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Local & Munl. (1896) Department.

PRINTED.

G.O., No. 477 L

DATED 11th March 1896

[Despatch Abstract.]

Tolls.

Refering the certain District Boards and Municipal Council and to the Municipal Commissioners of Madras, for remarks, the draft bill received from the Governmentof India regardingthe exemptionfrom -- of persons and properting belonging to the army, and stating that the provisions of the Bill relating the tolls and ferries and landing places will be considered in the Revenue, Marine and Public Works Department.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

Govt. of {1896} Madras.

LOCAL AND MUNICIPAL.

Issued

Recd. *Encl.*

G.O., No. 477 L., 11th March 1896.

MARCH.

Tolls.

Referring to certain District Boards and Municipal Councils and to the Municipal Commissioners of Madras, for remarks, the draft Bill received from the Government of India regarding the exemption from — of persons and property belonging to the Army, and stating that the provisions of the Bill relating to tolls on ferries and landing places will be considered in the Revenue, Marine and Public Works Departments.

No. 477 L., 11TH MARCH 1896.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

READ—the following paper :—

From J. P. HEWETT, Esq., C.I.E., Secretary to the Government of India, Home Department (Municipalities), to the Chief Secretary to the Government of Madras, dated Calcutta, the 31st December 1895, No. 2-Muncl.—155.

I am directed to invite a reference to letter, No. 2129-C., dated 26th October 1893, from the Military Department of the Government of India, and to the replies received, and, in continuation thereof, I am to forward a copy of a draft Bill to amend the law relating to the exemption from tolls of persons and property belonging to the Army, prepared by the Committee which has recently considered the matter, together with a copy of the Report of the Committee and a Schedule of Enactments regarding the imposition of, and exemption from, tolls, &c., now in force in British India.

2. I am directed to say that the Governor-General in Council will be glad to be favoured with an expression of the opinion of His Excellency the Governor in Council generally on the provisions of the Bill. I am to invite special attention to the provision in section 4 of the Bill which exempts military persons and property from payment of tolls at ferries; and also to section 5 which provides for the levy of a minimum fine of Rs. 5 on any person who may demand and receive any toll in contravention of section 4. I am to observe, in connection with section 5, that minimum penalties are not usually prescribed in Indian legislation, and that their inclusion is based on a corresponding provision in the Army Act. I am to ask that the question whether the provision regarding a minimum fine is likely to prove oppressive in its operation in India may receive the consideration of His Excellency the Governor in Council.

ORDER—No. 477 L., dated 11th March 1896.

District Boards.

Bellary.	Malabar.
Chingleput.	Nilgiris.
Coimbatore.	Trichinopoly.
Ganjám.	Vizagapatam.

Municipal Councils.

Bellary.	Coonoor.
Coimbatore.	Ootacamund.
Berhampur.	Trichinopoly.
Calicut.	Vizagapatam.
Cannanore.	Vizianagram.
Tellicherry.	

The draft Bill received with the letter from the Government of India read above will be referred to the District Boards and Municipal Councils noted in the margin, and to the Municipal Commissioners of Madras, for remarks with reference to the compensation clauses of the Bill, sections 6 to 9, which should be submitted at their earliest convenience.

2. The provisions of the draft Bill relating to tolls on ferries and landing places will be considered in the

No. 477 L., 11TH MARCH 1896.

Revenue, Marine and Public Works Departments, and a report furnished at an early date for transmission to the Government of India.

(True Extract.)

G. S. FORBES,
for *Chief Secretary*.

To the President, District Board, Bellary.
" " " Chingleput.
" " " Coimbatore.
" " " Ganjám.
" " " Malabar.
" " " Nilgiris.
" " " Trichinopoly.
" " " Vizagapatam.
" Collectors of the above districts.
" Chairman, Municipal Council, Bellary.
" " " " Coimbatore.
" " " " Berhampur.
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" " " " Cannanore.
" " " " Tellichery.
" " " " Coonoor.
" " " " Ootacamund.
" " " " Trichinopoly.
" " " " Vizagapatam.
" " " " Vizianagram.
" President, Municipal Commission, Madras.
" Revenue Department.
" Marine Department.
" Public Works Department.

Exd. C. A. Thumbusawmi.

APPENDIX.

[NOTE.—The portions of sections 3, 4 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;

44 & 45 Vict., cap. 58.

and whereas similar exemptions are made by various enactments of 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 Act and 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 Act;

It is hereby enacted as follows:—

1. (*1*) This Act may be called the Tolls (Army) Act, 1896. [Cf. Act IX, 1894, s. 1.]

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

Title, extent and commencement.

(*3*) It shall come into force on the first day of ————————, 1896.

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

Repeal.

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

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

Definitions.

(*1*) the expression "Her Majesty's regular forces" means officers and soldiers who by their commission, terms of enlistment or otherwise are liable to render continuously for a term military service to Her Majesty in any part of the world, including Her Majesty's Indian Forces, and subject to this qualification that when the *Indian* reserve forces are subject to military law such forces become during the period of their being so subject part of the regular forces: [Cf. Army Act, s. 190 (8).]

(*2*) *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 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":* [Cf. Indian Army List, July 1st, 1895, pages 449–472.]

(*3*) *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), 175 (9).]

IV of 1888.

[Cf. Act V, 1869, Part I, clause (16), inserted by Act XII, 1894, s. 4.]

(*4*) *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:*

(*5*) *"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 Railway Company:*

42 & 43 Vict., cap. 41. IX of 1890.

[Cf. Army Act, s. 143 (1), (3).]

(*6*) "tolls" include duties (*other than customs duties levied under the Indian Tariff Act, 1894*), *dues*, rates, *rents, fees and charges:*

VIII of 1894.

[Cf. Act XVII, 1878, s. 3; Bengal Act I, 1885, s. 5.]

(*7*) *"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. 143 (1).]

(*8*) "landing-place" includes a pier, wharf, quay, *jetty or stage:* and

[Cf. Army Act, s. 190 (40).]

(*9*) "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. 143 (1).]

Exemptions from tolls.

4. *The following persons and property, namely:*—

(*1*) 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,

(*2*) *all members of a corps of volunteers, when on duty or on the march,*

(*3*) *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,*

(*4*) *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,*

(*5*) *all other authorised 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,

(*6*) *all members of the families of officers, soldiers or authorised 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,

(*7*) all prisoners under military escort,

(*8*) the horses and baggage of the persons mentioned in clauses (*1*) *and* (*2*), *respectively, when accompanying such persons while they are on duty or on the march,*

(*9*) *the horses of the persons mentioned in clause* (*4*),

(*10*) *the horses and baggage of the followers and families mentioned in clauses* (*5*) *and* (*6*), *respectively, when accompanying such followers or families under the circumstances mentioned in those clauses respectively,*

(*11*) all carriages, horses *and other animals* belonging to Her Majesty or employed in Her military service, when conveying any such persons as above in this

* *Note.*—"Local Authority" means "a Municipal Committee, District Board, body of Port Commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of a Municipal or Local Fund"—see the General Clauses Act, I of 1887, section 3 (*6*).

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,*

(*12*) *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*

(*13*) *all persons in charge of carriages or animals mentioned in clause* (*11*) *or clause* (*12*), *when accompanying the same under the circumstances mentioned in those clauses, respectively,*

shall be exempted from payment of any tolls—

(*a*) on embarking or disembarking, *or on being shipped or landed,* from or upon any landing place, or
(*b*) in passing along or over any turnpike or other road or bridge, or
(*c*) *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. Army Act, s. 143 (3).]

Penalty.

5. Any person who demands and receives any toll in contravention of section 4 shall, *notwithstanding anything in Chapter XXII of the Code of Criminal Procedure,* X of 1882. *be tried in a* summary *way, and* shall be liable to a fine not exceeding *fifty rupees* nor less than *five rupees.*

[Cf. Act II, 1873, s. 8; Act XVII, 1878, s. 15; Act XI, 1881, s. 4, 5; Ben. Act I, 1885, s. 18.]

Compensation to lessees for new exemptions.

6. Where, immediately before the commencement of this Act, any tolls referred to in section 4 are leased, and any persons or articles of property mentioned in that section 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*) 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 the said section.

Compensation to Railway Companies, Local Authorities and State Railway Administrations 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 4 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., cap. 41. IX of 1890.

(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
(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 the said section 4.

Compensation for use of ferries.

8. Where, immediately before the commencement of this Act, any persons or articles of property mentioned in section 4 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, 1873, s. 8; Act XVII, 1878, s. 15; Act XI, 1881, s. 5; Ben. Act I, 1885, s. 18.

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 of the Division or by such other officer as the Local Government may appoint in this behalf by name or in virtue of his office.

Settlement of amount of compensation.

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—

Rules.

(*a*) for declaring 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 4 is entitled to such exemption,

(*b*) for declaring 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, and

(*c*) generally, for carrying out the purposes of this Act.

(*2*) The power to make rules under this section is subject to the conditions of the rules being made after previous publication and of their not taking effect until they have been published in the local official Gazette.

THE SCHEDULE.

ENACTMENTS REPEALED.

(*See section* 2.)

1	2	3
Number and year.	Short title or subject.	Extent of repeal.
	Acts of the Governor-General in Council.	
VIII of 1851	Tolls on Public Roads and Bridges.	In section 4, *the words* of troops and military stores and equipages on their march or.
XVII of 1878	The Northern India Ferries Act, 1878.	So much of section 15 as exempts from payment of tolls any persons, animals, vehicles or other things which are exempted by section 4 of this Act.
	Acts of the Governor of Fort St. George in Council.	
I of 1884	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 4 of this Act.
IV of 1884	The Madras District Municipalities Act, 1884.	In the new sub-section which it is proposed, by the Bill now before the Madras Council, to substitute for sub-section (3) of section 91, *the words* troops, military stores and baggage, military and
V of 1884	The Madras Local Boards Act, 1884.	In section 87, sub-section (3), *the words* troops on their march or of military and *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 4 of this Act.

Govt. of {1896} Madras.

LOCAL AND MUNICIPAL.

For A.S.

Proof for approval

Issued

Recd. Encl.

G.O., No. 477 L., 11th March 1896.

MARCH.

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Referring to certain District Boards and Municipal Councils and to the Municipal Commissioners of Madras, for remarks, the draft Bill received from the Government of India regarding the exemption from — of persons and property belonging to the Army, and stating that the provisions of the Bill relating to tolls on ferries and landing places will be considered in the Revenue, Marine and Public Works Departments.

No. 477 L., 11TH MARCH 1896.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

READ—the following paper :—

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2. I am directed to say that the Governor-General in Council will be glad to be favoured with an expression of the opinion of His Excellency the Governor in Council generally on the provisions of the Bill. I am to invite special attention to the provision in section 4 of the Bill which exempts military persons and property from payment of tolls at ferries; and also to section 5 which provides for the levy of a minimum fine of Rs. 5 on any person who may demand and receive any toll in contravention of section 4. I am to observe, in connection with section 5, that minimum penalties are not usually prescribed in Indian legislation, and that their inclusion is based on a corresponding provision in the Army Act. I am to ask that the question whether the provision regarding a minimum fine is likely to prove oppressive in its operation in India may receive the consideration of His Excellency the Governor in Council.

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(True Extract.)

for *Chief Secretary*.

To the President, District Board, Bellary.
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" Collectors of the above districts.
" Chairman, Municipal Council, Bellary.
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" Revenue Department.
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Ext., C. A. Thumbuswmi.

APPENDIX.

[NOTE.—The portions of sections 3, 4 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;

44 & 45 Vict., cap. 58.

and whereas similar exemptions are made by various enactments of 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 Act and 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 Act;

It is hereby enacted as follows:—

1. (*1*) This Act may be called the Tolls (Army) Act, 1896. [Cf. Act IX, 1894, s. 1.]

Title, extent and commencement.

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

(*3*) It shall come into force on the first day of ————, 1896.

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

Repeal.

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

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

Definitions.

(*1*) the expression "Her Majesty's regular forces" means officers and soldiers who by their commission, terms of enlistment or otherwise are liable to render continuously for a term military service to Her Majesty in any part of the world, including Her Majesty's Indian Forces, and subject to this qualification that when the *Indian* reserve forces are subject to military law such forces become during the period of their being so subject part of the regular forces: [Cf. Army Act, s. 190 (8).]

(*2*) *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 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"*: [Cf. Indian Army List, July 1st, 1895, pages 449–472.]

(*3*) *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), 175 (9).]

IV of 1888.

[Cf. Act V, 1869, Part I, clause (16), inserted by Act XII, 1894, s. 4.]

(4) *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:*

(5) *"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 Railway Company:* 42 & 43 Vict., cap. 41. IX of 1890.

[Cf. Army Act, s. 143 (1), (3).]

(6) "tolls" include duties (*other than customs duties levied under the Indian Tariff Act, 1894*), *dues*, rates, *rents, fees and charges:* VIII of 1894.

[Cf. Act XVII, 1878, s. 3; Bengal Act I, 1885, s. 5.]

(7) *"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. 143 (1).]

(8) "landing-place" includes a pier, wharf, quay, *jetty or stage:* and

[Cf. Army Act, s. 190 (40).]

(9) "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. 143 (1).]

Exemptions from tolls.

4. *The following persons and property, namely:—*

(1) 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,

(2) *all members of a corps of volunteers, when on duty or on the march,*

(3) *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,*

(4) *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,*

(5) *all other authorised 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,

(6) *all members of the families of officers, soldiers or authorised 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,

(7) all prisoners under military escort,

(8) the horses and baggage of the persons mentioned in clauses (1) *and* (2), *respectively, when accompanying such persons while they are on duty or on the march,*

(9) *the horses of the persons mentioned in clause* (4),

(10) *the horses and baggage of the followers and families mentioned in clauses* (5) *and* (6), *respectively, when accompanying such followers or families under the circumstances mentioned in those clauses respectively,*

(11) all carriages, horses *and other animals* belonging to Her Majesty or employed in Her military service, when conveying any such persons as above in this

* *Note.*—"Local Authority" means "a Municipal Committee, District Board, body of Port Commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of a Municipal or Local Fund"—see the General Clauses Act, I of 1887, section 3 (6).

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,*

(12) *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*

(13) *all persons in charge of carriages or animals mentioned in clause* (11) *or clause* (12), *when accompanying the same under the circumstances mentioned in those clauses, respectively,*

shall be exempted from payment of any tolls—

(a) on embarking or disembarking, *or on being shipped or landed,* from or upon any landing place, or

(b) in passing along or over any turnpike or other road or bridge, or

(c) *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. Army Act, s. 143 (3).]

Penalty.

5. Any person who demands and receives any toll in contravention of section 4 shall, *notwithstanding anything in Chapter XXII of the Code of Criminal Procedure,* X of 1882. *1882, be tried in a* summary *way, and* shall be liable to a fine not exceeding *fifty rupees* nor less than *five rupees.*

[Cf. Act II, 1873, s. 8; Act XVII, 1878, s. 15; Act XI, 1881, s. 4, 5; Ben. Act I, 1885, s. 18.]

Compensation to lessees for new exemptions.

6. Where, immediately before the commencement of this Act, any tolls referred to in section 4 are leased, and any persons or articles of property mentioned in that section 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) 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 the said section.

Compensation to Railway Companies, Local Authorities and State Railway Administrations 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 4 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., cap. 41. IX of 1890.

(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

(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 the said section 4.

Compensation for use of ferries.

8. Where, immediately before the commencement of this Act, any persons or articles of property mentioned in section 4 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, 1873, s. 8; Act XVII, 1878, s. 15; Act XI, 1881, s. 5; Ben: Act I, 1885, s. 18.]

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 of the Division or by such other officer as the Local Government may appoint in this behalf by name or in virtue of his office.

Settlement of amount of compensation.

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—

Rules.

(*a*) for declaring 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 4 is entitled to such exemption,

(*b*) for declaring 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, and

(*c*) generally, for carrying out the purposes of this Act.

