

Local & Munl. (1896) Department.

MISCELLANEOUS.

G.O., No. *968 M*

DATED *9th June 1896*

[Despatch Abstract.]

Bill to amend the law relating to the exemption from tolls of persons and property belonging to the army.

Informing the Secretary to the Government of India, Home Department, that the draft ----- has been referred to certain local bodies and others for remarks, and that the subject will be considered and a report submitted to the Government of India as soon as the replies are received.

BACK PAPERS.

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

FURTHER PAPERS.

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

[7] INDEXED.

Miscellaneous.

LOCAL AND MUNICIPAL DEPT.	
G.O., DATED	9-6-96.
No.	968M

When given for copying.

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For copy signed by Mr. 13/6/96

READ AGAIN ORDER OF GOVERNMENT, DATED
189, No. , MISCELLANEOUS.

BACK PAPER, No.

OF 189

FURTHER PAPER, No.

OF 189

ENCLOSURES.

CURRENT No.

STATEMENT WITH DITTO.

ORDER OF GOVERNMENT

STATEMENT WITH DITTO.

PAPERS NOT FILED UP, BEING MEANT FOR DISPATCH
IN ORIGINAL (not paged).

N.B.—

- A — Copy in full
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- Q — Copy heading only

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Examined by

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

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

(True Extract.)

for Chief Secretary.

To the President, District Board, Bellary.

" " " Chingleput.
" " " Coimbatore.
" " " Ganjam.
" " " Malabar.
" " " Nilgiris.
" " " Trichinopoly.
" " " Vizagapatam.

Collectors of the above districts.

Chairman, Municipal Council, Bellary.

" " " Coimbatore.
" " " Berhampur.
" " " Calicut.
" " " Cannanore.
" " " Tellichery.
" " " Coonoor.
" " " Ootacamund.
" " " Trichinopoly.
" " " Vizagapatam.
" " " Vizianagram.

President, Municipal Commission, Madras.

Revenue Department.

Marine Department.

Public Works Department.

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.

44 & 45 Vict.,
cap. 58.

WHEREAS certain officers, soldiers and other persons, and certain animals, baggage and carriages belonging or attached to the Army, are exempted by section 143 of the Army Act from payment of certain duties or tolls;

and whereas similar exemptions are made by various enactments of 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.

(2) It extends to the whole of British India, inclusive of Upper Burma, [Cf. Act IX, 1894, s. 1.]
British Baluchistan, the Santhal 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.

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 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.]

IV of 1888.

(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).]

[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.

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

VIII of 1894.

(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.

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

(9) "horse" includes a mule and any beast, of whatever description, which is used for burden or draught or for carrying persons.

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.

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, Penalty.

X of 1892.

1882, be tried in a summary way, and shall be liable to a fine not exceeding fifty rupees nor less than five rupees.

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

Compensation to lessees for new exemptions.

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.

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
- (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.

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—

Compensation for use of ferries.

- (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. Army
Act, s. 143
(1), (3).]

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

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

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

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

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

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

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

[Cf. Act II,
1873, s. 8;
Act XVII,
1878, s. 15;
Act XI, 1881,
s. 6; 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.
<i>Acts of the Governor-General in Council.</i>		
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.
<i>Acts of the Governor of Fort St. George in Council.</i>		
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.

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.

Home Department,
(Municipalities)
Simla, the 23rd May 1896.

To

Subject:
Draft Bill to amend the law
relating to the exemption from
tolls of persons & property, be-
longing to the Army.

No. 155-104 dated 25th Dec., 1895.
and subsequent reminders
No. 477 L. dated 11-3-96.

Local Municipal Dept.
CURRENT No. 1591 M

No. 68

THE *Chief Secy to the Govt of Madras.*

CHIEF SECRETARY
1. JUN. 1896
GOVERNMENT OF MADRAS

SIR,

I AM directed to invite attention to the communication marginally noted,* and to request an early reply thereto.

I have the honour to be,

SIR,

Your most obedient Servant,

Cosm

Under-Secretary to the Govt. of India.

Local Municipal Dept.
No. 1591 M

From The Under Secretary
to the Govt. of India,
Home Deptt.

E

No. 68
Dated 23-5-96
Received 3-6-96
Enclosures

SUBJECT.
Requesting the favour of an early reply
the draft Bill to amend the law relat-
g to the exemption from tolls of persons
and property belonging to the Army.

(with letter)

C.S.
Mis

Letter No 968 Mmis of 9. 6. 96.

To The Secretary to the Govern-
ment of India, Home Department

Sir,
With reference to your reminder
No 68, dated 23rd May 1896, I am directed
to inform you that the draft bill to
amend the law relating to the exemp-
- tion from tolls of persons and property
belonging to the Army, forwarded with
your letter No 2 Municipal - 155, dated
31st December 1895, has been referred for
the remarks of certain local bodies and
others, some of whom have not yet
replied. The subject will be considered
as soon as the replies are received and
a report submitted to the Government
of India.

1. N. 4/6/96
S. B. 5/6/96
12 5.6.96
Send reminders
to members
Till due
had

call clerk to note this.

Notes: Reminders sent
on 9.6.96 Sent 9.6.96.

12/12 13/6/96

2/6.

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189.

READ AGAIN G.O., No.
189 , DATED

CURRENT No.

ENCLOSURES TO C. No.

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