—be it noted—that it does not, in the slightest degree, trench upon the principles of the Act. That section makes it, indeed, the duty of every Committee and every trustee severally to keep regular accounts of receipts and disbursements of every institution. But, beyond saying that the Committee 'shall require the production by the trustee of his accounts at least once a year,' the powers go no further in terms. Could the Committee

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...ne Committee's prior sanction. It will go a long way to minimise fraud.
"To su... ...ounts of both the Committees and the trustees to a system of outside audit would carry su... ...s much further. This, I imagine, needs legislation which also would not trench upon the principles of the Act.

"There are other points in my Bill which are comparatively of minor importance. As they do not go to the root of any of my cardinal proposals, if I may so say, I venture to think that no remarks need be made on these at this stage.

"Struck by glaring instances of fraud as regards charities which are supposed to be still under the check of Madras Regulation VII of 1817 and kindred Regulations, I brought charities also within the purview of my Bill, though there was the oversight on my part to describe my Bill as an amendment in that respect also. As it is a large question by itself and outside the Act relating to temples and the like, I prefer, on second thoughts, to leave it out of my Bill. With these remarks, and the repudiations I have made in course of them, I beg to move that the Bill be referred to the Select Committee abovenamed."

The Hon'ble SIR CHARLES RIVAZ said:—When my Hon'ble friend introduced his Bill in this Council in March, 1897, His Honour the present Lieutenant-Governor of Bengal, who was then the Member of Council in charge of the Home Department, said that, while the Government of India consented to the introduction of the Bill, it must be distinctly understood that they were not a party to it. He proceeded to say that the Government had laid down the principles of its relations to religious endowments in Act XX of 1863, and that it adhered to those principles. He remarked that the Bill was in the main an endeavour to secure through the existing non-official Committees a closer control of the management of those endowments, but that was an aim which could only be successfully prosecuted should it appear that it had the general support of those interested and that the Government reserved to itself the absolute right to oppose the Bill, if that appeared expedient in its later stages.

"The Bill was accordingly circulated for opinions, but met with a distinctly unfavourable reception from all the Local Governments and Administrations. The Bombay Government expressed a strong opinion that legislation to the effect proposed by my Hon'ble friend or any legislation for a similar object was, so far as the Bombay Presidency was concerned, unnecessary and undesirable, that the existing law provided a sufficient remedy for any grave or palpable abuse, that there was no evidence that the proposed law was desired in the Bombay Presidency by any class of people, and that it would almost certainly create great discontent and engender widespread suspicion of the motives of the Government. The Bengal Government stated that the replies received from its local officers showed that the proposed legislation was not desired by the great body of those whom it would affect, that the Muhammadan community was unanimously opposed to it, that, as regards the Hindus, only the small minority represented by the educated classes were in favour of it, and that there was nothing to show that the present law, if resorted to, did not afford a sufficient means of remedying such abuses as existed. The North-Western Provinces Government said that the weight of the opinions which it had taken was against the Bill as being unnecessary and unworkable, that it would probably be considered as an unwarrantable intrusion by Government in religious affairs and would excite serious opposition. The Punjab Government replied that the proposed measure appeared to be quite unsuited to that Province, and would probably give rise to an immense amount of ill-feeling and discontent. The Burma Government said that the general local opinion, in which the Lieutenant-Governor agreed, was that the Bill was not suitable to or required in Burma. The Chief Commissioner of the Central Provinces reported that the matter was of little importance as regards the territory under his jurisdiction, such religious institutions as exist in that part of India being generally small and of little repute or resort, but that he did not think it would be possible to organize the Central and District Committees contemplated in such a way that their decisions would command public confidence among the religions and sects affected. The Chief Commissioner of Assam while thinking that it must be admitted that the best educated native opinion is in favour of the Bill, and that there is much to justify it, since it is hardly too much to say that religious endowments in India are, as a rule, grossly mismanaged, went on to remark that the evil which it was sought to remedy was very deeply seated, and there was great danger that the cure proposed might be worse than the disease. His conclusion was that it would be highly inexpedient to extend any legislation of the proposed nature to Assam. Lastly, the Madras Government expressed a strong opinion against the Bill on the ground that the wide scope of the proposed enactment, which purported to apply to all non-Christian religions and charitable endowments throughout the whole of India, subject only to a limitation in regard to petty institutions, constituted a fundamental and fatal objection to it. They followed up this condemnation of my Hon'ble friend's Bill by sending up a Bill of their own which was intended to provide for the better protection of Hindu religious endowments in the Madras Presidency, but the Government of India declined to accord sanction to its introduction into the local Legislative Council

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being further proceeded with."