(*2*) The power to make rules under this section is subject to the conditions of the rules being made after previous publication and of their not taking effect until they have been published in the local official Gazette.

THE SCHEDULE.

ENACTMENTS REPEALED.

(*See section 2.*)

1	2	3
Number and year.	Short title or subject.	Extent of repeal.
	Acts of the Governor-General in Council.	
VIII of 1851	Tolls on Public Roads and Bridges.	In section 4, *the words* of troops and military stores and equipages on their march or.
XVII of 1878	The Northern India Ferries Act, 1878.	So much of section 15 as exempts from payment of tolls any persons, animals, vehicles or other things which are exempted by section 4 of this Act.
	Acts of the Governor of Fort St. George in Council.	
I of 1884	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 4 of this Act.
IV of 1884	The Madras District Municipalities Act, 1884.	In the new sub-section which it is proposed, by the Bill now before the Madras Council, to substitute for sub-section (3) of section 91, *the words* troops, military stores and baggage, military and
V of 1884	The Madras Local Boards Act, 1884.	In section 87, sub-section (3), *the words* troops on their march or of military and *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 4 of this Act.

LOCAL AND MUNICIPAL DEPARTMENT.

Papers to be read in Proceedings:—

Again G.O., dated 189 , No.

Current No. 602 of 1896, dated 31st Dec. 1895 from the Government of India.

Current No. of 189 , dated from the

Order. Dis. 477-2 dt 11-3-96

The draft bill received with the letter from the Government of India read above, will be referred to the District Boards and Municipal Councils noted in the margin, and to the Municipal Commissioners of Madras for remarks with reference to ~~their~~ sections 6 to 9, which should be submitted at their earliest convenience.

2. The provisions of the draft bill relating to tolls on ferries and landing places will be considered in the Revenue, Marine and Public Works Departments, and a report furnished at an early date for transmission to the Government of India.

(From orders)

District Boards

~~Anantapur~~ ~~Kadapa~~
~~Chittoor~~ Malabar
Bellary Nilgiris
Chingleput ~~Salem~~
Coimbatore ~~Tanjore~~
Ganjam Trichinopoly
~~Godavari~~ Vizagapatam

Municipal Councils (the consideration of the clauses of the bills)

Bellary Tellicherry
Coimbatore Cocanada
Berhampur Cuddapah
~~Cuddapah~~ ~~Salem~~
~~Rajahmundry~~ ~~Negapatam~~
~~Kadapa~~ ~~Tanjore~~
Calicut Trichinopoly
Cannanore Vizagapatam
~~Cuddapah~~ Vizianagram

To

The Presidents of the District Boards of ~~Anantapur Kadapa~~
.. Collectors of the above Districts
.. Chairmen of the Municipal Councils of Bellary &c (as above)
.. President, Municipal Commissioners, Madras
.. Revenue Department
.. Marine Department
.. Public Works Department

with a copy of the report of the Committee and a schedule of enactments.

Dept. 2/4/96 Three more copies of the bill were sent to Madras

10/4/96

W.D. 2/3/96 S.D. 9/6 J.D. 7/6

Bill to amend the Law relating to the exemption from tolls of persons and property belonging to the Army

607

(From orders)

Political Branch

CS
PS

LOCAL AND MUNICIPAL DEPARTMENT.

Current No. 60 L.

From

The Government of India.

FOR ORDERS.

With the letter read above, the Government of India forwards a draft Bill to amend the law relating to the exemption from tolls, of persons and property belonging to the army, and requests the opinion of this Government, generally on the provisions of the Bill, and in particular, whether the provision in section 5, for the levy of a minimum fine of five rupees on any person who may demand or receive any toll in contravention of section 4 is likely to prove oppressive in its operation in India, seeing that minimum penalties are not usually prescribed in Indian legislation.

2. The intention of the Government of India to introduce a Bill of this nature having been previously announced, the subject was considered by this Government and its opinion communicated to the Government of India with letter

Military
No.4090 dated 3rd.July 1894. The exemptions then objected to by this Government and marked in red ink in the letter from the Government of India stitched with G.O.No.204 L., dated 2nd.February 1894, have been omitted from section 4 of the draft Bill, the only exceptions being the exemption appearing in clause (6) of the draft Bill, and the words "and families", "and (6) respectively", and "or families" in clause (10) of the ~~section~~ same section. ×

3. In the draft Bill provision has been made for the admission of claims to compensation in cases where actual loss is occasioned by the operation of section 4. As regards these, the committee which prepared the draft Bill says in para.21 of its report, that it is for consideration whether a right to compensation should be given in the case of new exemptions from tolls leviable by Local authorities or by Government. Against Local authorities, it is urged that since their power to levy taxes is derived from the Government, the Government may fairly claim that its own establishments and property shall be exempted from such taxes without payment of compensation and that many of the Indian enactments already expressly provide for such exemptions. In favour of Local authorities however it is urged that Local self-governing bodies will be discouraged from improving communications if the loss by exemption is serious—a result which will be unsatisfactory to

× Another exemption objected to was carriages animals etc on which carriage has been hired for the use of Govt., as proceeding simply to place of loading. This is omitted, but in its place is inserted "moving under the orders of competent military authority" (vide cl. 4 d(ii)) which while covering the same case, is more likely to prevent abuse of the privilege

This however very doubtful whether the exemption would ever cause any serious loss to any local body — as under the existing law exemption is granted to troops, military stores etc, by the same enactment that authorises the levy of tolls. An extension of this exemption wd. therefore not cause any serious loss.

to all concerned. As regards the tolls levied by the Government itself, it is said that except in the case of state Railway administrations, 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.

4. The provision of a minimum fine of five rupees on any person who may demand and receive any toll in contravention of section 4 is, it is submitted, not likely to prove oppressive in its operation in Southern India, as toll contractors are as a rule well-to-do people.

5. The provisions of the draft Bill relating to tolls on ferries and landing places will have to be considered in the Revenue, Marine, and Public Works Departments.

Let us see what these depts say MS 26/2/96 8/2

V.P. 13/2/96 Wood 7.ii.96

H.D.

In this Residency compensation to Local bodies is unnecessary. The movement of troops & equipment is very limited, & wd not have any material effect upon the tolls collected

The minm fine may be accepted

8-2-22.2.96

I think we had better get the opinion of the L. Govts & Municipalities concerned in the case of our principal services, such as they are, viz. Madras, Bombay, Bengal, Bellary, Cannanore & other places on the W. coast, Vizianagram, Bahraich & others may be there which don't occur to me. I don't see much harm about this Bill — S. 10(b) will facilitate — they have given much alt of definitions that they might as well have added one of "Imperial Service troops" while about it

MS

[9]

LOCAL AND MUNICIPAL DEPARTMENT.

Loc. Dept.
60 L

From

The Government of India

No. 2
155

Dated 31/12/95

Received 11/1/96.

Enclosures 3 & 78 pages Copies

SUBJECT.

Regd to be favoured with an expression of opinion of the Govt on the Bill to amend the Law relating to the exemption from tolls of persons and property belonging to the Army.

Enactments of British Indian Legislatures regarding the imposition of, and exemptions from, tolls, etc., such as those referred to in section 143 of the Army Act (44 and 45 Vict., Cap. 58).

CONTENTS.

	PAGE
A.—Tolls, etc., leviable by the Government only—	
1. Tolls on Roads and Bridges	1
2. Tolls on Ferries	3
3. Tolls on Persons embarking or disembarking, and on Property shipped or landed, at Piers, etc.	4
4. Fees on Property shipped or landed at Piers, etc. ...	5
5. Taxes of any kind	6
B.—Tolls, etc., leviable by the Government or by "Local Authorities" to whom it may assign them—	
1. Tolls on Roads and Bridges	8
2. Tolls, etc., on Howrah Bridge	9
3. Tolls on Ferries	10
4. Tolls on Ferries, and Tolls and Fees on Persons embarking or disembarking, and on Property shipped or landed, at Piers, etc.	15
C.—Tolls, etc., leviable by "Local Authorities" only—	
1. Tolls on Roads	17
2. Tolls on Roads, Bridges and Ferries	*ib.*
3. Fees and charges on Howrah Ferry	22
4. Tolls, etc., on Property shipped or landed at Piers, etc. ...	23
5. Toll on Vehicles entering Bombay City Municipality ...	34
6. Tolls on Vehicles and Animals entering Municipalities ...	35
7. Tolls on Vehicles and Animals entering Municipalities; Octroi; and Taxes of any kind	37
8. Tolls on Vehicles and Animals entering Municipalities, and Taxes of any kind	42
9. Taxes of any kind	43
D.—Tolls leviable by Railway Companies—	
Tolls on Roads, Bridges and Ferries	45
E.—General Exemptions from Taxes—	
1. Volunteers	46
2. Military Persons and the Government	*ib.*
Abstract showing tolls, etc., leviable, and military persons and property exempted from payment thereof	48
Index to provisions respecting leasing and compensation	54
Index to Enactments	55

Enactments of British Indian Legislatures regarding the imposition of, and exemptions from, tolls, etc., such as those referred to in section 143 of the Army Act (44 and 45 Vict., Cap. 58).

[NOTE 1.—In this Statement all clauses are cited which it seems necessary to consider in framing any proposals for legislation in India.

NOTE 2.—Enactments which have been amended are cited in the form in which they stand up to date.]

A.—TOLLS, ETC., LEVIABLE BY THE GOVERNMENT ONLY.

1.—TOLLS ON ROADS AND BRIDGES.

Act VIII of 1851 (Tolls on Public Roads and Bridges)—

Levy of tolls. S. 2.—Certain Local Governments "may cause such rates of toll, not exceeding the rates mentioned in the schedule to this Act, as they respectively think fit, to be levied upon any road or bridge which has been, or shall hereafter be, made or repaired at the expense of the Government;

Collection of tolls. and may place the collection of such tolls under the management of such persons as may appear to them proper....."

Exemptions. S. 4.—"No tolls shall be paid for the passage of troops and military stores and equipages on their march, or of police-officers on duty, or of any person or property in their custody; *but no other exemption from payment of the tolls levied under this Act shall be allowed.*" (In Upper Burma, *for* the words in italics *read* "or of any person or property exempted by order of the Local Government from payment of tolls"—see Act XX of 1886, s. 7).

1.—Tolls on Roads and Bridges—contd.

Act VIII of 1851 (Tolls on Public Roads and Bridges)—concld.

S. 8.—"The tolls levied under this Act shall be deemed public revenue; but the net proceeds thereof shall be applied wholly to the construction, repair and maintenance of roads and bridges within the presidency in which they are levied." — Proceeds.

Act XV of 1864 (Tolls on Public Roads and Bridges)—

S. 1 substitutes a new schedule of tolls for that appended to Act VIII of 1851, for places to which the Act of 1864 shall be extended by the Local Government. — Levy of tolls.

S. 2.—Tolls may be compounded. — Compounding.

Act VIII of 1851 originally applied to Madras, Bombay, Bengal and the North-Western Provinces. It has been repealed in Bombay by Bombay Act III of 1875 (cited *infra*, page 8), and has been declared, by legislation, to be in force in the Punjab, the Central Provinces, Upper Burma (except the Shan States) and the Arakan Hill District — Local extent of Acts VIII of 1851 and XV of 1864.

Act XV of 1864 has been declared, by legislation, to be in force in the Punjab and the Central Provinces.

Act XV of 1864, section 4, authorises Local Governments (*a*) to extend the Act of 1864 to any place in which the Act of 1851 is in force, and (*b*) to extend the Acts of 1851 and 1864 to any place in which the Act of 1851 is not in force.

Act VIII of 1892 (Lansdowne Bridge)—

S. 2.—"The Governor General in Council may cause such rates of toll, not exceeding the rates mentioned in the schedule annexed to" Act VIII of 1851, "as he may think fit, to be levied in respect of the said Lansdowne Bridge, — Levy of tolls.

and may place the collection of such tolls under the management of such persons as may appear to him proper; — Collection of tolls.

1.—Tolls on Roads and Bridges—concld.

2.—Tolls on Ferries.

Act VIII of 1892 (Lansdowne Bridge)—concld.

and all the provisions of" Act VIII of 1851 "shall apply to such tolls and the collection and recovery thereof in the same manner as if such provisions were herein re-enacted verbatim." — Exemptions. Proceeds.

S. 4.—"Where any public road or bridge has or shall have been made and repaired at the expense of the Government of India, and no other adequate provision shall have been made for the levy and collection of tolls thereon, the Governor General in Council may, by notification in the Gazette of India, apply this Act to such road or bridge; — Levy of tolls.

and thereupon all the provisions of this Act shall apply to such road or bridge as if the same had been herein named in addition to the said Lansdowne Bridge." — Collection of tolls. Exemptions. Proceeds.

2.—TOLLS ON FERRIES.

Bombay Act II of 1868 (Ferries)—

S. 3.—"Tolls, according to such rates as shall, from time to time, be approved by Government, shall be levied upon all passengers, carts, carriages, cattle and other animals, and on all goods and merchandise, carried over any public ferry: — Levy of tolls.

Provided always that no tolls shall be levied from— — Exemptions.

(*a*) any soldier in uniform on duty,

(*b*) any police-officer in uniform on duty,

(*c*) any person in the custody of the police,

2.—Tolls on Ferries—concld.

3.—Tolls on Persons embarking or disembarking, and on Property shipped or landed, at Piers, etc.

Bombay Act II of 1868 (Ferries)—concld.

(*d*) any person whom the Governor in Council shall, by notification in the Bombay Government Gazette, deem fit specially to exempt from payment of such tolls."

Collection of tolls.

S. 4.—The Government may appoint toll-keepers, ferrymen or other servants for the management and conduct of a public ferry.

Leasing.

S. 5.—The Government may lease a public ferry.

Proceeds.

S. 16 provides that the proceeds from tolls and farms of public ferries are to be credited to a Ferry Fund, and are to be appropriated in the first instance to the maintenance of public ferries and the improvement of roads leading thereto, the surplus, if any, being expended on local works, as the Government may direct.

But, in all places in which Bombay Act I of 1884 applies, the net proceeds of public ferries are now credited to the "Local Fund" constituted by that Act—see section 44 (*c*) thereof.

3.—TOLLS ON PERSONS EMBARKING OR DISEMBARKING, AND ON PROPERTY SHIPPED OR LANDED, AT PIERS, ETC.

Madras Act V of 1863 (Piers)—

Levy of tolls.

S. 1.—"Tolls, according to such rates as shall from time to time be settled or approved by the Governor of Madras in Council, shall be levied upon all persons, carts, carriages, merchandise, baggage and other articles, and upon all cattle and other animals, landed at, or shipped from, or otherwise making use of, the said pier.*"

* *i.e.*, the Madras pier, and other piers to which the Act is extended.

3.—Tolls on Persons embarking or disembarking, and on Property shipped or landed, at Piers, etc.—concld.

4.—Fees on Property shipped or landed at Piers, etc.

Madras Act V of 1863 (Piers)—concld.

Collection of tolls.

S. 3.—Toll-keeper to be appointed.

Proceeds.

" Tolls to be paid into Government treasury.

4.—FEES ON PROPERTY SHIPPED OR LANDED AT PIERS, ETC.

Madras Act III of 1885 (Outports Landing and Shipping Fees)—

Levy of fees.

S. 4.—"Landing and shipping fees, according to the rates which may be fixed from time to time, shall be levied upon all goods, carts, carriages, animals, baggage and other articles landed from or shipped into any vessel lying or being within the limits of any port within the Presidency of Fort St. George to which this Act may be applied.

Such fees shall be payable in addition to all tolls and charges now lawfully levied within such port:

Provided that no rates shall be fixed under the provisions of this Act without the previous sanction of the Governor General in Council."

Collection of fees.

S. 7.—An officer to be appointed to levy the fees.

Proceeds.

" The fees to be paid into the treasury.

Bombay Act VII of 1882 (Landing and Wharfage Fees)—

Levy of fees.

