

L & M.
1000-25-4

Local & Munl. (1899) Department.

PRINTED.

G.O., No. 2302

DATED 13-11-99

[Despatch Abstract.]

Exemption from tolls of persons and property
belonging to the Army.

Communicating to the Honorable the Judges of the High Court, the Advocate-General, the President, Municipal Commission, Madras and to the Presidents of certain Boards for favour of opinion the proposed bill to amend the law relating to the — and that the bill together with the statement of objects and Reasons has been published in the Fort Saint George Gazette in English.

11-6-99 / Recd. 11/11/99

BACK PAPERS.

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

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	182	L	1900				

Government (1899) of Madras. LOCAL AND MUNICIPAL.

Recd.

Regd.

Enclosures

1899.

Spare copies

G.O., No. 2302 L., 13th November 1899.

NOVEMBER.

Exemption from tolls of persons and property belonging to the Army.

Communicating to the Honourable the Judges of the High Court, the Advocate-General, the President, Municipal Commission, Madras, and to the Presidents of certain District Boards, for favour of opinion, the Bill to amend the law relating to the —.

11.6.99 / Received

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

READ—the following paper :—

From J. M. MACPHERSON, Esq., c.s.i., Secretary to the Government of India, Legislative Department, to the Chief Secretary to the Government of Madras, dated Simla, 21st October 1899, No. 2083.

I am directed to forward herewith forty copies of the papers noted on the margin, and to request that the Governor in Council will favour the Government of India in this department with an expression of his opinion on the provisions of the Bill, and with the opinions of the Honourable the Judges of the High Court and of such selected officers and other persons as the Governor in Council may think fit to consult on the subject. Special attention is invited to paragraph 3 of the Statement of Objects and Reasons relating to certain additional exemptions which it is proposed to make in re-enacting section 143 of the Army Act for India.

2. I am also to request that the Bill and Statement may be published in the *Fort St. George Gazette* in English and in such other languages as the Governor in Council may deem proper, and that the dates of publication of both may be communicated in your reply.

3. The reply to this letter should be sent in by the 1st January 1900.

Endt. No. 2845.

Transferred to the Local and Municipal Department.

6th November 1899.

(Signed) A. R. KNAPP,
Under Secretary.

ORDER—No. 2302 L., dated 13th November 1899.

Communicated to the Honourable the Judges of the High Court, the Advocate-General, the President, Municipal Commission, Madras, and to the Presidents of the District Boards noted in the margin for favour of opinion, which should be forwarded so as to reach the Government by the 10th of December 1899.

Chingleput.
North Arcot.
South Arcot.

Madura.
The Nilgiris.
Tanjore.

2. The Bill, together with the Statement of Objects and Reasons, has been published in the *Fort St. George Gazette* in English.

(True Extract.)

M. HAMMICK,
Ag. Secretary to Government.

To the Honourable the Chief Justice (with C.L.),
" Government Solicitor,
" President, Municipal Commission, Madras,
" District Board, Chingleput,
" " " North Arcot,
" " " South Arcot,
" " " Madura,
" " " the Nilgiris,
" " " Tanjore,

with two enclosures.

Ed. P. Soetharam.

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Proof 16/11

Government {1899} of Madras.
LOCAL AND MUNICIPAL.

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2/6
16/11/99
Strike off as revised
1/8
16/11/99

Recd. } 1899. Enclosures
Regd. } Spare copies

G.O., No. 2302 L., 13th November 1899.

NOVEMBER.

Exemption from tolls of persons and property belonging to the
Army.

Communicating to the Honourable the Judges of the High Court, the Advocate-General, the President, Municipal Commission, Madras, and to the Presidents of certain District Boards, for favour of opinion, the proposed Bill to amend the law relating to the —, and that the Bill, together with the Statement of Objects and Reasons, be published in the Fort St. George Gazette in English.

11.6.99 Received

Bill relating to the exemption of
military officers and property from
taxes.

Local and Municipal Dept.

HM

order No. 2302 Ld 12/11/99.

Issue
13.11.99

MA
11.11.99

Chingleput.
N. Arcot.
S. Arcot.
Madura
The Nilgiris
Tanjore.

Communicated to the Honorable
the Judges of the High Court, the
Advocate General, the President,
Municipal Commission Madras
and to the Presidents of the District
Boards noted in the margin for
favor of opinion which should
be forwarded so as to reach the
Government by the 10th of December
1899.