The Hon'ble RÁI SRI RAM BAHADUR said:—"My Lord, after the speech of our colleague the Hon'ble Mr. Charlu, in which he has dealt with the subject so ably and exhaustively, and also the speech of the Hon'ble Home Member placing the views of the Government before this Council, I am rather afraid that the support I am going to give to the motion of the Hon'ble Mr. Charlu will not be of much avail. But, with Your Excellency's permission, I beg to offer a few remarks in connection with the question now before the Council.

"The law relating to management and control of religious endowments, as found in Act XX of 1863, is defective in many respects. The Act has now been in force for a little less than four decades, and many shortcomings in its different provisions have been found out in the course of their actual application. The machinery provided by it for the control of religious endowments is not capable of effective and smooth working, and the result is that the funds are misappropriated and misapplied, and property is wasted by the trustees without any proper check whatever.

"I find that in the majority of the opinions submitted by different individuals and public bodies, on the Bill now before the Council, the facts of mismanagement of many of the religious endowments and the misapplication of their funds are admitted. The question is whether these evils should not be removed by a more effectual legislation than the one we have got at present. The non-intervention policy of Government with religious and charitable endowments has been departed from in cases of necessity. I can give at least one instance from my Provinces; I mean the Husainabad Endowment Act which was passed by this Council in 1878 to control the management of a religious and charitable endowment created by one of the Kings of Oudh.

"But the motion at present before the Council as made by my Hon'ble colleague Mr Ananda Charlu is of a very limited character. He has confined it now to the modification of, and addition to, two sections of Act XX of 1863. That Act stands as a piece of legislation in force in our Statute-book. The amendments pressed by our Hon'ble colleague, without in any way trenching upon the principles of the Act, will certainly lead to its more effective working.

"With these remarks I beg to second the motion."

The Hon'ble MR. BOLTON said:—"My Lord, I desire to add some remarks to those which the Hon'ble Sir Charles Rivaz has addressed to the Council in opposition to this motion. The motion is in terms ordinary and formal, but in substance of great importance. The Hon'ble Mover is acting in exercise of a right in inviting us to refer to a Select Committee a Bill which he obtained leave to introduce in a past session, however distant, but he doubtless recognizes that the mere introduction of a Bill does not imply its eventual reference to a Select Committee. Such a reference is contingent on the approval of the principle of the measure, and it is that question which gives the present motion its importance. The issue before us—and it is manifestly of great significance—is this, whether the Council should identify itself with a proposal to establish a quasi-official control over religious institutions which the people themselves have hitherto preferred to leave without such interference.

"In coming to a decision on that issue the Government and the Council must be guided by both public and official opinion, as they are guided in respect of every Bill which is submitted to their judgment. This opinion has been sought and obtained from all parts of India, and it is adverse to the Bill. The reports which have been received agree, with rare exceptions, in deprecating or strongly opposing the proposed legislation. The exceptions are mainly found in the views of individuals and a few associations representing the most advanced section of the educated classes, whose opinion on religious matter, be it said without disparagement, is not valued by the orthodox members of their faith, and cannot claim weight with the Government. This is no less the case in Bengal than elsewhere, and, speaking of this Province, I entertain no doubt that opposition to the Bill is strong and uncompromising outside the limited class to which I have alluded.

"Briefly, the Bill proposes to establish District Committees and a Central Committee for the control of religious and charitable institutions belonging to all non-Christian religions, and it differs from the Act which it purports to amend in this very material respect that it proposes to substitute general Committees for entire districts for Committees controlling the management of single endowments. Without entering into details, I may note that it associates the District Judges, who are mostly Europeans, with the formation of the Committees, that it proposes a system of electing the members of the Committees which is likely to bring into conflict the sects within the different religions, and that it overlooks the obstacles to the control of many of the endowments by a general Committee which are presented by usages and customs having religious force, and, therefore, immutable. These are features of the Hon'ble Member's scheme which could not be removed in Select Committee without radically modifying the Bill, if, indeed, any other workable scheme could be devised; and they

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A remedy ... dial cases of mismanagement is available in the provisions of section 539 of the Code of Civil ... ocedure, which authorise applications to the Courts for the appointment of new trustees and the settling of new schemes of management; and the Government may legitimately point to those provisions as ample justification for refusing to give its support to fresh legislation of the present character. It rests with the people themselves to make use of the power which they thus possess of enforcing proper management of religious and charitable trusts. The provisions of the section, it may be mentioned, have been successfully appealed to in the past.