S. 5.—"It shall be lawful for the Governor in Council.....—

(*e*) to fix the fees to be levied—

(*i*) for the landing, shipping, wharfage, cranage, storage or demurrage of goods at, and

4.—Fees on Property shipped or landed at Piers, etc.—concld.

5.—Taxes of any kind.

Bombay Act VII of 1882 (Landing and Wharfage Fees)—concld.

(2) for permitting animals or vehicles to bring or remove goods to or from...
.....

any such landing-place:*

Exemptions. Provided that it shall be lawful for the Governor in Council at any time to exempt any goods, ... animal or vehicle, either wholly or partially, from any fee to which the same may be liable under this section."

Proceeds. S. 10.—Proceeds of fees are to be applied in payment of expenses of administering the Act, in defraying cost of landing-places, in maintaining and improving landing-places, and generally in the improvement of the port.

5.—TAXES OF ANY KIND.

Act XLII of 1889 (Cantonments)—

Levy of taxes. S. 17.—(1) The Local Government, with the previous sanction of the Governor General in Council, may, by notification,—

"(*a*) impose in any cantonment which is not included in a municipality any tax which, under any enactment in force at the date of the notification, can be imposed in any municipality within the territories administered by such Government, and

Abolition of modification of taxes. (*b*) abolish or modify any tax so imposed."

S. 20.—"(1) Notwithstanding anything in any enactment for the time being in force, the Governor General in Council may, by notification in the Gazette of India,

* *i.e.*, any public landing-place to which the Local Government has determined that the Act shall apply.

5.—Taxes of any kind—concld.

Act XIII of 1889 (Cantonments)—concld.

Prohibition of levy of taxes. prohibit the levy of the whole or any part of any tax imposed in a cantonment, or

Exemptions. exempt any person, by name or in virtue of his office, or any class of persons, or any property or any class of property, from the operation of any such tax,

and may, by a like notification, rescind any such prohibition or exemption."

Government not to compensate Municipal Committee for abolition of taxes. "(2) Where the area subject to the authority of a Municipal Committee as defined in section 2 of the Municipal Taxation Act, 1881,* includes the whole or part of a cantonment, nothing in section 4 or section 5 of that Act or in any other like enactment for the time being in force shall apply to so much of that area as is comprised in the cantonment." XI of 1881.

Proceeds. S. 21.—Proceeds of taxes levied under section 17 are credited to the Cantonment Fund.

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* Printed *infra* page, 46.

1.—Tolls on Roads and Bridges.

B.—TOLLS, ETC., LEVIABLE BY THE GOVERNMENT OR BY "LOCAL AUTHORITIES" TO WHOM IT MAY ASSIGN THEM.

1.—TOLLS ON ROADS AND BRIDGES.

Bombay Act III of 1875 (Tolls on Public Roads and Bridges)—

Levy of tolls.

S. 3.—"The Governor in Council may cause such rates of tolls, not exceeding the rates mentioned in the schedule annexed to this Act, to be levied upon any road or bridge which has been, or shall hereafter be, made or repaired at the expense of the Government or from funds collected under the provisions of Bombay Act III of 1869, or other funds levied under the authority and subject to the general control of Government,

Collection of tolls.

and may place the collection of such tolls under the management of such persons,

as may appear to him proper.....

Assignment of tolls.

The word 'persons' in this section shall be deemed to include Local Boards established under the Bombay Local Boards Act, 1884."

Exemptions.

S. 5.—"No tolls shall be paid for the passage of troops and military stores and equipages on their march, or of police-officers on duty, or of any person or property in their custody.

And it shall further be lawful for His Excellency the Governor in Council, by notification in the Government Gazette, to grant and define other exemptions from payment of the tolls levied under this Act."

Local abolition of tolls.

Bombay Act I of 1883 (Highways), s. 7, declares that "No tolls leviable under Bombay Act III of 1875 shall be levied within any local area notified under this Act."

Leasing.

S. 10.—Tolls may be leased.

Compounding.

S. 9.—Tolls may be compounded.

1.—Tolls on Roads and Bridges—concld.

2.—Tolls, etc., on Howrah Bridge.

Bombay Act III of 1875 (Tolls on Public Roads and Bridges)—concld.

Proceeds.

The net proceeds of tolls and leases of tolls under Bombay Act III of 1875 are credited to the "Local Fund" constituted by Bombay Act I of 1884—see section 44 (*d*) thereof.

2.—TOLLS, ETC., ON HOWRAH BRIDGE.

Bengal Act IX of 1871 (Howrah Bridge)—

Levy of tolls, fees and charges.

S. 3.—Tolls, fees and charges, within prescribed maximum rates, to be levied on passengers, animals, vehicles and goods using, or conveyed on, the Howrah Bridge.

Exemptions.

" The Local Government may exempt all or any passengers, animals, vehicles or goods from payment of the said tolls, fees and charges.

Collection of tolls, fees and charges.

S. 5.—The Local Government may appoint persons to collect tolls, fees and charges.

Assignment of tolls, fees and charges.

S. 9.—The Local Government may arrange with the East Indian Railway Company for the collection of tolls, fees and charges by the Company.

Assignment of tolls, fees and charges.

Ss. 12, 13, 14.—Certain powers of the Local Government under the Act may be vested in the Calcutta Port Commissioners: tolls, fees and charges thereupon become vested in them, to be applied for the purposes of the Act.

Advance of public moneys.

S. 10.—The Local Government may advance moneys out of the public funds for the construction of the bridge and approaches thereto.

Proceeds.

S. 11.—The net income from tolls, fees and charges to be applied to payment of sums advanced from

2.—Tolls, etc., on Howrah Bridge—concld.

3.—Tolls on Ferries.

Bengal Act IX of 1871 (Howrah Bridge)—concld.

the public funds for the construction of the bridge and approaches thereto.

Reduction of tolls, fees and charges.

S. 22.—Tolls, fees and charges to be reduced on accumulation of sufficient reserve fund, so as to balance income and expenditure.

3.—TOLLS ON FERRIES.

Act II of 1873 (Burma Ferries)—

Levy of tolls.

S. 8.—"Tolls, according to such rates as are from time to time fixed by the Chief Commissioner, shall be levied on all persons, animals and other things carried by means of any public ferry:

Exemptions.

Provided that the Chief Commissioner may from time to time declare what persons, animals or other things shall, when employed or transmitted on the public service, or for other sufficient reason, be exempt from payment of such tolls.

Compensation to lessee for exemptions.

Where the tolls of a ferry have been let under section 5, any such declaration, if made after the date of the auction, shall entitle the lessee to such abatement of the rent payable in respect of the tolls as may be fixed by the Commissioner of the Division with the concurrence of the Chief Commissioner."

S. 4.—The Chief Commissioner may direct—

Assignment of ferries.

that any public ferry in a town be managed by the officer or public body charged with the superintendence of the municipal arrangements of the town, and

3.—Tolls on Ferries—contd.

Act II of 1873 (Burma Ferries)—concld.

Proceeds.

that all or any part of the proceeds from such ferry be paid into the Municipal Fund of such town.

Leasing.

S. 5.—Tolls may be leased.

S. 13.—Lease may be cancelled in certain cases.

Proceeds.

S. 10.—All tolls, etc., shall, except in the cases provided for by section 4, be credited to the District Fund.

Act XVII of 1878 (Ferries)—

Levy of tolls.

S. 15.—"Tolls, according to such rates as are from time to time fixed by the Local Government, shall be levied on all persons, animals, vehicles and other things crossing any river by a public ferry

Exemptions.

and not employed or transmitted on the public service:

Provided that the Local Government may, from time to time, declare that any persons, animals, vehicles or other things shall be exempt from payment of such tolls.

Compensation to lessee for exemptions.

Where the tolls of a ferry have been let under section 8, any such declaration, if made after the date of the lease, shall entitle the lessee to such abatement of the rent payable in respect of the tolls as may be fixed by the Commissioner of the Division or such other officer as the Local Government may, from time to time, appoint in this behalf by name or in virtue of his office."

S. 7.—The Local Government may direct—

Assignment of ferries.

that any public ferry in a town be managed by the officer or public body charged with the superintendence of the municipal arrangements of the town, and

3.—Tolls on Ferries—contd.

Act XVII of 1878 (*Ferries*)—contd.

Proceeds. that all or any part of the proceeds from such ferry be paid into the Municipal Fund of such town.

S. 7A.—The Local Government of the North-Western Provinces, Oudh, the Punjab or the Central Provinces may direct—

Assignment of ferries. that any public ferry be managed by a District Board, District Council or Local Board, and

Proceeds. that all or any part of the proceeds from such ferry be paid into the District Fund.

Leasing. S. 8.—Tolls of public ferry may be leased.

S. 24.—Lease of tolls may be cancelled in certain cases, without payment of compensation.

Compensation. S. 10.—Lease may be cancelled at six months' notice, on payment of compensation.

S. 11.—Lease may be surrendered at one month's notice, on payment of compensation.

Compounded. S. 18.—Tolls on public ferries may be compounded.

Compensation to persons who have compounded. S. 12 (*c*).—Power is given to make rules for compensating persons who have compounded for tolls payable for the use of a public ferry, when such ferry has been discontinued before the expiration of the period compounded for.

Proceeds. S. 17.—Except as provided in sections 7 and 7A, the net receipts from tolls, etc, are—

(1) in the North-Western Provinces and Oudh, to be credited to certain Local Funds;

(2) in the Punjab, to be placed at the disposal of District Boards, and

(3) in the Central Provinces, Assam and Ajmere, to be applied to certain specified purposes.

3.—Tolls on Ferries—contd.

Act XVII of 1878 (*Ferries*)—concld.

Taking temporary possession of ferry. S. 33.—"When any boats or their equipment, or any materials or appliances suitable for setting up a ferry,

are emergently required for facilitating the transport of officers or troops of Her Majesty on duty, or of any other persons on the business of Her Majesty, or of any animals, vehicles or baggage belonging to such officers, troops or persons, or of any property of Her Majesty,

Compensation payable therefor. the Magistrate of the district may take possession of and use the same (paying such compensation for the use thereof as the Local Government may in each case direct) until such transport is completed."

Rates of toll at private ferries. S. 20.—Tolls charged at private ferries are not to exceed the highest rates for the time being fixed under section 15 for public ferries.

Bengal Act I of 1885 (*Ferries*)—

Levy of tolls. S. 18.—"Tolls, according to such rates as may, from time to time, be fixed by the Magistrate of the district with the approval of the Commissioner, shall be levied on all persons, animals, vehicles and other things crossing any river by a public ferry

Exemptions. and not employed or transmitted on the public service:

Provided that the Lieutenant-Governor may from time to time declare that any persons, animals, vehicles or other things shall be exempt from payment of such tolls.

Compensation to lessee for exemptions. Where the tolls of a ferry have been leased under section 9, any such declaration, if made after the date of the auction, shall entitle the lessee to such abatement of the rent payable

3.—Tolls on Ferries—contd.

Bengal Act I of 1885 (*Ferries*)—contd.

in respect of the tolls as may be fixed by the Magistrate of the district under this section."

Assignment of ferries.

S. 35.—The Local Government may direct that any public ferry be managed by a District Board,

Proceeds.

and that all or any of the proceeds thereof be paid into the District Fund.

Leasing.

S. 9.—Tolls may be leased.

Ss. 13, 26.—Lease of tolls may be cancelled in certain cases.

Compensation.

S. 14.—Lease may be surrendered at one month's notice, on payment of compensation.

Compounding.

S. 21.—Tolls may be compounded.

Compensation to persons who have compounded.

S. 15 (*c*).—Power is given to make rules for compensating persons who have compounded for tolls payable for the use of any public ferry, when such ferry has been discontinued before the expiration of the period compounded for.

Proceeds.

S. 20.—Subject to section 35, all tolls, rents, etc., "shall be appropriated in the first instance towards the payment of all charges incurred in carrying out the provisions of this Act; and the surplus, if any, shall be credited to such Fund as the Lieutenant-Governor may, from time to time, direct."

Taking temporary possession of ferry.

S. 34.—"When any boats or their equipments, or any materials or appliances suitable for setting up a ferry,

are emergently required for facilitating the transport of officers or troops of Her Majesty on duty, or of any other persons on the business of Her Majesty, or of any animals, vehicles or baggage belonging to such

3.—Tolls on Ferries—concld.

4.—Tolls on Ferries, and Tolls and Fees on Persons embarking or disembarking, and on Property shipped or landed, at Piers, etc..

Bengal Act I of 1885 (*Ferries*)—concld.

officers, troops or persons, or of any property of Her Majesty,

Compensation payable therefor.

the Magistrate of the district may take possession of and use the same (paying such compensation for the use thereof as the Lieutenant-Governor may in each case direct) until such transport is completed."

4.—TOLLS ON FERRIES, AND TOLLS AND FEES ON PERSONS EMBARKING OR DISEMBARKING, AND ON PROPERTY SHIPPED OR LANDED, AT PIERS, ETC.

Madras Act II of 1890 (*Canals and Ferries*)—

Levy of tolls at ferries.

S. 10.—The Local Government may fix the tolls leviable upon passengers, animals, vehicles and goods conveyed across a public ferry.

S. 6.—"The Governor in Council may from time to time—

. . . . . .

Levy of tolls on passengers and property landed from canal.

(*b*) establish stations at which tolls shall be levied [on vessels passing along a canal*] or on passengers, vehicles, animals or goods landed therefrom, and fix the rates of such tolls;

Levy of fees for use of piers, etc.

(*c*) fix fees for the use of public landing-places, wharves, piers, jetties, docks, basins, lie-byes, sidings, sheds or warehouses provided for the accommodation [of vessels using a canal* or] of goods or passengers carried or to be carried thereon, and for demurrage on [vessels or] goods detained therein....."

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* "Canal" means a navigable waterway which has been declared subject to the Act—see s. 3.

4.—Tolls on Ferries, and Tolls and Fees on Persons embarking or disembarking, and on Property shipped or landed, at Piers, etc.—concld.

Madras Act II of 1890 (Canals and Ferries)—concld.

Assignment of canal or ferry.

S. 11.—The management of any canal or public ferry may, by order of the Local Government, be assigned to a Local Board or Municipal Council,

Proceeds.

and thereupon the revenue accruing therefrom shall be credited to the funds of such managing authority.

Collection of tolls and fees.

S. 12.—The Local Government or such managing authority shall appoint persons to collect tolls and fees;

Leasing.

or the collection may, under conditions prescribed by the Local Government, be leased.

1.—Tolls on Roads.

2.—Tolls on Roads, Bridges and Ferries.

C.—TOLLS, ETC., LEVIABLE BY "LOCAL AUTHORITIES" ONLY.

1.—TOLLS ON ROADS.

Madras Act V of 1884 (Local Boards)—

Levy of tolls on roads.

Ss. 57, 58.—Tolls, at rates not exceeding those prescribed in Schedule B, may, with the approval of the Local Government, be levied by the District Board upon carriages, carts or animals passing along roads within the district.

S. 59.—The Local Government may direct a District Board to levy such tolls.

Exemptions.

S. 87 (3).—"No tolls shall be paid for the passage of troops on their march, or of military and Government stores and equipages, or of military and police-officers on duty, or of any person or property in their custody, or, for the passage of vehicles and animals licensed by the District Board, while such licenses are in force."

Collection of tolls.

S. 89.—The District Board may place the collection of tolls under the management of proper persons,

Leasing.

or may lease tolls.

Compounding.

S. 87 (2).—The District Board may compound for tolls.

Proceeds.

Ss. 54 to 57.—Tolls are to be credited to District Fund or the Taluq Fund, and are to be applied to the construction, repair and maintenance of streets, bridges and other means of communication.

2.—TOLLS ON ROADS, BRIDGES AND FERRIES.

Bengal Act V of 1876 (Some Assam Municipalities)—

Ss. 78, 139, 140, 148, 149.—The Municipal Commissioners may with the sanction of the Local

2.—*Tolls on Roads, Bridges and Ferries*—contd.