2 The Bill, together with the
Statement of Objects and Reasons
has been published in the Fort St
George Gazette in English.

13
10/11/99

X 10.11.99

Note

There is hardly time to have the
Bill translated into the vernaculars
for publication in the Gazette.

- To The Honble the Chief Justice (with cc)
- " Government Solicitor
- " President Municipal Commission Madras
- " Secy Dist Bd Chingleput
- " " North Arcot
- " " South Arcot
- " " Madura
- " " The Nilgiris
- " " Tanjore

Printed by
G. S. 10.10.99

with two enclosures

per 2-10/11/99

Pub.
29
508-10-4-92.

Public (1899) Department.

Endorsement:- N^o 2845 of 6-11-99. CURRENT No. 3008

Transferred to the Local
and Municipal Dept.

mus. of
S. C. I. 2845
to be put

Admstr.
Under Secretary

LOCAL & MUNICIPAL DEPT.
CURRENT No. 3105 L.

acc
2/11/99 3/11/99

Order

From
The Secretary
to the Govt. of India,
Legislative Dept.

No. 2083

Dated 21st
Received 27th } October 1899
Registered 27th }
L. R. 6-30 PM
Enclosures two
Spare copies thirty nine of each

To
The L & M Dept. (with alls. &c.).

SUBJECT.
Forwarding 40 copies of a Bill to amend
the law relating to the exemption from
taxes of persons and property belonging
to the Army with Statement of objects
& reasons for opinion of ^{H. S. the} Governor
in Council.

21-6-99 Received

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Handwritten notes and stamps:
 15/10/99
 OCT. 1890
 GOVERNMENT OF MADRAS
 44 & 45 Viet., c. 58.

[Note.—The portions of clauses 2, 3 and 5 which differ from, or do not appear at all in, the Army Act are, as far as possible, printed in italics.]

A BILL TO

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

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

And whereas similar exemptions are made by various enactments of the Indian legislatures, but these exemptions are not co-extensive with those made by the said Army Act;

And whereas it is expedient to remove the inconsistency now existing between the said Army Act and the said enactments, and to exempt certain other persons and property belonging to the Army from payment of certain tolls;

And whereas it is declared by section 169 of the said Army Act that "it shall be lawful for the Governor General of India . . . to provide by law for reducing any fine directed by this Act to be recovered on summary conviction to such amount as may appear to the Governor General . . . to be better adapted to the pecuniary means of the inhabitants; and also to declare the amount of the local currency which is to be deemed for the purposes of this Act to be equivalent to any sum of British currency mentioned in this Act", and it is expedient to alter in the manner hereinafter appearing the fine imposed by section 143 of the said Army Act;

It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Tolls Short title, extent and (Army) Act, 1900. commencement.

(2) It extends to the whole of British India, inclusive of British Baluchistan, the Santhal Parganas and the Pargana of Spiti; and

(3) It shall come into force on the first day of —, 1900.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "Command" means one of the principal portions into which the Army of India is, for the time being, divided: [Cf. Act V of 1869, Pt. I, cl. (16), inserted by Act XII of 1894, s. 4.]

(b) "ferry" includes every bridge and other thing which is a ferry within the XVII, 1878, meaning of any enactment authorizing s. 3; Bengal Act I, 1885, the levy of tolls on ferries, but does not s. 5.]

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include any ferry or other thing which is included in the definition of "railway" in section 3 of the Indian Railways Act, 1890:

- [Cf. Act V of 1890, Pt. I, clause (16) inserted by Act XII of 1894, s. 4.]
- (c) the expression "General Officer of the Command" means the General Officer Commanding the Forces in a Command:
- [Cf. Army Act, s. 190, (8).]
- (d) the expression "Her Majesty's Regular Forces" has the meaning assigned to it by section 190, clause (8), of the Army Act, and includes the Indian Reserve Forces when subject to military law:
- [Cf. Army Act, s. 190 (40).]
- (e) "horse" includes a mule and any beast of whatever description, which is used for burden or draught or for carrying persons:
- [Cf. Army Act, ss. 190 (9), 175 (9).]
- (f) the expression "Indian Reserve Forces" means the forces constituted by the Indian Reserve Forces Act, 1888, and IV of 1888, includes persons holding commissions in the Indian Army Reserve of officers when called out in any military capacity:
- [Cf. Army Act, s. 143 (7).]
- [Cf. Indian Army List, July 1st, 1895, pages, 449-472.]
- (g) "landing-place" includes a pier, wharf, quay, jetty and stage:
- (h) the expression "local corps under the Government of India" means the Hyderabad Contingent, the Central India Horse, the Malwa Bhil Corps, the Bhopal Battalion, the Deoli Irregular Force, the 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:
- (i) "public authority" means the Government or a local authority; and, so far as regards tolls levied by a railway company under section 4 of the Indian Guaranteed Railways Act, 1879, or section 51 of the Indian Railways Act, 1890, includes such a railway company:
- [Cf. Army Act, s. 143, (1), (3).]
- (j) "tolls" include duties (other than customs duties levied under the Indian Tariff Act, 1894), dues, rates, rents, fees and charges.
- [Cf. Army Act, s. 143 (1).]
3. The following persons and property, Exemptions from tolls namely:—
- (a) all officers and soldiers of—
- (i) Her Majesty's Regular Forces,