"For these reasons I join the Hon'ble Sir Charles Rivaz in opposing the motion before the Council."

The Hon'ble MR. SMEATON said:—"As the Hon'ble Mr. Charlu has done me the honour of nominating me on the Select Committee, I think it due to him that I should state my reasons for not being able to support his motion that the Bill be referred to a Select Committee, and for agreeing with the remarks of the Hon'ble Sir Charles Rivaz that the Bill should not progress further. While I concur in most of the remarks that have been made by both the Hon'ble Sir Charles Rivaz and the Hon'ble Mr. Bolton, I equally sympathise with my Hon'ble friend Mr. Charlu, inasmuch as I think the Government, as the successor of the Hindu, Muhammadan and Buddhist Sovereigns, is under an obligation to take every available means to ensure the proper management of the vast funds which are devoted to religious and charitable endowments. I think, however, that the proposals of the Hon'ble Mover are not such as are likely to accomplish the ends which he has in view; and, moreover, I think that some of them are likely to be exceedingly inconvenient and possibly hurtful. In the first place, I notice that in section 3 the Committee, such as is contemplated by Act XX of 1863, shall prepare what the Hon'ble Mover calls an electorate. The body contemplated here is the Committee which succeeded to the powers and responsibilities of the Board of Revenue, whose duty it had been to administer the funds of all the religious endowments within its jurisdiction and see that they were properly appropriated. This Committee, who succeeded to the powers of the Board of Revenue, was in fact a Committee which took cognizance of the funds of all religious institutions within the district to which it related. In other words, the powers exercised were without regard to the particular religion or sect concerned. So that, if the proposals under section 3 of the Hon'ble Member's Bill were to be carried out, we might have a Committee of Hindu laymen and priests making a list of the electorate which was to govern the affairs of Muhammadan, Buddhist, Jain and Parsi endowments in the district. That, it seems to me, would be very likely to cause friction and discord among those sects and religions, who might, with some reason, resent the interference of a Hindu Committee with their affairs.

"The next matter in which I cannot agree to the Hon'ble Mover's proposals is this: section 3-A proposals to establish an electorate of notables, and this electorate is to select a District Committee and a Central Committee, and these two Committees are to be absolute in their power over the endowments with which they are concerned. Section 12 of the Bill runs thus:

'The District Committee of each religion or sect shall have absolute control, not inconsistent with their maintenance, over the institutions belonging to that religion or sect, including the appointment of the trustees, according to the custom prevailing in each institution as vacancies shall occur after the passing of this Act.'

"Section 13 prescribes a budget: section 14 empowers the Committee to revise the budget as it sees fit.

"And then section 16 runs thus:

'The orders of the District Committee shall be appealable to the Central Committee, whose decision shall be final.'

"In respect of this extraordinary absolute power and finality, particularly in the administration of funds, I can only say that my experience of the administration of funds by a Committe of notables is very much against the propriety of such a proposal. The only case I can at this moment recall is where a Committee of notables in a secular endowment managed the affairs of a large irrigation scheme. This Committee managed to irrigate all their own lands and pay very little rent, whereas the large majority of the poorer cultivators got very little of the irrigation and paid a very large proportion of the rents. I doubt very much if even a Committee of persons living in the odour of sanctity would be likely to avoid the temptation of possibly acting in a similar way. But the objection which to me appears to be most fatal is this: the Act applies not only to strictly religious but also to charitable endowments. Now in the province with which I am connected at present I imagine that the monasteries and dependent schools would fall under the category of religious and charitable endowments. If in the case of those monasteries, and more particularly the schools dependent on them, we are to have under sections 12 and 16 this absolute control by Committees of Buddhist notables, I very much question whether that control would be likely to operate to the advantage of those who attend the