Bengal Act V of 1876 (Some Assam Municipalities)—contd.

Government, order the levy of tolls—

(1) at public ferries made over to the Commissioners by the Local Government; — Levy of tolls at ferries.

(2) at private ferries taken over by the Commissioners;

(3) at toll-bars made over to the Commissioners by the Local Government; — Levy of tolls on roads or bridges.

(4) at toll-bars established by the Commissioners with the sanction of the Local Government on bridges or metalled roads constructed by the Commissioners, or at any convenient place adjacent to such bridges or roads.

S. 159.—"No tolls shall be paid for the passage— — Exemptions.

of troops on the march, or

of animals or vehicles employed in the transport of such troops, or

of military or Government stores, or the persons in charge of them, or

of military or police-officers, or of any public or municipal officer on duty, or of any person in their custody, or of any property belonging to them or in their custody, or of any vehicle or animal employed by such persons for the transport of such property, or

of conservancy carts or other vehicles, or animals, belonging to the Commissioners, or of the persons in charge of them, or

of any animals, whether belonging to Government or otherwise, which are attached to a regiment or a

2.—*Tolls on Roads, Bridges and Ferries*—contd.

Bengal Act V of 1876 (Some Assam Municipalities)—contd.

military department, and which pass through a toll-bar:

Provided that tolls shall be leviable for conveying such animals over a ferry.

And the Commissioners or their lessees shall not be bound to allow any person or thing not specified above to cross a ferry or to pass a toll-gate without payment of the prescribed toll.

But the Commissioners at a meeting may exempt any other class of persons or things from payment of the said toll;

Leasing. and, in granting a lease of any ferry or toll-bar, may stipulate that any municipal servants and property and any other persons or things shall be allowed to pass without payment of the toll."

Leasing. S. 155.—The Commissioners may lease any municipal ferry or toll-bar for three years.

S. 144.—Lease of ferry may in certain cases be cancelled.

Compounding. S. 158.—The Commissioners, or the lessee of any municipal ferry or toll-bar, may compound for tolls.

Proceeds. Ss. 139, 140, 148, 149.—The profits derivable from municipal ferries and toll-bars (or, in the case of ferries and toll-bars made over to the Commissioners by the Local Government, such part of the profits as the Local Government shall order) are credited to the Municipal Fund.

Proceeds. S. 149.—Municipal toll-bars may be established, and tolls levied, only for the purpose of recovering expenses incurred in con-

2.—Tolls on Roads, Bridges and Ferries—contd.

Bengal Act V of 1876 (Some Assam Municipalities)—concld.

structing the bridge or road, and in maintaining the same in repair for five years.

S. 150.—As soon as expenses and interest have been recovered, toll-bars to be removed and levy of tolls to cease. Cessation of tolls.

Bengal Act III of 1884 (Bengal District Municipalities and some Assam Municipalities)—

Ss. 86, 148, 149, 151, 157, 158, 159, 160.—The Municipal Commissioners may, with the sanction of the Local Government, order the levy of tolls—

(*1*) at public ferries made over to the Commissioners by the Local Government, Levy of tolls at ferries.

(*2*) at private ferries taken over by the Commissioners,

(*3*) at toll-bars made over to the Commissioners by the Local Government, Levy of tolls on roads or bridges.

(4) at toll-bars established by the Commissioners with the sanction of the Local Government on bridges or metalled roads constructed by the Commissioners, or at any convenient place adjacent to such bridges or roads.

S. 168.—"No tolls shall be paid for the passage— Exemptions.

of troops on the march, or

of animals or vehicles employed in the transport of such troops, or

of military or Government stores, or the persons in charge of them, or

of military or police officers, or of any public or municipal officer on duty, or of any person in their custody, or of any property belonging to

2.—Tolls on Roads, Bridges and Ferries—contd.

Bengal Act III of 1884 (Bengal District Municipalities and some Assam Municipalities)—contd.

them or in their custody, or of any vehicle or animal employed by such persons for the transport of such property, or

of conservancy carts or other vehicles, or animals, belonging to the Commissioners, or of the persons in charge of them, 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.

And the Commissioners or their lessees shall not be bound to allow any person or thing not specified above to cross a ferry or to pass a toll-gate without payment of the prescribed toll.

But the Commissioners at a meeting may exempt any other class of persons or things from payment of the said toll;

Leasing. and, in granting a lease of any ferry or toll-bar, may stipulate that any municipal servants and property and other persons or things shall be allowed to pass without payment of the toll."

Leasing. S. 164.—The Commissioners may lease any municipal ferry or toll-bar for three years.

S. 153.—Lease of ferry may in certain cases be cancelled.

Compounding. S. 167.—The Commissioners, or the lessee of any municipal ferry or toll-bar, may compound for tolls.

2.—Tolls on Roads, Bridges and Ferries—concld.

3.—Fees and Charges on Howrah Ferry.

Bengal Act III of 1884 (Bengal District Municipalities and some Assam Municipalities)—concld.

Ss. 148, 149, 157, 158.—The profits derivable from municipal ferries and toll-bars (or, in the case of ferries and toll-bars made over to the Commissioners by the Local Government, such part of the profits as shall be agreed upon between the Local Government and the Municipal Commissioners) are credited to the Municipal Fund. Proceeds.

S. 158.—Municipal toll-bars may be established, and tolls levied, only for the purpose of recovering expenses incurred in constructing the bridge or road, and in maintaining the same in repair for five years. Proceeds.

S. 159.—As soon as expenses and interest have been recovered, toll-bars to be removed and levy of tolls to cease. Cessation of tolls.

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3. FEES AND CHARGES ON HOWRAH FERRY.

Bengal Act III of 1880 (Howrah Bridge)—

S. 2.—The Calcutta Port Commissioners may, with the sanction of the Local Government [build or acquire vessels and] employ them [in towing vessels through the bridge and generally in the service of the bridge and also] in carrying goods, merchandise and passengers to and from Calcutta and Howrah,

and may book and receive goods, merchandise and passengers,

and may levy such fees and charges as may be prescribed by the Local Government for the said services. Fees.

4.—Tolls, etc., on Property shipped or landed at Piers, etc.

4. TOLLS, ETC., ON PROPERTY SHIPPED OR LANDED AT PIERS, ETC.

Bombay Act VI of 1879 (Bombay Port Trust)—

Levy of tolls, etc.

S. 43, para. 1.—"The Board shall frame a scale of tolls, dues, rents, rates and charges to be levied for each or any of the following matters, namely:—

(*a*) for the landing, shipping, wharfage, cranage, storage or demurrage of goods at,

[(*b*) for permission for vessels or boats to approach, or be alongside, and]

(*c*) for animals or vehicles carrying goods to or from, or entering upon or plying for hire at or on,

any wharf, dock, pier, land or building in the possession of the Board, and so much of the Wári Bandar and of the Gun Carriage Reclamation as is in the possession of the Great Indian Peninsula and the Bombay, Baroda and Central India Railway Companies; respectively....."

S. 43, para. 2.—Any scale framed under section 43, para. 1, is subject to the sanction of the Local Government.

Remission of tolls, etc.

S. 43. para. 4.—"The Board may, in special cases, with the previous sanction of Government, remit the whole or any portion of the rates* leviable under this section."

Toll payable by Government in lieu of such tolls, etc.

S. 44.—"The said rates* shall not be leviable in respect of any vessel employed by Government solely for the transport of troops, nor in respect of the baggage or other effects of any troops landing or embarking at the port.

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* "Rates" include tolls, dues, rents, rates and charges—see s. 3 *t*) of the Act.

4.—Tolls, etc., on Property shipped or landed at Piers, etc.—contd.

Bombay Act VI of 1879 (Bombay Port Trust)—contd.

In lieu thereof, a toll shall be payable by Government to the Board on all troops and all the families of troops landing or embarking at Bombay, at the rate of one rupee per head, and, if such troops and their families shall land or embark at any dock in the possession of the Board, at such additional rate as shall from time to time be determined by Government."

Proposed substitution of payments for such toll.

[By section 8 of a Bill now before the Bombay Council, it is proposed to substitute for Bombay Act VI of 1879, section 44, the following section, which has been accepted by the Governor-General in Council in letter No. 811, Home Department, dated the 27th May, 1895, namely :—

"44 (*1*) The rates* leviable.....according to any scale framed by the Board under section 43 shall not be leviable in respect of—

(*a*) any vessel employed by Government solely for the transport of troops, or

(*b*) the baggage or other effects of any troops landing or embarking at the port.

(*2*) But in respect of all such vessels or troops, their families, their baggage or their effects, the Board shall, in addition to their duties in the landing and embarking of any of the same, perform and supply all such reasonable services and accommodation as may from time to time be required by 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 Government in conference with the Board."]

Leasing.

S. 26.—The Board may lease or otherwise convey property vested in or acquired by them : leases for more than fifty years must be previously sanctioned by the Local Government.

* "Rates" include tolls, dues, rents, rates and charges—see s. 3 (*1*) of the Act.

4.—Tolls, etc., on Property shipped or landed at Piers, etc.—contd.

Bombay Act VI of 1879 (Bombay Port Trust)—concld.

Proceeds.

Ss. 48, 49.—Rates* levied under section 43 are to be held by the Board in trust, and are to be applied by them in payment of certain charges.

Increase of tolls, etc.

S. 60.—If sufficient provision is not being made by the Board to meet their liabilities, or if the Board make default in payment of interest, the Local Government may require the Board to increase, subject to its sanction, to such extent and for such period as shall appear necessary, the rates* or any of the rates* in force under section 43; and, if such requisition is not complied with, the Local Government may itself increase the rates.*

Bombay Act VI of 1886 (Karachi Port Trust)—

Levy of tolls, etc.

S. 43, para. 1.—"The Board shall frame, and may from time to time alter,—

(*a*) a scale of tolls, dues, rates and charges for the landing and shipment of goods at the wharves, quays, stages, jetties and piers, and for the use of such wharves, quays, stages, jetties and piers, and for the storing and keeping of any goods stored in any premises belonging to the Board, and for the removal of goods and for the use of any mooring;

(*b*) a scale of tolls for the use of the said wharves, quays, moorings, stages, jetties and piers, in case the Board permit the goods to be landed or shipped by others than their own servants; and

(*c*) a scale of charges for any services to be performed by the Board or their servants in respect of any vessels or goods, or for the use of any works or appliances to be provided by the Board....."

* "Rates" include tolls, dues, rents, rates and charges—see s. 3 (*1*) of the Act.

4.—Toils, etc., on Property shipped or landed at Piers, etc.—contd.

Bombay Act VI of 1886 (Karachi Port Trust)—contd.

S. 43, para. 2.—Such scales are subject to approval or modification by the Local Government.

Remission of tolls, etc.

S. 44.—"The Board may, in special cases with the previous sanction of Government, remit the whole or any portion of any toll, due, rate or charge leviable under the last preceding section."

[By section 12 of a Bill now before the Bombay Council, it is proposed to substitute "Commissioner" for "Government" in Bombay Act VI of 1886, s. 44.]

Toll payable by Government in lieu of prescribed tolls, etc.

S. 45.—"The tolls, dues, rates and charges prescribed under section 43 shall not be leviable in respect of any vessel employed by Government solely for the transport of troops, nor in respect of the baggage or other effects of any troops landing or embarking at the port.

In lieu thereof a toll shall be payable by Government to the Board on all troops, and all the families of troops, landing or embarking at Karachi, at the rate of one rupee per head."

Proposed substitution of payments for such toll.

[By section 13 of a Bill now before the Bombay Council, it is proposed to substitute for Bombay Act VI of 1886, s. 45, the following section, namely:—

"45. The tolls, dues, rates and charges prescribed under section 43 shall not be leviable in respect of any vessel employed by Government solely for the transport of officers and soldiers of Her Majesty's Regular Forces, nor in respect of the baggage or other effects of any such officers and soldiers landing or embarking at the port.

But in respect of all such vessels or such officers and soldiers as aforesaid, their families, their baggage or other effects, the Board shall, in addition to their duties in the landing and embarking of any of the same, perform and supply all such reasonable services and accommodation as may from time to time be required by 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 Government in conference with Board."]

4.—Tolls, etc., on Property shipped or landed at Piers, etc.—contd.

Bombay Act VI of 1886 (Karachi Port Trust)—concld.

Leasing.

S. 25.—The Board may lease or otherwise convey any property vested in or acquired by them: leases for more than twenty-one years must be previously sanctioned by the Local Government.

Proceeds.

S. 61.—Moneys belonging to the Board are to be held by them in trust, and are to be applied in payment of certain charges.

Increase of tolls, etc.

S. 81.—If sufficient provision is not being made by the Board to meet their liabilities, the Local Government may require the Board to increase, subject to its sanction, to such extent and for such period as shall appear necessary, the tolls, dues, rates and charges, or any of them, in force under section 43; and, if such requisition is not complied with, the Local Government may itself increase the tolls, etc.

Bombay Act V of 1888 (Aden Port Trust)—

Levy of tolls, etc.

S. 40 (1).—"The Board shall frame, and may from time to time alter,—

(*a*) a scale of tolls on the landing and shipping of goods from and in sea-going vessels and vessels not being sea-going vessels, respectively, at any place within the port;

(*b*) a scale of rates for the use of the moorings, wharves, quays, stages, jetties and piers belonging to the Board, and for the storing and keeping of any goods stored in any premises belonging to the Board;

(*c*) a scale of charges for the landing and shipping of goods by the servants of the Board, and for the removal of goods, and for any services to be performed

4.—Tolls, etc., on Property shipped or landed at Piers, etc.—contd.

Bombay Act V of 1888 (Aden Port Trust)—contd.

by the Board or their servants in respect of any vessel or goods, or for the use of any works or appliances to be provided by the Board."

S. 40 (2).—Such scales are subject to approval or modification by the Local Government.

S. 40 (3).—"Nothing in sub-section (*1*) or (*2*) shall be deemed to authorise— Exemptions.

(*a*) the inclusion in any scale framed or approved thereunder of any toll, rate or charge in respect of military or naval munitions or stores, or, for such time as a vessel is landing or shipping any such munitions or stores, in respect of any such vessel;

(*b*) the levy from officers and soldiers of Her Majesty's regular forces on duty or on the march of any duties or tolls from which they are exempted by section 143 of the Army Act."

S. 41.—"Government may, in special cases, remit the whole or any portion of any toll, rate or charge leviable under the last preceding section." Remission of tolls, ect.

S. 42.—Tolls on landing and shipping of goods may be collected by officers and servants of the Board, or by an agent of the Board, Collection of tolls.

or may be farmed or compounded by the Board for one year at a time. Leasing. Compounding.

S. 23.—The Board may lease or otherwise convey property vested in or acquired by them: leases for more than twenty-one years must be previously sanctioned by the Local Government. Leasing.

S. 58.—Moneys belonging to the Board are to be held by them in trust and applied in payment of certain charges. Proceeds.

4.—Tolls, etc., on Property shipped or landed at Piers, etc.—contd.

Bombay Act V of 1888 (Aden Port Trust)—concld.

Increase of tolls, etc. S. 79.—If sufficient provision is not being made by the Board to meet their liabilities, the Local Government may require the Board to increase, subject to its sanction, to such extent and for such period as shall appear necessary, the tolls, rates and charges, or any of them, in force under section 40; and, if such requisition is not complied with, the Local Government may itself increase the tolls, etc.

Madras Act II of 1886 (Madras Harbour Trust)—.

Levy of tolls, etc. S. 45, para. 1.—"The Board shall frame a scale of rates* to be levied for each or any of the following matters, namely:

(*a*) for the landing, shipping, wharfage, cranage, storage or demurrage of goods at, and for the porterage of goods on, from or within,

(*b*) for permission for vessels or boats to approach or lie alongside,

(*c*) and for animals or vehicles carrying goods and merchandise to or from, or entering upon, or plying for hire at or on,

any wharf, pier or dock in the possession or occupation of the Board;

and may frame a scale of rates* for the landing of goods at any place within the limits of the port, whether within or without the harbour."