- (ii) any local corps under the Government of India, or
- (iii) the Imperial Service Troops when on duty or on the march,
- (b) all members of a corps of Volunteers when on duty or on the march,
- (c) all officers and soldiers of the Indian Reserve Forces when proceeding from their place of residence on being called out for training or service or when proceeding back to their place of residence after such training or service,
- (d) all grass-cutters of mounted corps forming part of—
- (i) Her Majesty's Regular Forces,
- (ii) any local corps under the Government of India, or
- (iii) the Imperial Service Troops,
- (e) all other authorized followers of—
- (i) Her Majesty's Regular Forces,
- (ii) any local corps under the Government of India,
- (iii) the Imperial Service Troops, or
- (iv) any corps of Volunteers,
- when accompanying any body of such Forces, Troops or Volunteers or any members of such corps on the march, or when otherwise moving under the orders of competent military authority,
- (f) all members of the families of officers, soldiers or authorized followers of—
- (i) Her Majesty's Regular Forces, or
- (ii) any local corps under the Government of India,
- when accompanying any body of such force or any members of such corps on the march,
- (g) all prisoners under military escort,
- (h) the horses and baggage of the persons mentioned in clauses (a) and (b), respectively, when accompanying such persons when they are on duty or on the march,
- (i) the horses of the persons mentioned in clause (d),
- (j) the horses and baggage of the followers and families mentioned in clauses (e) and (f), respectively, when accompanying such followers or families under the circumstances mentioned in those clauses respectively,
- (k) all carriages, horses and other animals belonging to Her Majesty or employed in Her Majesty's military service, when

conveying any such persons as hereinbefore in this section mentioned, or when conveying baggage or stores, or when returning from conveying such persons, baggage or stores, or when otherwise moving under the orders of competent military authority,

(l) all carriages and horses, when moving under the orders of competent military authority for the purpose of being employed in Her Majesty's military service, and

(m) all persons in charge of carriages or animals mentioned in clause (k) or clause (l), when accompanying the same under the circumstances mentioned in those clauses respectively,

shall be exempted from payment of any tolls—

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

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

(p) on being carried by means of any ferry,

otherwise demandable by virtue of any Act, Ordinance, Regulation, order or direction of any legislature or other public authority in British India:

Provided that nothing in this section shall exempt any boats, barges or other vessels employed in conveying the said persons or property along any canal from payment of tolls in like manner as other boats, barges and vessels.

4. No tolls shall be leviable by any local authority in respect of—

Tolls on vessels transporting troops and baggage, etc., of troops embarked or disembarked.

[Cf. Bombay Act VI of 1879, s. 44; Bombay Act VI of 1880, s. 43.]

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

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

(2) In respect of all such vessels or troops, their families, their baggage and their effects, the local authority concerned shall, in addition to its duties in the embarking and disembarking of the same, perform and supply all such reasonable services and accommodation as may, from time to time, be required by the Government, and shall receive payment for all such services, and accommodation on such terms and for such periods as may, from time to time, be determined by the Government in consultation with such local authority.

[Cl. Army Act, s. 143 (9).] 5. Any person who demands and receives any toll in contravention of the provisions of section 3 or section 4, shall, notwithstanding anything in Chapter XXII of the Code of Criminal Procedure, 1898, be tried in a summary way, and shall be punishable with fine which may extend to fifty rupees.