S. 45, para. 2.—Such scales are subject to the previous sanction of the Local Government.

Leasing. S. 26.—The Board may, with the previous sanction of the Local Government, lease or otherwise alienate

* "Rates" include tolls, dues, rents and charges—see s. 3 (*1*) of the Act.

4.—Tolls, etc., on Property shipped or landed at Piers, etc.—concld.

Madras Act II of 1886 (Madras Harbour Trust)—concld.

any property vested in or acquired by them.

Leasing. S. 59.—"The Board shall not lease, farm, sell or alienate any power vested in them under this Act of levying rates,* without the assent of the Governor in Council."

Proceeds. S. 33.—Moneys acquired by the Board are to be applied to certain purposes.

Increase of tolls, etc. S. 46.—In case of estimated deficiency of revenue, the Board may, and upon the requisition of the Local Government shall, increase the rates,* subject to the approval of the Local Government.

S. 47.—If any requisition under section 46 is not complied with, the Local Government may itself increase the rates.*

Bengal Act IV of 1887 (Chittagong Port Commissioners)—

Levy of tolls, etc. S. 33, para. 1.—"The Commissioners shall frame—

(*a*) a scale of tolls, dues, rates and charges—

for the landing and shipment of goods from and in sea-going vessels and vessels not being sea-going vessels, respectively, at the wharves, quays, stages, jetties and piers, and

for the use of such wharves, quays, stages, jetties and piers by such vessels, and

for the storing and keeping of any goods stored in any premises belonging to the Commissioners, and

for the removal of goods and for the use of any mooring;

* "Rates" include tolls, dues, rents and charges—see s. 3 (*t*) of the Act.

4.—Tolls, etc., on Property shipped or landed at Piers, etc.—contd.

Bengal Act IV of 1887 (Chittagong Port Commissioners)—concld.

(*b*) a scale of tolls for the use of the said wharves, quays, moorings, stages, jetties and piers by any such vessels, in case the Commissioners permit the goods to be landed or shipped by others than their own servants;

(*c*) a scale of charges for any services to be performed by the Commissioners or their servants in respect of any vessels or goods, or for the use of any works or appliances to be provided by the Commissioners. . . . . ."

S. 33, para. 2.—Such scales are subject to approval or modification by the Local Government.

Exemptions. S. 44.—The Local Government may grant exemption from payment of any tolls, charges, dues or rates.

Leasing. S. 12.—The Commissioners may, with the sanction of the Local Government, lease or mortgage any property held by them.

Proceeds. S. 15.—All moneys paid or payable to the Commissioners are to be held and applied by them in trust for the purposes of the Act.

Bengal Act III of 1890 (Calcutta Port)—

Levy of tolls, etc. S. 103.—"The Commissioners shall frame a scale of tolls, dues, rates and charges for the landing and shipment of goods from and into sea-going vessels at the docks, wharves, quays, stages, jetties and piers belonging to the Commissioners, and for the use thereof by such vessels, and for the storing and keeping of any goods stored in any premises belonging to them, and for the removal of goods, and for the use of any moorings laid down or acquired by the Commissioners, . . ."

4.—Tolls, etc., on Property shipped or landed at Piers, etc.—contd.

Bengal Act III of 1890 (Calcutta Port)—contd.

S. 104.—"The Commissioners shall also frame a scale of tolls, dues, rates and charges for the landing and shipment of goods into and out of any vessel (not being a sea-going vessel)." Levy of tolls, etc.

S. 104-A "(*1*) The Commissioners shall also frame scales of tolls for the use of their docks wharves, quays, stages, jetties and piers by vessels, whether sea-going or not, leviable when the Commissioners permit goods to be landed or shipped by persons other than their own officers and servants. Levy of tolls.

(*2*) The scales for sea-going vessels and vessels other than sea-going vessels may be either the same or different as the Commissioners may think fit."

S. 105.—"The Commissioners shall also frame a scale of charges for any services to be performed by the Commissioners or their servants in respect of any vessel or goods, or for the use of any works or appliances to be provided by the Commissioners." Levy of charges.

S. 107 (1).—Such scales are subject to the approval of the Local Government.

S. 107 (2).—The Local Government may cancel any of the said scales, or may require the Commissioners to modify any portion thereof. Cancellation or modification of tolls, etc.

S. 108.—The Commissioners, on the requisition of the Local Government, are to charge upon all or any portion or description of goods landed from or shipped into any sea-going vessel lying or being within the port, whether or not landed or shipped at any dock, wharf, quay, stage, jetty or pier Levy of tolls, etc.

4.—Tolls, etc., on Property shipped or landed at Piers, etc.—contd.

Bengal Act III of 1890 (Calcutta Port)—concld.

belonging to the Commissioners, such general or differential tolls, dues, rates and charges, in addition to, or other than, those prescribed under sections 103, 104-A, . . . as will, when added to the income of the year, suffice for payment of debts.

S. 109.—Tolls, etc., fixed under section 108 are subject to the approval of the Local Government.

S. 110.—If any requisition under section 108 is not complied with, the Local Government, may itself charge tolls, etc., as mentioned in that section.

Leasing. S. 55.—The Commissioners may lease any property vested in or acquired by them: leases for more than ten years must be previously sanctioned by the Local Government.

Leasing. S. 56.—The Commissioners may not demise, farm, sell or alienate any power vested in them of levying tolls, dues, rates, rents or charges without the previous assent of the Local Government.

Proceeds. S. 57.—Moneys paid or payable to the Commissioners are to be held upon trust for the purposes of the Act.

Act XV of 1879 (Rangoon Port Commissioners)—

Levy of tolls, etc. S. 32, para. 1—"The Commissioners shall frame—

(*a*) a scale of tolls, dues, rates and charges for the landing and shipment of goods from and in sea-going vessels and vessels not being sea-going vessels, respectively, at the wharves, quays, stages, jetties and piers, and for the use of such wharves, quays, stages, jetties and piers by such vessels, and for the

Act XV of 1879 (Rangoon Port Commissioners)—concld.

storing and keeping of any goods stored in any premises belonging to the Commissioners, and for the removal of goods, and for the use of any mooring;

(*b*) a scale of tolls for the use of the said wharves, quays, moorings, stages, jetties and piers by any such vessels, in case the Commissioners permit the goods to be landed or shipped by other than their own servants; and

(*c*) a scale of charges for any services to be performed by the Commissioners or their servants in respect of any vessels or goods, or for the use of any works or appliances to be provided by the Commissioners."

S. 32, para. 2.—Such scales are subject to approval or modification by the Local Government.

Exemptions. S. 44.—The Local Government may grant exemption from payment of any tolls, charges, dues or rates.

Leasing. S. 10.—The Commissioners may, with the previous sanction of the Local Government, lease or mortgage any property held by them.

Proceeds. S. 14.—Moneys paid or payable to the Commissioners are to be held and applied by them in trust for the purposes of the Act.

5.—TOLL ON VEHICLES ENTERING BOMBAY CITY MUNICIPALITY.

Bombay Act III of 1888 (Bombay City Municipality)—

Toll. S. 190 (*1*).—A toll, at a rate not exceeding two annas each, is imposed on all vehicles entering the City

Bombay Act III of 1888 (Bombay City Municipality)—concld.

Exemptions. of Bombay from Salsette, but not kept in the City, with the exception of the vehicles, specified in clauses (*a*), (*b*), (*e*), (*f*) and (*h*) of section 181 of the Act. The parts of these clauses which are material to the present case are as follow:—

"(*b*) Gun-carriages, Ordnance carts or wagons.....;"

"(*e*) Vehicles.....belonging to Her Majesty .....;"

"(*h*) trucks used exclusively on a wharf, or in or upon any premises appertaining to a factory, workshop, warehouse or railway."

Collection of toll. S. 213 (*1*).—The toll may be collected by municipal employés,

Leasing. or may, with the approval of the standing committee, be farmed by the Commissioner.

Proceeds. S. 111.—The proceeds of the toll are credited to the Municipal Fund.

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6. TOLLS ON VEHICLES AND ANIMALS ENTERING MUNICIPALITIES.

Madras Act I of 1884 (Madras City Municipality)—

Tolls. Ss. 98, 99.—Tolls on vehicles and animals entering a municipality may be levied by the Commissioners with the approval of the Local Government.

S. 170.—Such tolls may be at the rates, and on the vehicles and animals, specified in Schedule **D**.

Collection of tolls. " The President may place the collection of tolls under the management of Toll Collectors,

Leasing. or may farm tolls.

6.—Tolls on Vehicles and Animals entering Municipalities—contd.

Madras Act I of 1884 (Madras City Municipality)—concld.

Exemptions. S. 170.—Vehicles and animals licensed or registered by the Commissioners are exempted from tolls.

S. 174.—"No tolls shall be paid for the passage of troops, Government stores, Government vehicles or animals or any other Government property, or by military, municipal or police officers on duty, or for the passage of any person or property in the custody of police officers."

Compounding. S. 175.—The President may compound for tolls.

Proceeds. S. 59.—Tolls are to be credited to the Municipal Fund.

Madras Act IV of 1884 (District Municipalities).

Tolls. Ss. 47, 48.—Tolls on vehicles and animals entering a municipality may be levied by the Municipal Council, with the approval of the Local Government, at rates not exceeding those specified in Schedule D.

S. 49.—The Local Government may direct a Municipal Council to levy such tolls.

Exemptions. S. 91 (3).—"No tolls shall be paid for the passage of troops, Government stores, Government vehicles or animals or any other Government property, or by military, municipal or police officers on duty, or for the passage of any person or property in their custody, or, for the passage of vehicles or animals licensed or registered by the Municipal Council, during the period for which they shall have been so licensed or registered."

[By section 57 of a Bill now before the Madras Council it is proposed to substitute

6.—Tolls on Vehicles and Animals entering Municipalities—concld.

7.—Tolls on Vehicles and Animals entering Municipalities; Octroi; and Taxes of any kind.

Madras Act IV of 1884 (District Municipalities)—concld.

for Madras Act IV of 1884, section 91 (3), the following, namely:—

"(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."]

Collection of tolls. S. 92 (*1*).—The Municipal Council may place the collection of tolls under management of Toll Collectors,

Leasing. or may farm tolls.

Compounding. S. 91 (*2*).—The Chairman may with the approval of the Municipal Council, compound for tolls.

Proceeds. S. 27.—Tolls are to be credited to the Municipal Fund.

7.—TOLLS ON VEHICLES AND ANIMALS ENTERING MUNICIPALITIES; OCTROI; AND TAXES OF ANY KIND.

Act XV of 1873 (Coorg Municipalities and some North-Western Provinces Municipalities)—

Ss. 15, 16.—Subject to any general rules or special orders of the Governor General in Council, and with the previous sanction of the Local Government, a Municipal Committee may impose—

Tolls. "(*d*) tolls on carriages, carts and animals entering the limits of the municipality:

Octroi. (*e*) an octroi on articles brought within the said limits for consumption or use therein:

7.—Tolls on Vehicles and Animals entering Municipalities; Octroi; and Taxes of any kind—contd.

Act XV 1873 (*Coorg Municipalities and some North-Western Provinces Municipalities*)—concld.

Provided that a list of such articles shall have been submitted to and approved by the Local Government:

Exemptions. Provided also that the Local Government may exempt from the octroi any such articles intended for consumption or use by any class of persons or animals."

Taxes of any kind. S. 17.—Any other or further tax may be imposed with the previous sanction of the Local Government and of the Governor General in Council.

Proceeds. S. 30.—Proceeds of taxes are credited tot he Municipal Fund.

Abolition of taxes. S. 29.—The Local Government may abolish any tax.

Act XV of 1883 (*North-Western Provinces and Oudh Municipalities*)—

S. 41.—"Subject to any general rules or special orders which the Governor General in Council may, from time to time, make in this behalf, a Municipal Board may, for the purposes of of this Act, impose,.....

(*1*) with the previous sanction of the Local Government—

.....

Tolls. (*d*) a tax on vehicles and on animals as aforesaid* entering the municipality,.....

Octroi. (*e*) an octroi on goods or animals brought within the municipality for consumption or use therein; and

Taxes of any kind. (*2*) with the previous sanction of the Local Government and of the Governor General in Council, any other tax."

Proceeds. S. 47.—Proceeds of taxes are credited to the Municipal Fund.

* *i.e.*, animals used for riding, driving or burden.

7.—Tolls on Vehicles and Animals entering Municipalities; Octroi; and Taxes of any kind—contd.

Act XV of 1883 (*North-Western Provinces and Oudh Municipalities*)—concld.

Abolition or reduction of taxes. S. 44.—"A Municipal Board, by a resolution passed at a special meeting and confirmed by the Local Government, or the Local Government with the previous sanction of the Governor General in Council, may abolish or reduce any tax imposed under the foregoing sections."

Regulation V of 1886 (*Ajmere Municipalities*)—

S. 41.—"Subject to any general rules or special orders which the Governor General in Council may make in this behalf, and to any rules made by the Chief Commissioner under this Regulation, a Committee may, from time to time, for the purposes of this Regulation, and in the manner by this Regulation directed, impose, ...

(A) with the previous sanction of the Chief Commissioner—

.....

Tolls. (*d*) a tax on vehicles and animals used as aforesaid * entering the municipality;

Octroi. (*e*) an octroi on animals for slaughter, or goods, or both, brought within the municipality for consumption or use therein; and

Taxes of any kind. (B) with the previous sanction of the Chief Commissioner and of the Governor General in Council, any other tax....."

Exemptions. S. 46 (*2*).—"A Committee may, by resolution passed at a special meeting and confirmed by the Chief Commissioner, and the Chief Commissioner may, by order,

* *i.e.*, animals used for riding, driving, draught or burden.

7.—Tolls on Vehicles and Animals entering Municipalities; Octroi; and Taxes of any kind—contd.

Regulation V of 1886 (Ajmere Municipalities)—concld.

exempt in whole or in part from the payment of any such tax any person or class of persons, or any property or description of property."

Proceeds.

S. 68.—Proceeds of taxes are credited to the Municipal Fund.

Abolition or reduction of taxes.

S. 45—"A committee may, by a resolution passed at a special meeting and confirmed by the Chief Commissioner, abolish or reduce in amount any tax....."

Removal of objections to tax.

S. 47.—The Chief Commissioner may require a Committee to remove objections to any tax, and may suspend the levy of the tax until objections are removed.

Act XVIII of 1889 (Central Provinces Municipalities)—

S. 29.—"Subject to any general rules or special orders which the Governor General in Council may make in this behalf, a Committee may, for the purposes of this Act, impose,.....

(*1*) with the previous sanction of the Local Government—

.....

Tolls.

(*e*) a tax on vehicles and animals used as aforesaid* entering the municipality,.....

Octroi.

(*f*) an octroi on good or animals brought within the municipality for consumption or use therein;

.....

Taxes of any kind.

(*2*) with the previous sanction of the Local Government and of the Governor General in Council, any other tax."

Proceeds.

S. 36.—Proceeds of taxes are credited to the Municipal Fund.

Abolition, reduction or suspens on of taxes.

S. 33.—"A Committee, by a resolution passed at a special meeting and

* *i. e.*, animals used for riding, driving, draught or burden.

7.—Tolls on Vehicles and Animals entering Municipalities; Octroi; and Taxes of any kind—contd.

Act XVIII of 1889 (Central Provinces Municipalities)—concld.

confirmed by the Local Government, may abolish or reduce any tax imposed under this Act, or suspend the operation of any tax within any part of the municipality for any specified period."

Abolition, reduct on or suspension of taxes.

S. 34.—"For reasons to be recorded in writing, the Local Government may exercise the powers conferred on a Committee by the last foregoing section."

Act XX of 1891 (Punjab Municipalities)—

S. 42 (*1*).—"Subject to any general or special orders which the Governor General in Council may make in this behalf, and to the rules, any Committee may, from time to time, for the purposes of this Act, ... impose, ...—

(A) with the previous sanction of the Local Government:—

.....

[(*c*) a tax on all or any vehicles, boats, animals used for riding, driving, draught or burden, and dogs, when the vehicles, boats, animals used as aforesaid, and dogs, are kept within the municipality;]

Tolls.

(*d*) a toll on vehicles and animals used as aforesaid entering the municipality and not liable to taxation under the preceding clause;

.....

Octroi.

(*f*) an octroi on animals or goods or both brought within the octroi limits for consumption or use therein; and

Taxes of any kind.

(B) with the previous sanction of the Local Government and of the Governor General in Council, any other tax:

Compounding.

Provided that any person may compound for exemption from all tolls leviable in respect of any

Act XX of 1891 (Punjab Municipalities)—concld.

animal or vehicle under clause (*d*) of this sub-section by paying the tax which would have been leviable in respect thereof under clause (*c*) if the same had been kept within the municipality."

Exemptions. S. 47 (*2*).—"A Committee may, by resolution passed at a special meeting and confirmed by the Local Government, and the Local Government may, by order, exempt in whole or in part from the payment of any such tax any person or class of persons or any property or description of property."

Leasing. S. 69.—A Committee may lease octroi or tolls, with the previous sanction of the Commissioner.

Proceeds. S. 71.—Proceeds of taxes are credited to the Municipal Fund.

Abolition or reduction of taxes. S. 46.—"A Committee may, by a resolution passed at a special meeting and confirmed by the Local Government, abolish or reduce in amount any tax imposed under the foregoing sections."

Removal of objections to tax. S. 48.—The Local Government may require a Committee to remove objections to any tax, and may suspend the levy of the tax until objections are removed.

8.—TOLLS ON VEHICLES AND ANIMALS ENTERING MUNICIPALITIES, AND TAXES OF ANY KIND.

Act XVII of 1884 (Lower Burma Municipalities)—

S. 41 (*1*).—"Subject to any general rules or special orders which the Governor General in Council may make in this behalf, a Municipal Committee may, for the purposes of this Act, impose, ...—

Act XVII of 1884 (Lower Burma Municipalities)—concld.

(A) with the previous sanction of the Local Government,—

.....

[(*d*) a tax on vehicles, boats and animals used for driving, riding, draught or burden, and dogs, kept within the municipality or any part thereof;]

Tolls. (*e*) a toll on vehicles and animals used as aforesaid entering the municipality and not liable to taxation under the preceding clause:

Compounding. Provided that any person may compound for exemption from all tolls leviable in respect of any animal or vehicle under this clause by paying the tax which would have been leviable in respect thereof under clause (*d*) if the same had been kept within the municipality;

Taxes of any kind. (B) with the previous sanction of the Local Government and of the Governor General in Council, any other tax ....."

Proceeds. S. 60.—Proceeds of taxes are credited to the Municipal Fund.

Abolition or reduction of taxes. S. 46.—A Municipal Committee may, with the sanction of the Local Government, abolish or reduce in amount any tax.

Removal of objections to tax. S. 47.—The Local Government may require a Municipal Committee to remove objections to any tax, and may suspend the levy of the tax until objections are removed.

9.—TAXES OF ANY KIND.

Bombay Act VI of 1873 (District Municipalities)—

Taxes of any kind. S. 21.—A municipality may, with the approval of the Local Government, impose any tax, toll or other impost.

Proceeds. S. 18.—The proceeds of tolls, etc., are credited to the Municipal Fund.

9.—Taxes of any kind—concld.

Bambay Act VI of 1873 (District Municipalities)—concld.

Bombay Act II of 1884, section 41, authorises the Local Government to require a municipality to remove objections to any tax, toll or other impost, and to suspend the levy of the same until objections are removed. — Removal of objections to tax.

Act XX of 1883 (Funjab District Boards)—

S. 30.—"Subject to any general rules or special orders which the Governor General in Council may make in this behalf, a District Board may impose..... such taxes as may be approved by the Local Government ....." — Taxes of any kind.

S. 31.—All taxes require the sanction of the Local Government.

S. 74.—"The Local Government may, by notification, remit or reduce any ..... tax imposed under this Act, or exempt any person or class of persons, or any description of property, wholly or in part, from liability to any such ..... tax, and cancel any such remission, reduction or exemption." — Remission or reduction of, and exemptions from, tax.

S. 35.—Proceeds of taxes are credited to the District Fund. — Proceeds.

S. 32.—"The Local Government may, by notification, and the District Board may, with the sanction of the Local Government, by a resolution passed at a meeting convened and constituted as the Local Government may prescribe, abolish or reduce any tax imposed under sections 30 and 31." — Abolition or reduction of taxes.

Regulation V of 1887 (Upper Burma Municipalities)—

S. 5.—A Municipal Committee may, subject to any general rules or special orders of the Governor General in Council, and with the approval of the Local Government, impose any tax. — Taxes of any kind.

S. 8.—Proceeds of taxes are credited to the Municipal Fund. — Proceeds.

S. 15.—The Local Government may abolish, remit or reduce any tax. — Abolition, remission or reduction of tax.

D.—TOLLS LEVIABLE BY RAILWAY COMPANIES.

TOLLS ON ROADS, BRIDGES AND FERRIES.

Act IX of 1890 (Railways)—

S. 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." — Tolls.

The Statute 42 and 43 Vict., cap. 41, confers very similar powers on certain Railway Companies in India. Act IX of 1890 and the Statute, therefore, between them confer these powers on all railway companies in the country.

E.—GENERAL EXEMPTIONS FROM TAXES.

1.—Volunteers—

Act XX of 1869 (Volunteers)—

Exemption of volunteers from horse tax.

S. 25.—"Every mounted officer, and every mounted orderly, of a corps of volunteers, and every member of such corps while he belongs to a troop of cavalry in such corps, shall be at liberty to keep one horse without being liable to pay in respect thereof any municipal or other tax imposed upon horses."

2.—Military Persons and the Government.

Act XI of 1881 (Exemptions from Municipal Taxation)—

Power to prohibit levy of taxes.

S. 3.—"Notwithstanding anything contained in any enactment for the time being in force, the Governor General in Council may, by an order in writing, prohibit the levy by a Municipal Committee of any specified tax—

(*a*) payable by any person subject to the Army Act, 1881, or the Indian Articles of War, who is compelled by the exigencies of military duty to reside within the limits of a municipality; or

(*b*) payable by the Secretary of State for India in Council.

The Governor General in Council may, by a like order, rescind any such prohibition."

Government to pay taxes leviable from officers or soldiers.

*S. 4.—"So long as any order made under section 3, prohibiting the levy of a tax on any person mentioned in clause (*a*) of that section, remains in force, the Secretary of State for India in Council shall be liable to pay to the Municipal Committee

* Section 4 does not apply in cantonments—see Act XIII of 1889, s. 20 (2), *supra*, p. 7.

Act XI of 1881 (Exemptions from Municipal Taxation)—concld.

mentioned in the order the amount which otherwise would have been payable to such Committee by such person:

Government to compensate Municipal Committee for taxes leviable from itself.

Provided that the said Secretary of State in Council shall not be liable to pay any sum in respect of any horse which such person is bound, by the regulations of the service to which he belongs, to keep."

*S. 5.—"So long as any order made under section 3, prohibiting the levy of any tax payable by the Secretary of State for India in Council remains in force, the said Secretary of State in Council shall be liable to pay to the Municipal Committee, in lieu of such tax, such sums (if any) as an officer from time to time appointed in this behalf by the Local Government may, having regard to all the circumstances of the case, from time to time determine to be fair and reasonable."

* Section 5 does not apply in cantonments—see Act XIII of 1889, section 20 (2), *supra*, page 7.

1	2	3	4	5
Nature of tolls, etc.	By whom leviable.	Military persons and property exempted from payment of such tolls, etc.	Enactments.	Page.
		SPECIAL EXEMPTIONS.		
Tolls on Roads and Bridges.	Government.	Troops and military stores and equipages on their march.	Acts VIII of 1851, XV of 1864 and VIII of 1892.	1, 2.
		Also (in Upper Burma only) any persons or property exempted by order of the Local Government.		
Do. ...	Government, or Bombay Local Boards.	Troops and military stores and equipages on their march.	Bombay Act III of 1875.	8
		Also any persons or property exempted by order of the Local Government.		
Do. ...	Some Assam Municipalities.	Troops on the march.	Bengal Act V of 1876.	17
		Animals and vehicles employed in the transport of such troops.		
Do. ...	Bengal District Municipalities and some Assam Municipalities.	Military and Government stores, and persons in charge of them.	Bengal Act III of 1884.	20
		Military officers and public officers on duty, and persons in their custody, and property belonging to them or in their custody, and vehicles and animals employed by such persons for the transport of such property.		
		Animals, whether belonging to the Government or not, which are attached to a regiment or a military department.		
		Any other persons or property exempted by order of the Municipal Commissioners.		
Do. ...	Railway Companies ...	...	Act IX of 1890.	45
		Troops on their march.		
		Military and Government stores and equipages.		
Tolls on Roads only.	Madras District Boards	Military officers on duty, and persons and property in their custody.	Madras Act V of 1884.	17
		Vehicles and animals licensed by the District Board.		

1	2	3	4	5
Nature of tolls, etc.	By whom leviable.	Military persons and property exempted from payment of such tolls, etc.	Enactments.	Page.
		SPECIAL EXEMPTIONS—*contd.*		
Tolls, etc., on Howrah Bridge.	Government, or the East Indian Railway Company or the Calcutta Port Commissioners.	Any persons or property exempted by order of the Local Government	Bengal Act IX of 1871.	9
Tolls on Ferries .	Government ...	Soldiers in uniform on duty.	Bombay Act II of 1868.	3
		Any persons exempted by order of the Local Government.		
Do. ...	Government, or Burma Municipalities.	Any persons or property (when employed or transmitted on the public service, or in other cases) exempted by order of the Local Government.	Act II of 1873.	10
Do. ...	Government, or Municipalities, District Boards, District Councils or Local Boards.	Persons and property employed or transmitted on the public service.	Act XVII of 1878.	11
Do. ...	Government, or Bengal District Boards.	Any persons or property exempted by order of the Local Government.	Bengal Act I of 1885.	13
Do. ...	Government, or Madras Local Boards or Municipalities.	...	Madras Act II of 1890.	15
		Troops on the march.		
		Animals and vehicles employed in the transport of such troops.		
		Military and Government stores, and persons in charge of them.		
Do. ...	Some Assam Municipalities.	Military officers and public officers on duty, and persons in their custody, and property belonging to them or in their custody, and vehicles and animals employed by such persons for the transport of such property.	Bengal Act V of 1876.	17
Do. ...	Bengal District Municipalities and some Assam Municipalities.		Bengal Act III of 1884.	20
		Any other persons or property exempted by order of the Municipal Commissioners.		
Do. ...	Calcutta Port Commissioners.	...	Bengal Act III of 1880.	22
Do. ...	Railway Companies ...	...	Act IX of 1890.	45

1	2	3	4	5
Nature of tolls, etc.	By whom leviable.	Military persons and property exempted from payment of such tolls, etc.	Enactments.	Page.
		SPECIAL EXEMPTIONS—*contd.*		
Tolls, etc., on Persons embarking or disembarking, and on Property shipped or landed, at Piers, etc.	Government ...	...	Madras Act V of 1863.	4
Do. ...	Government, or Madras Local Boards or Municipalities.	...	Madras Act II of 1890.	15
Tolls, etc., on Property shipped or landed at Piers, etc.	Government ...	...	Madras Act III of 1885.	5
Do. ...	Ditto ...	Any property exempted by order of the Local Government.	Bombay Act VII of 1882.	*ib.*
Do. ...	Bombay Port Trust	In lieu of the tolls, etc., chargeable on vessels employed by the Government solely for the transport of troops, and on baggage or other effects of troops, a toll, at a special rate, is at present payable by the Government on all troops and all the families of troops landing or embarking; but it is proposed by the Bombay Council to substitute for this toll payments on terms to be determined by the Local Government in conference with the Board of Trustees.	Bombay Act VI of 1879.	23
Do. ...	Karachi Port Trust		Bombay Act VI of 1886.	25
Do. ...	Aden Port Trust ...	Military and naval munitions and stores. Vessels landing or shipping any such munitions or stores. Officers and soldiers of Her Majesty's regular forces on duty or on the march (in respect of duties or tolls from which they are exempted by section 143 of the Army Act).	Bombay Act V of 1888.	27
Do. ...	Madras Harbour Trust ...	...	Madras Act II of 1886.	29
Do. ...	Chittagong Port Commissioners.	Any property exempted by order of the Local Government.	Bengal Act IV of 1887.	30

1	2	3	4	5
Nature of tolls, etc.	By whom leviable.	Military persons and property exempted from payment of such tolls, etc.	Enactments.	Page.
		SPECIAL EXEMPTIONS—*contd.*		
Tolls, etc., on Property shipped or landed at Piers, etc.—*concld.*	Calcutta Port Commissioners.	...	Bengal Act III of 1890.	31
Do. ...	Rangoon Port Commissioners.	Any property exempted by order of the Local Government.	Act XV of 1879.	33
Toll on vehicles entering Municipality.	Bombay City Municipality	Gun-carriages. Ordnance carts or wagons. Vehicles belonging to Her Majesty. Trucks used exclusively on a wharf, or in or upon any premises appertaining to a factory or workshop.	Bombay Act III of 1888.	34
Tolls on vehicles and animals entering Municipality.	Madras City Municipality	Vehicles and animals conveying troops, Government stores or other Government property. Government vehicles and animals. Vehicles and animals licensed or registered by the Municipal Commissioners. Military officers on duty.	Madras Act I of 1884	35
Do. ...	Madras District Municipalities.	Vehicles and animals conveying troops, Government stores or other Government property. Government vehicles and animals. Vehicles and animals licensed or registered by the Municipal Council. Military officers on duty, and persons and property in their custody. It is proposed by the Madras Council to substitute for this list of exemptions the following, namely :— Vehicles and animals— (1) conveying troops, military stores and baggage, military officers in uniform, or persons or property in the custody of such officers, or (2) licensed or registered by the Municipal Council.	Madras Act IV of 1884.	36

1	2	3	4	5
Nature of tolls, etc.	By whom leviable.	Military persons and property exempted from payment of such tolls, etc.	Enactments.	Page.
		SPECIAL EXEMPTIONS—*contd.*		
Tolls on vehicles and animals entering Municipality—*concld.*	Coorg Municipalities and some North-Western Provinces Municipalities.	...	Act XV of 1873.	37
Do. ...	North-Western Provinces and Oudh Municipalities.	...	Act XV of 1883.	38
Do. ...	Ajmere Municipalities ...	Any property exempted by order of a Municipal Committee or the Local Government.	Regulation V of 1886.	39
Do. ...	Central Provinces Municipalities.	...	Act XVIII of 1889.	40
Do. ...	Punjab Municipalities ...	Any property exempted by order of a Municipal Committee or the Local Government.	Act XX of 1891.	41
Do. ...	Lower Burma Municipalities.	...	Act XVII of 1884.	42
Octroi	Coorg Municipalities and some North-Western Provinces Municipalities.	Any articles exempted by order of the Local Government.	Act XV of 1873.	37
Do. ...	North-Western Provinces and Oudh Municipalities.	...	Act XV of 1883.	38
Do. ...	Ajmere Municipalities ...	Any articles exempted by order of a Municipal Committee or the Local Government.	Regulation V of 1886	39
Do. ...	Central Provinces Municipalities.	...	Act XVIII of 1889.	40
Do. ...	Punjab Municipalities ...	Any articles exempted by order of a Municipal Committee or the Local Government.	Act XX of 1891.	41
Taxes of any kind—				
(1) in Cantonments which are not included in Municipalities.	Government ...	Any persons or property exempted by order of the Governor General in Council.	Act XIII of 1889.	6
(2) in Municipalities	Coorg Municipalities and some North-Western Provinces Municipalities.	...	Act XV of 1873.	37
Do. ...	North-Western Provinces and Oudh Municipalities.	...	Act XV of 1883.	38
Do. ...	Ajmere Municipalities ...	Any persons or property exempted by order of a Municipal Committee or the Local Government.	Regulation V of 1886.	39
Do. ...	Central Provinces Municipalities.	...	Act XVIII of 1889.	40