[Cl. Act II, 1873, s. 8; Act XVII, 1878, s. 15; Act XI, 1881, s. 4; Ben. Act I, 1885, s. 18.] 6. Where, immediately before the commencement of this Act, any tolls referred to in section 3 are leased, and any persons or articles of property mentioned in that section are not exempted by reason either of—

- (a) some enactment, or
- (b) some order or direction made or given by a public authority, or
- (c) the terms of the lease, or
- (d) local usage,

from payment of such tolls, then the lessee shall be entitled to compensation for any loss which he may be proved to have incurred from the operation of section 3.

7. Where, immediately before the commencement of this Act, any persons or articles of property mentioned in section 3 are not exempted by reason either of—

- (a) some enactment, or
- (b) some order or direction made or given by a public authority, or
- (c) local usage,

from payment of any tolls leviable by—

- (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 section 3.

8. Where, immediately before the commencement of this Act, any persons or articles of property mentioned in section 3 are not exempted by reason either of—

- (a) some enactment, or

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

- (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.

9. The amount of any compensation payable under section 6, section 7 ^{[Cl. Act II, 1873, s. 8; Act XVII, 1878, s. 15; to the control of the Governor General in Council, be settled, from time to time, by the Commissioner or by such other officer as the Local Government may appoint in this behalf.}

10. (1) The Local Government, in consultation with the General Officer of the Command and with the previous sanction of the Governor General in Council, may make rules to carry out the purposes and objects of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) declare what evidence shall be accepted as proof that any person or property by or for whom or for which an exemption is claimed under section 3 or section 4, is entitled to such exemption; and
(b) declare in what cases the amount of any compensation payable under section 6, section 7 or section 8 shall be referred for the previous sanction of the Governor General in Council.

(3) The power to make rules under this section is subject to the condition of the rules being made after previous publication.

(4) All rules made under this section shall be published in the local official Gazette, and, on such publication, shall have effect as if enacted by this Act.

11. The enactments specified in the schedule are hereby repealed to the extent mentioned in the fourth column thereof.

THE SCHEDULE.

ENACTMENTS REPEALED.

(See section 11.)

Year.	Number.	Short title or subject.	Extent of repeal.
<i>Acts of the Governor General in Council.</i>			
1851	VIII	The Indian Tolls Act, 1851.	In section 4, the words of troops and Military stores and equipages on their march or.
1878	XVII	The Northern India Ferries Act, 1878.	So much of section 15 as provides for the exemption from payment of tolls of any persons, animals, vehicles or other things which are exempted by section 3 of this Act.
<i>Acts of the Governor of Fort St. George in Council.</i>			
1884	I	The City of Madras Municipal Act, 1884.	In section 174, the word troops and the word Military; also so much of the section as relates to any Government stores, vehicles, animals or other property which are or is exempted by section 3 of this Act.
"	IV	The Madras District Municipalities Act, 1884.	In section 91, sub-section (3), clause (b), as amended by the Madras District Municipalities Act Amendment Act, 1897 (Madras Act III of 1897), the words troops, military stores and baggage, Military and.
"	V	The Madras Local Boards Act, 1884.	In section 87, sub-section (2), the words troops on their march or of military and the words military and; also so much of the sub-section as relates to any Government stores or equipages which are exempted by section 3 of this Act.
<i>Acts of the Governor of Bombay in Council.</i>			
1868	II	The Bombay Ferries Act, 1868.	Section 3, clause (a).
1875	III	Tolls on Public Roads and Bridges.	In section 5, the words of troops and military stores and equipages on their march or.
1879	VI	The Bombay Port Trust Act, 1879.	Section 44.
1886	VI	The Karachi Port Trust Act, 1886.	Section 45.
1888	III	The City of Bombay Municipal Act, 1888.	In section 190, sub-section (1), the letter (b); also so much of the rest of the sub-section as excepts vehicles which are exempted by section 3 of this Act.
"	V	The Aden Port Trust Act, 1888.	Section 40, sub-section (3), clause (b).
<i>Acts of the Lieutenant-Governor of Bengal in Council.</i>			
1876	V	The Bengal Municipal Act, 1876.	In section 159, the words of troops on the march or of animals or vehicles employed in the transport of such troops or, the words military or, in both places in which they occur, and the words or of any animals, whether belonging to Government or otherwise, which are attached to a regiment or a Military Department, and which pass through a toll-bar: Provided that tolls shall be leviable for conveying such animals over a ferry; also so much of the section as relates to any Government stores which are exempted by section 3 of this Act.

THE SCHEDULE.—*contd.*

Year.	Number.	Short title or subject.	Extent of repeal.
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Acts of the Lieutenant-Governor of Bengal in Council—contd.

1884	III	The Bengal Municipal Act, 1884.	In section 168, the words of troops on the march or of animals or vehicles employed in the transport of such troops or, the words military or in both places in which they occur, and the words or of any animals, whether belonging to Government or otherwise, which are attached to a regiment or a Military Department, and which pass through a toll-bar: Provided that tolls shall be leviable for conveying such animals over a ferry; also so much of the section as relates to any Government stores which are exempted by section 3 of this Act.
1885	I	The Bengal Ferries Act, 1885.	So much of section 18 as provides for the exemption from payment of tolls of any persons, animals, vehicles or other things which are exempted by section 3 of this Act.

Act of the Lieutenant-Governor of Burma in Council.

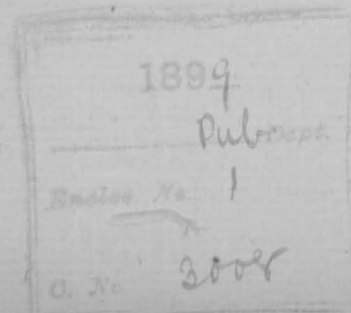
1898	II	The Burma Ferries Act, 1898.	So much of section 16 as provides for the exemption from payment of tolls of any persons, animals, vehicles or other things which are exempted by section 3 of this Act.
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GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

A
BILL
TO

Amend the law relating to the exemption
from tolls of persons and property be-
longing to the Army.

(Mr. Rivas.)



G. C. P. Simla. - No. 491 L. D. - 19-10-99 - 450.

CHIEF SECRETARY
26 OCT. 1899
GOVERNMENT OF MADRAS

STATEMENT OF OBJECTS AND REASONS.

SECTION 143 of the Army Act (44 & 45 Vict., c. 58) exempts certain officers, soldiers and other persons, and certain animals, baggage and carriages belonging or attached to the Army, from the payment of certain tolls, and the provision is applicable to India in common with the rest of Her Majesty's dominions. In the Indian Statute-book, however, there are several enactments on the same subject; and these, while they provide for exemption from the payment of tolls of the classes referred to in the Army Act, do so in favour of persons more or less different from those indicated in that Act. Moreover, there are some Acts of the Indian legislatures which authorize the levy of tolls of the same classes as those described in the English Statute, but which either contain no exempting clauses at all or merely contain clauses empowering the Executive to allow exemptions.

2. In these circumstances, it has been decided to legislate. In the case of those Indian enactments which contain lists of exempted persons and property, legislation is necessary in order to remove the conflict which at present exists between them and the Army Act. The latter would of course prevail if the conflict were brought to the notice of the Courts; but, so long as the Indian enactments remain as they now are, it is probable that full effect may not always in practice be given to the Army Act. In the case, too, of the remaining enactments of the Indian legislatures above mentioned, it is not unlikely that the provisions of s. 143 of the Army Act may be overlooked, tolls being levied under the local law in cases in which their levy is in reality prohibited by Parliament.

3. The present Bill reproduces s. 143 of the Army Act, except sub-section (2), which does not apply to India, and amplifies its provisions so as to cover certain additional exemptions, all inconsistent provisions to be found in the Indian Statute-book being at the same time repealed. Section 22 of the Indian Councils Act, 1861 (24 & 25 Vict., c. 67), prevents the repeal of s. 143 of the Army Act by the Governor General's Legislative Council, but it is believed that there is nothing to prevent that Council from re-enacting the section, and, in doing so, extending the list of persons and property to be exempted from payment of tolls. The list now given in the Bill is a provisional one only. It requires careful consideration, and attention is, therefore, specially invited to its details.

4. The contents of the Bill are explained at length in the annexed *Notes on Clauses*.

The 19th October, 1899.

C. M. RIVAZ.

Notes on Clauses.

Clause 2—Several of the definitions set forth in this clause are taken from the Army Act. The portions which differ from, or do not appear at all in, that Act are, as far as possible, printed in italics.

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

The definition of "ferry" is merely formal. In regard to the exclusion of ferries which are comprised in the definition of "railway" in s. 3 of the Indian Railways Act, 1890 (IX of 1890), it may be explained that the tolls imposed on ferries by or under the various Indian enactments in force are apparently not leviable on ferries which are "used for the purposes of the traffic of a railway and, belong to, or are hired or worked by, the authority administering the railway".