1	2	3	4	5
Nature of tolls, etc.	By whom leviable.	Military persons and property exempted from payment of such tolls, etc.	Enactments.	Page.
Taxes of any kind—*concld.*		SPECIAL EXEMPTIONS—*concld.*		
(2) in Municipalities—*concld.*	Punjab Municipalities ...	Any persons or property exempted by order of a Municipal Committee or the Local Government.	Act XX of 1891.	41
Do. ...	Lower Burma Municipalities.	...	Act XVII of 1884.	42
Do. ...	Bombay District Municipalities.	...	Bombay Act VI of 1873.	43
Do. ...	Punjab District Boards ...	Any persons or property exempted by order of the Local Government.	Act XX of 1883.	44
Do. ...	Upper Burma Municipalities.	...	Regulation V of 1887.	*ib.*
		GENERAL EXEMPTIONS.		
.....	Municipalities or other authorities.	Mounted officers and mounted orderlies of corps of volunteers, and members of such corps while belonging to a troop of cavalry in such corps. (This exemption is from any tax payable in respect of one horse.)	Act XX of 1869 ...	46
.....	Municipalities ...	(*a*) Persons subject to the Army Act or the Indian Articles of War who are compelled by the exigencies of military duty to reside in a Municipality, if exempted by order of the Governor General in Council. (*b*) The Government, if exempted by order of the Governor General in Council. In case (*a*), the Government is liable to pay the taxes itself, except in respect of horses which the persons exempted are bound by the regulations of the service to keep; but this liability does not run in cantonments. In case (*b*), the Government is liable to pay compensation for the exemption; but this liability does not run in cantonments.	Act XI of 1881 ...	46

1	2	3
	Enactments.	Page.
Leasing	Act II of 1873, ss. 5, 8, 13	10, 11
	Act XVII of 1878, ss. 8, 10, 11, 15, 24 ...	11, 12
	Act XV of 1879, s. 10	34
	Act XX of 1891, s. 69	42
	Bengal Act V of 1876, ss. 144, 155, 159 ...	19
	Bengal Act III of 1884, ss. 153, 164, 168	21
	Bengal Act I of 1885, ss. 9, 13, 14, 18, 26	13, 14
	Bengal Act IV of 1887, s. 12 ...	31
	Bengal Act III of 1890, ss. 55, 56 ...	33
	Bombay Act II of 1868, s. 5 ...	4
	Bombay Act III of 1875, s. 10 ...	8
	Bombay Act VI of 1879, 26 ...	24
	Bombay Act VI of 1886, s. 25 ...	27
	Bombay Act III of 1888, s. 213 ...	35
	Bombay Act V of 1888, ss. 23, 42 ...	28
	Madras Act I of 1884, s. 170 ...	35
	Madras Act IV of 1884, s. 92 ...	37
	Madras Act V of 1884, s. 89 ...	17
	Madras Act II of 1886, ss. 26, 59 ...	29, 30
	Madras Act II of 1890, s. 12 ...	16
Compensation	Act II of 1873, s. 8	10
	Act XVII of 1878, ss. 10, 11, 12, 15, 33	11, 12, 13
	Act XI of 1881, ss. 4, 5	46, 47
	Act XIII of 1889, s. 20 (2) ...	7
	Bengal Act I of 1885, ss. 14, 15, 18, 34 ...	13, 14, 15

1	2	3
No. and year.	Subject.	Page.
Act VIII of 1851	Tolls on Public Roads and Bridges ...	1
Act XV of 1864	Tolls on Public Roads and Bridges ...	2
Act XX of 1869	Volunteers.	46
Act II of 1873	Burma Ferries.	10
Act XV of 1873	Coorg and North-Western Provinces Municipalities	37
Act XVII of 1878	Ferries.	11
Act XV of 1879	Rangoon Port Commissioners.	33
Act XI of 1881	Exemptions from Municipal Taxation.	46
Act XV of 1883	North-Western Provinces and Oudh Municipalities.	38
Act XX of 1883	Punjab District Boards.	44
Act XVII of 1884	Lower Burma Municipalities.	42
Act XIII of 1889	Cantonments.	6
Act XVIII of 1889	Central Provinces Municipalities.	40
Act IX of 1890	Railways.	45
Act XX of 1891	Punjab Municipalities.	41
Act VIII of 1892	Lansdowne Bridge.	2
Bengal Act IX of 1871 ...	Howrah Bridge.	9
Bengal Act V of 1876 ...	Assam Municipalities.	17
Bengal Act III of 1880 ...	Howrah Bridge.	22
Bengal Act III of 1884 ...	Bengal and Assam Municipalities.	20
Bengal Act I of 1885 ...	Ferries.	13
Bengal Act IV of 1887 ...	Chittagong Port Commissioners.	30
Bengal Act III of 1890 ...	Calcutta Port.	31
Bombay Act II of 1868 ...	Ferries.	3
Bombay Act VI of 1873 ...	Bombay District Municipalities.	43

1	2	3
No. and year.	Subject.	Page.
Bombay Act III of 1875 ...	Tolls on Public Roads and Bridges.	8
Bombay Act VI of 1879 ...	Bombay Port Trust.	23
Bombay Act VII of 1882 ...	Landing and Wharfage Fees.	5
Bombay Act VI of 1886 ...	Karachi Port Trust.	25
Bombay Act III of 1888 ...	Bombay City Municipality.	34
Bombay Act V of 1888 ...	Aden Port Trust.	27
Madras Act V of 1863 ...	Piers.	4
Madras Act I of 1884 ...	Madras City Municipality.	35
Madras Act IV of 1884 ...	Madras District Municipalities.	36
Madras Act V of 1884 ...	Local Boards.	17
Madras Act III of 1885 ...	Outports Landing and Shipping Fees.	5
Madras Act II of 1886 ...	Madras Harbour Trust.	29
Madras Act II of 1890 ...	Canals and Ferries.	15
Regulation V of 1886 ...	Ajmere Municipalities.	39
Regulation V of 1887 ...	Upper Burma Municipalities.	44

Simla, the 18th October, 1895.

11 JAN 1896
GOVERNMENT OF INDIA

G. C. Press Simla.—No. 3535 M. D.—5-11-95.—500.

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REPORT OF THE COMMITTEE APPOINTED TO CONSIDER QUESTIONS CONNECTED WITH THE EXEMPTION OF MILITARY ESTABLISHMENTS FROM PAYMENT OF TOLLS.

In Military Department Circular No. 2129-C., dated the 26th October, 1893, Local Governments were invited to consider the question of the exemption of military persons and property from payment of tolls. We have carefully considered the replies to that Circular and the other papers placed at our disposal, and we recommend that several classes of persons and property, in addition to those which are specified in the existing Acts, should be exempted from payment of tolls. We consider the most convenient form in which to place our proposals before the Government is an amending Bill, which we accordingly submit herewith. We also submit a statement showing all the enactments now on the Indian Statute-book regarding the imposition of, and exemptions from, tolls, etc., such as those referred to in section 143 of the Army Act of 1881 (44 & 45 Vict., cap. 58).

2. Section 143 of the Army Act exempts certain officers, soldiers and other persons, and certain animals, baggage and carriages belonging or attached to the Army, from payment of certain tolls. This exemption is of long standing, having been reproduced annually for many years in the Mutiny Acts. The exempting clause in the Mutiny Acts of 1873 (41 & 42 Vict., cap. 10, section 73) and previous years did not apply to India; but in reproducing the clause into the Army Discipline and Regulation Act, 1879 (42 & 43 Vict., cap. 33, section 137), it was made to apply to this country. The Act of 1879 came into force in India on the 1st March, 1880 [see 42 & 43 Vict., cap. 32, section 3 (3)]. The exempting clause in the Act of 1881, which continues in force to this day, is in precisely the same terms as the exempting clause in the Act of 1879.

3. When the Act of 1879 was passed, there were several enactments on the Indian Statute-book which exempted specified military persons and property

from payment of tolls of the classes to which that Act referred; and several enactments have been passed by Indian Legislatures since that time, making similar exemptions. All the lists of persons and property so exempted, which are contained in these enactments, differ from the list contained in the English Act of 1879. Further, there are now on the Indian Statute book several enactments—some passed before, and others after, the English Act of 1879—which authorise the levy of tolls of the classes referred to in that Act, but which either contain no exempting clause at all or merely contain clauses authorising the Executive authorities to allow exemptions.

4. We recommend that legislation be undertaken in order to bring the Indian enactments into harmony with section 143 of the Army Act. In the case of those enactments which contain lists of exempted persons and property, it is necessary to legislate in order to remove the conflict which at present exists between them and the Army Act. The latter Act would of course prevail, if the conflict were brought to the notice of the superior Courts; but, so long as the Indian enactments remain uncorrected, it is probable that full effect would not always in practice be given to the Army Act. In the case, too, of those enactments of Indian Legislatures which either contain no exempting clause at all or merely contain clauses authorising the Executive authorities to allow exemptions, it is not unlikely that the provisions of section 143 of the Army Act may be overlooked, tolls being levied under the Indian enactments in cases in which their levy is prohibited by that section.

5. Under the circumstances, the best course appears to be to reproduce section 143 of the Army Act [except sub-section (*2*), which does not apply to India], with connected clauses, in an Act of the Governor General in Council, and to repeal all inconsistent clauses in the existing Indian enactments, the said section 143 being amplified so as to provide for the additional exemptions which it is desired to introduce. Section 22 of the Indian Councils Act, 1861 (24 & 25 Vict., cap. 67), prevents the repeal of the said section 143 by the Governor General in Council, but there is nothing to prevent

that authority from re-enacting the section, and, in doing so, extending the list of persons and property to be exempted from tolls, though the section could not be restricted in any way.

6. The preamble and sections 1 and 2 of the Bill herewith submitted are formal, and require no special explanation.

7. Section 3 contains definitions of terms used in the Bill, and several of these definitions are based upon clauses appearing in the Army Act. The portions of the section which differ from, or do not appear at all in, that Act are as far as possible printed in italics.

8. The definition of "Her Majesty's regular forces" is copied from section 190 (*8*) of the Army Act, the references to the Royal Marines and the Royal Malta Artillery being omitted as inapplicable to India, and the word "Indian" being inserted before "reserve forces."

9. The definition of "local corps under the Government of India" is new, and is required for the purposes of section 4 of the Bill.

10. The definition of "Indian reserve forces" is new, the definition of "reserve forces" in section 190 (*9*) of the Army Act being inapplicable to India.

11. The definitions of "General Officer of the Command" and "Command" are new, and are required for the purposes of section 10 of the Bill.

12. It will be seen from pages 48 to 53 of the statement herewith submitted that 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 in section 3.

All the bodies of class (*2*) above are "Local Authorities" as defined in section 3 (*6*) of the General Clauses Act, I of 1887, and that phrase is accordingly used in the definition to designate them.

The definition of "public authority" includes those Railway Companies only which levy tolls under section 4 of the Indian Guaranteed Railways Act, 1879, or section

51 of the Indian Railways Act, 1890. Tolls levied under either of these enactments are clearly covered by section 143 of the Army Act, but not tolls levied by Railway Companies independently of them. On this subject we would invite reference to the opinions of the Advocate General of Bengal and the notes of the Legislative Department which are recorded in Public Works Department Railway Traffic Proceedings, June 1889, Nos. 182 to 192.

The definition of "public authority" will exclude all private individuals, if any, who levy tolls (otherwise than as the mere delegates of a "public authority"), and all companies, if any, which levy tolls, other than Railway Companies acting under one or other of the Railway Acts mentioned above. It would obviously be improper to interfere with the levy of tolls by such individuals or companies, without their consent; and section 143 of the Army Act does not appear to apply to such tolls. The case of these particular tolls is touched upon in clause 1 of the Advocate General's opinion dated the 26th January, 1889, recorded in the Proceedings above-mentioned, and we may also invite reference to the Circular of the Government of India in the Home Department, No. 25—1070—79, dated the 19th July, 1882, which was issued after consultation with the Legislative Department, and paragraph 1 of which runs as follows:—

"I am directed to invite attention to section 143 of the Army Act, 1881, cited in the margin, which exempts officers, soldiers, their horses, etc., on duty or on the march from payment of duties or tolls at piers, wharves, turnpikes, bridges, etc. A question having arisen as to the application of the provisions of this section, I am to explain that it applies only where there is a public right-of-way, and such right-of-way has been rendered subject to the payment of toll by a legislative enactment or some direction of the nature of a legislative enactment. The section in question cannot be held to apply to a bridge, road, wharf or quay, etc., constructed under such circumstances that the owner of it may open or close it to the public at his own will and pleasure."

13. The definition of "tolls" includes—

"duties," which are mentioned in section 143 of the Army Act,

"dues," "rents," "fees" and "charges," which are mentioned in several of the Indian enactments, and

"rates," which are mentioned both in section 143 of the Army Act and in several of the Indian enactments.

Customs-duties have been expressly excluded, with reference to paragraph 5 of the letter from the Chief Commissioner of Burma, No. 608, dated 21st April 1894. It is not intended that the Bill should apply to them, and it seems clear that the word "duties" in section 143 of the Army Act does not refer to them.

14. The definition of "ferry" is merely formal. In regard to the exclusion of ferries which are comprised in the definition of "railway" in section 3 of the Indian Railways Act, 1890, we would explain that the tolls imposed on ferries by or under the various Indian enactments 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," for it is presumed that no such ferries would be declared by the local administrative authorities to be subject to those enactments.

15. The definition of "landing-place" includes piers, wharves and quays, which are mentioned in section 143 of the Army Act and in several of the Indian enactments, and jetties and stages, which are mentioned in some of the Indian enactments.

16. The definition of "horse" is taken from section 190 (40) of the Army Act, some verbal alterations being made which do not affect the substance.

17. The additions which we recommend should be made in re-enacting section 143 of the Army Act are, as far as possible, printed in italics in section 4 of the Bill.

We recommend that the additional exemptions should be limited to—

Section 4 (1) and (2) of Bill.

(*a*) Local Corps under the Government of India, Imperial Service Troops and Volunteers, who should, we consider, be placed, as regards exemptions from tolls, on the same footing as regular troops:

The "local corps under the Government of India" are for the most part ordinarily stationed in Native territory, but we consider it necessary to mention them because they may be marched into British India. We have purposely omitted local corps not under the Government of India. These corps 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 toll or tolls, special arrangements could no doubt be made.

(*b*) Authorised followers, when accompanying the troops to which they belong, or otherwise moving under the orders of competent authority. *Section 4 (5) of Bill.*

(*c*) Horses, transport animals and baggage, when accompanying troops on duty or on the line of march. *Sectian 4 (8) and (10) of Bill.*

(*d*) Grass-cutters and their animals, at all times. *Section 4 (4) and (9) of Bill.*

(*e*) The families of regular troops, when accompanying them. *Section 4 (6) of Bill.*

(*f*) Reservists and officers of the Indian Reserve of officers, when proceeding to join for training or service, and when returning therefrom. *Section 4 (3) of Bill.*

(*g*) All animals the property of Government, or employed by Government for military porposes, when moving under the orders of competent military authority: *Section 4 (11) of Bill.*

Carriages and transport animals belonging to Her Majesty, or employed in Her 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, or their horses or baggage, or prisoners, or baggage or stores, and when returning from conveying the same. We have added "other animals", in order to cover the slaughter-cattle which are generally driven along with troops on the

march. We have also added the words "when otherwise moving under the orders of competent military authority".

Section 4 (12) of Bill.

(*h*) Carriages and transport animals not the property of Government, but about to be employed in Her Majesty's military service:

This is to cover carriage collected for the use of troops about to march or for the purposes of an expedition or other special service.

Section 4 (13) of Bill.

(*i*) All transport drivers and attendants, whether employed with Government or hired transport, or with carriages or animals about to be hired for the use of Government as transport.

The other alterations made by section 4 are as follow:—

(*1*) In clause (*a*), the words "or on being shipped or landed" are new. The words "embarking or disembarking" refer, strictly speaking, only to persons, though, as used in section 143 of the Army Act, they are intended to apply also to the property mentioned in that section. The words "or on being shipped or landed" are added to secure greater precision; also because several enactments of Indian Legislatures specifically authorise the levy of tolls on property "shipped or landed."

(*2*) Clause (*c*) is new. Section 143 of the Army Act does not exempt military persons or property from payment of tolls at ferries. But it will be seen from page 49 of the statement herewith submitted that most of the Indian enactments provide such exemptions, and we therefore think section 4 of the present Bill should apply to ferries, subject to the provisions as to compensation hereinafter mentioned.

(*3*) The word "Regulation" is inserted at the end of the section, because authority to levy tolls is sometimes given by Regulations made under 33 Vict., cap. 3, section 1.

(4) The word "public" is inserted before "authority" for reasons given in paragraph 12, *supra*.

(5) The proviso to section 4 of the Bill is copied from the proviso to section 143 (*1*) of the Army Act, the word "property" being substituted for the words "horses, baggage or stores." The Indian enactments which authorise the levy of tolls on vessels passing along canals or other lines of navigation are—

(1) Act XXII of 1856 (Karatoya River), section 1;

(2) Act I of 1867 (Ganges Tolls), section 2;

(3) Act II of 1881 (Pegu and Sittang Canal), section 4;

(4) Bengal Act V of 1864 (Canals and other lines of navigation), section 5; and

(5) Madras Act II of 1890 (Canals and other lines of navigation), section 6 (*6*).

18. The alterations made by section 5 of the Bill in section 143 (*3*) of the Army Act are shown in italics. It is proposed to reduce the fine to a maximum of fifty rupees and a minimum of five rupees. Minimum fines are not usually prescribed by Indian legislation, but in this instance it seems necessary to follow the English Parliament.

19. In sections 6 to 9 of the Bill we have inserted provisions for the admission of claims to compensation in cases where actual loss is occasioned by the operation of section 4. We desire to explain that we do not feel called upon to indicate precisely what the machinery should be for determining the extent of such loss, but we feel that, if possible, claims for compensation should be provided for. Sections 6 to 9 have therefore been drawn more as indicating this feeling and as a basis for discussion, than as definitely expressing the conditions and limitations under which we think claimants should receive compensation.

20. Section 6 declares that 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. The section follows precedents in Indian legislation, and it is 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 mention exemptions made in accordance with local usage, because it is believed that military establishments are in practice sometimes passed free of tolls even though no exemption could be claimed under statutory authority or under the terms of the leases, and there is no necessity for paying compensation for any but actual losses.

21. Compensation should clearly be provided for in the case of new exemptions from tolls leviable by Railway Companies. This we propose to do by section 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 Local Authorities or by the Government.

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 shall 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 (see pages 48 *et seq.* of the statement herewith submitted). On the other hand, it has been said that "local self-governing bodies will be discouraged from improving communications if the loss by exemptions is serious, a result which will be unsatisfactory to all concerned" [Clause (*f*) of Memorandum from the Public Works Department, Bombay, No. A-326, dated 5th March, 1894]. Pending the settlement of this question, we have included Local Authorities in section 7 of the Bill.

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 Adminis-

trations would object to allowing any new exemptions without payment of compensation, on the ground that their earnings as commercial undertakings would be decreased; and we have accordingly included these bodies in section 7 of the Bill, pending consideration of this question.

Section 7 of the Bill gives a right to compensation for new exemptions from those tolls only which are leviable on roads or bridges. Compensation in the case of tolls at ferries is provided for in section 8. In regard to the other tolls mentioned in section 4, namely, those leviable at landing-places, the amendments recently proposed in Bombay Acts VI of 1879 and VI of 1886 (see pages 24 and 26 of the statement herewith submitted) will meet the important cases of the Bombay and Karachi Port Trusts, and it hardly seems necessary to give a right to compensation in the case of any other Local Authority. These Authorities are Madras Local Boards, Madras Municipalities, the Aden Port Trust, the Madras Harbour Trust, the Chittagong Port Commissioners, the Calcutta Port Commissioners and the Rangoon Port Commissioners—see pages 50 and 51 of the statement herewith submitted. If it should ever become necessary to make payments to any of these Authorities in respect of exemptions from tolls, the best course would probably be to follow the Bombay and Karachi precedents and amend the local Acts.

22. Tolls at ferries stand on a somewhat different footing from other tolls, since they represent payments for services directly rendered; and we therefore think it right that compensation should be allowed for the new exemptions. This is provided for in section 8 of the Bill. We have not overlooked the fact that the existing Indian enactments (see page 49 of the statement herewith submitted) do not provide for compensation for the exemptions already allowed in the case of ferry tolls, but we hardly think it would be equitable to introduce new exemptions without giving a right to compensation.

23. Section 9 of the Bill provides for the settlement of the amount payable as compensation in each case. In placing this duty on the Commissioner of the

Division or an officer to be selected by the Local Government, the section follows the Northern India Ferries Act, 1878, section 15. We have thought it right, however to make the local officers' awards subject to the control of the Governor General in Council. This will give the Government of India power to supervise the disbursements on account of compensation—a course which seems essential, since no other authority has so great an interest in economising military funds. 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 his control really effective, it would be desirable that the amounts proposed to be paid in the more important cases should be submitted for his previous sanction. The cases in which previous sanction should be obtained could be declared by means of rules more appropriately than by the Bill itself, and this matter is accordingly dealt with in section 10 of the Bill.

24. The only other matter of importance that is dealt with by section 10 is the identification of persons and property for whom or for which exemptions will be claimed under the Bill. The necessity for enacting some provisions on this head has been mentioned in some of the reports received from Local Governments, and the best course seems to be to leave such details to rules.

We have provided that all rules shall be made by the Local Governments in consultation with the local 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.

25. We have shown in the schedule to the Bill the parts of existing Indian enactments which we think it would be convenient to repeal on the ground that they would be superseded if the Bill, in its present form, becomes law.

P. J. MAITLAND.
JOHN W. OTTLEY.
R. K. RIDGEWAY, Lt.-Colonel.
GEOFF. L. ELIOT.
C. H. HILL.
F. G. WIGLEY.

Simla, the 18th October, 1895.

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2/604/96.

CONTENTS.

SECTIONS.

1. Title, extent and commencement.
2. Repeal.
3. Definitions.
4. Exemptions from tolls.
5. Penalty.
6. Compensation to lessees for new exemptions.
7. Compensation to Railway Companies, Local Authorities and State Railway Administrations for new exemptions from tolls on roads or bridges.
8. Compensation for use of ferries.
9. Settlement of amount of compensation.
10. Rules.

THE SCHEDUDE—ENACTMENTS REPEALED.

[NOTE.—The portions of sections 3, 4 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;

44 & 45 Vict., cap. 58.

and whereas similar exemptions are made by various enactments of 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 Act and 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 Act;

It is hereby enacted as follows:

Title, extent and commencement.

1. (*1*) This Act may be called the Tolls (Army) Act, 1896. [Cf. Act IX, 1894, s. 1.]

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

(*3*) It shall come into force on the first day of——————, 1896.

Repeal.

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

(*2*) Any document referring to any of the said enactments shall, so far as may be, 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*) the expression "Her Majesty's regular forces" means officers and soldiers who by their commission, terms of enlistment or otherwise are liable to render continuously for a term military service to Her Majesty in any part of the world, including Her Majesty's Indian Forces, and sub- [Cf. Army Act, s. 190 (8).]

ject to this qualification that when the *Indian* reserve forces are subject to military law such forces become during the period of their being so subject part of the regular forces:

[Cf. Indian Army List, July 1st, 1895, pages 449-472.]

(2) *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 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:*

[Cf. Army Act, ss. 190 (9), 175(9).]

(3) *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:*

IV of 1888.

[Cf. Act V, 1869, Part I, clause (16), inserted by Act XII, 1894, s. 4.]

(4) *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:*

(5) *"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 Railway Company:*

42 and 43 Vict, cap. 41.

XX of 1890.

[Cf. Army Act, s. 143 (1), (3).]

(6) "tolls" include duties (*other than customs duties levied under the Indian Tariff Act, 1894,*) *dues,* rates, *rents, fees and charges:*

VIII of 1894.

[Cf. Act XVII, 1878, s. 3; Bengal Act I, 1885, s. 5.]

(7) *"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. 143 (1).]

(8) "landing-place" includes a pier, wharf, quay, *jetty or stage:* and

[Cf. Army Act, s. 190 (40).]

(9) "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. 143 (1).]

4. *The following persons and property, namely:—*

Exemptions from tolls.

(1) 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,

**Note.*—"Local Authority" means 'a Municipal Committee, District Board, body of Port Commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of a Municipal or Local Fund'—see the General Clauses Act, I of 1887, section 3 (6).

(2) *all members of a corps of volunteers, when on duty or on the march,*

(3) *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,*

(4) *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,*

(5) *all other authorised 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,

(6) *all members of the families of officers, soldiers or authorised 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,

(7) all prisoners under military escort,

(8) the horses and baggage of the persons mentioned in clauses (*1*) *and* (*2*), *respectively, when accompanying such persons while they are on duty or on the march,*

(9) *the horses of the persons mentioned in clause (4),*

(10) *the horses and baggage of the followers and families mentioned in clauses (5) and (6), respectively, when accompanying such followers or families under the circumstances mentioned in those clauses respectively,*

(11) all carriages, horses *and other animals* belonging to Her Majesty or employed in Her military service, when conveying any such persons as above 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,*

(12) *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*

(13) *all persons in charge of carriages or animals mentioned in clause (11) or clause (12), when accompanying the same under the circumstances mentioned in those clauses respectively,*

shall be exempted from payment of any tolls—

(*a*) on embarking or disembarking, *or on being shipped or landed,* from or upon any landing-place, or

(*b*) in passing along or over any turnpike or other road or bridge, or

(*c*) *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. Army Act, s. 143 (3).]

Penalty.

5. Any person who demands and receives any toll in contravention of section 4 shall, *notwithstanding anything in Chapter XXII of the Code of Criminal Procedure, 1882, be tried in a* summary *way, and* shall be liable to a fine not exceeding *fifty rupees* nor less than *five rupees.*

X of 1882.

[Cf. Act II, 1873, s. 8; Act XVII, 1878, s. 15; Act XI, 1881, s. 4, 5; Ben. Act I, 1885, s. 18.]

Compensation to lessees for new exemptions.

6. Where, immediately before the commencement of this Act, any tolls referred to in section 4 are leased, and any persons or articles of property mentioned in that section 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*) 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 the said section.

Compensation to Railway Companies, Local Authorities and State Railway Administrations 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 4 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—

(*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

42 & 43 Vict., cap. 41. 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 the said section 4.

Compensation for use of ferries.

8. Where, immediately before the commencement of this Act, any persons or articles of property mentioned in section 4 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, 1873, 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 of the Division or by such other officer as the Local Government may appoint in this behalf by name or in virtue of his office.

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—

(*a*) for declaring 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 4 is entitled to such exemption,

(*b*) for declaring 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 the Governor General in Council, and

(*c*) generally, for carrying out the purposes of this Act.

(*2*) The power to make rules under this section is subject to the conditions of the rules being made after previous publication and of their not taking effect until they have been published in the local official Gazette.

THE SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

1	2	3
Number and year.	Short title or subject.	Extent of repeal.
Acts of the Governor General in Council.		
VIII of 1851 ...	Tolls on Public Roads and Bridges.	In section 4, *the words* of troops and military stores and equipages on their march or.
XVII of 1878...	The Northern India Ferries Act, 1878.	So much of section 15 as exempts from payment of tolls any persons, animals, vehicles or other things which are exempted by section 4 of this Act.
Acts of the Governor of Fort St. George in Council.		
I of 1884 ...	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 4 of this Act.
IV of 1884 ...	The Madras District Municipalities Act, 1884.	In the new sub-section which it is proposed, by the Bill now before the Madras Council, to substitute for sub-section (*3*) of section 91, *the words* troops, military stores and baggage, military and
V of 1884 ...	The Madras Local Boards Act, 1884.	In section 87, sub-section (*3*), *the words* troops on their march or of military and *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 4 of this Act.
Acts of the Governor of Bombay in Council.		
II of 1868 ...	The Bombay Ferries Act, 1868.	Section 3, clause (*a*).
III of 1875 ...	Tolls on Public Roads and Bridges.	In section 5, *the words* of troops and military stores and equipages on their march or.
III of 1888 ...	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 4 of this Act.

1	2	3
Number and year.	Short title of subject.	Extent of repeal.
Acts of the Governor of Bombay in Council—contd.		
V of 1888 ...	The Aden Port Trust Act, 1888.	So much of section 40, sub-section (*3*), clause (*a*), as relates to tolls, rates or charges in respect of military munitions or stores. Section 40, sub-section (*3*), clause (*b*).
Acts of the Lieutenant-Governor of Bengal in Council.		
V of 1876 ...	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* 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 whichare exempted by section 4 of this Act.
III of 1884 ...	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* 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 4 of this Act.
I of 1885 ...	The Bengal Ferries Act, 1885.	So much of section 18 as exempts from payment of tolls any persons, animals, vehicles or other things which are exempted by section 4 of this Act.

GOVERNMENT OF INDIA.

A

BILL

TO

Amend the law relating to the exemption from tolls of persons and property belonging to the Army.

G. C. Press, Simla.—No. 3534 M. D —2-11-95.—700.

Local & Municipal Dept.
16 602
CHIEF SECRETARY'S
11 JAN. 1896
GOVERNMENT OF MADRAS

2 Encl

No. 155.

FROM

J. P. HEWETT, ESQ., C.I.E.,
Secretary to the Government of India,

To *The Chief Secretary to the Govt of Madras.*

Home Department.
Municipalities.

Calcutta, the 31st December 1895.

SIR,

I AM directed to invite a reference to letter No. 2129-C., dated 26th October 1893, from the Military Department of the Government of India, and to the replies received, and, in continuation thereof, I am to forward a copy of a draft Bill to amend the law relating to the exemption from tolls of persons and property belonging to the Army, prepared by the Committee which has recently considered the matter, together with a copy of the Report of the Committee and a Schedule of Enactments regarding the imposition of, and exemption from, tolls, etc., now in force in British India.

2. I am directed to say that the Governor General in Council will be glad to be favoured with an expression of *the opinion of His Excellency the Governor in Council* generally on the provisions of the Bill. I am to invite special attention to the provision in section 4 of the Bill which exempts military persons and property from payment of tolls at ferries; and also to section 5 which provides for the levy of a minimum fine of five rupees on any person who may demand and receive any toll in contravention of section 4. I am to observe, in connection with section 5, that minimum penalties are not usually prescribed in Indian legislation, and that their inclusion is based on a corresponding provision in the Army Act. I am to ask that the question whether the provision regarding a minimum fine is likely to prove oppressive in its operation in India may receive *the consideration of His Excellency the Governor in Council.*

I have the honour to be,

SIR,

Your most obedient Servant,

J. P. Hewett.

Secretary to the Government of India.

G/74

NOTE FOR THE CHIEF SECRETA.

Submitted that the municipalities & local Boards marked with blue pencil need not be asked their opinion, as there are no troops in those places, but only volunteers, whom however it is proposed to exempt

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WHD 5/3/96

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