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

The definition of "Indian Reserve Forces" is new, that of "reserve forces" in s. 190 (9) of the Army Act being inapplicable to India.

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

The definition of "local corps under the Government of India" is new, being introduced in connection with clause 3 of the Bill.

Statutory tolls are leviable in British India by (1) the Government, (2) District Boards, District Councils, Local Boards, Municipalities and Port Trusts, and (3) Railway Companies. The term "public authority" has been employed in the Bill to designate all these bodies, and is defined accordingly. It has been made to include those railway companies only which levy tolls under s. 4 of the Indian Guaranteed Railways Act, 1879 (42 & 43 Vict., c. 41), or s. 51 of the Indian Railways Act, 1890 (IX of 1890), tolls levied under either of these enactments being covered by s. 143 of the Army Act, but not tolls levied by railway companies independently of them.

On the other hand, the definition has been drawn so as to exclude private individuals who levy tolls (otherwise than as the mere delegates of a "public authority") and companies levying tolls, other than railway companies acting under one or other of the Railway Acts mentioned above. It would be improper to interfere with the levy of tolls by such individuals or companies without their consent; and s. 143 of the Army Act apparently does not apply to such tolls.

The definition of "tolls" includes (1) "duties," which are mentioned in s. 143 of the Army Act, (2) "dues," "rents," "fees" and "charges," which are mentioned in several of the Indian enactments, and (3) "rates," which are mentioned both in s. 143 of the Army Act and in several of the Indian enactments.

Customs-duties have been expressly excluded. It is not intended that the Bill should apply to them, and it seems clear that the word "duties" in s. 143 of the Army Act does not refer to them.

Clause 3.—The additions which it is at present proposed to make in re-enacting s. 143 of the Army Act are, as far as possible, printed here in italics.

The "local corps under the Government of India" are for the most part ordinarily stationed in Native territory, but it is considered necessary to mention them because they may be marched into British India. Local corps not under the Government of India have advisedly been omitted because they are employed for local purposes only. They do not ordinarily leave their posts or stations, and, should it be found desirable to exempt any of them from payment of any particular tolls, it will, no doubt, be possible to make special arrangements.

Carriages and transport animals belonging to Her Majesty, or employed in Her Majesty's military service, are exempted by the Army Act from the payment of tolls when conveying officers or soldiers of the Regular Forces on duty or on the march, prisoners under military escort, horses, baggage or stores, and when returning from conveying the same. In this exemption "other animals" have been included so as to cover the slaughter-cattle which are generally driven along with troops on the march. The words "when otherwise moving under the orders of competent military authority" have also been inserted.

Sub-clause (7) has been added to cover carriage collected for the use of troops about to march or for the purposes of an expedition or other special service.

The following are the other alterations made by clause 3:—

- (1) In sub-clause (n) the words "or on being shipped or landed" are new. The words "embarking or disembarking" refer, strictly speaking, only to persons, although, as used in s. 143 of the Army Act, they are intended to apply also to the property there mentioned. The words "or on being shipped or landed" are added to secure greater precision; also because several Indian enactments specifically authorize the levy of tolls on property "shipped or landed."
- (2) Sub-clause (p) is new. S. 143 of the Army Act does not exempt military persons or property from payment of tolls at ferries. But most of the Indian enactments on the subject provide for such exemptions, and it is, therefore, thought that clause 3 of the Bill should apply to ferries, subject to the provisions as to compensation hereinafter mentioned.
- (3) The word "Regulation" is inserted in the latter part of the clause because authority to levy tolls is given by certain Regulations made under the Government of India Act, 1870 (33 Vict., c. 3).

(4) The word "public" is inserted before the word "authority" near the end of the clause for the reasons given above in connection with the definition of the expression "public authority" as used in the Bill.

(5) The proviso is copied from the proviso to s. 143 (7) of the Army Act, the word "property" being substituted for the words "horses, baggage or stores." The Indian enactments which authorize the levy of tolls on vessels passing along canals or other lines of navigation, appear to be—

- (a) Act XXII of 1856 (Karatoya River), s. 1;
- (b) Act I of 1867 (Ganges Tolls), s. 2;
- (c) Act II of 1881 (Pegn and Sittang Canal), s. 4;
- (d) Bengal Act V of 1864 (Canals and other lines of navigation), s. 5; and
- (e) Madras Act II of 1890 (Canals and other lines of navigation), s. 6 (6).

Clause 4.—Provision is here made in respect of tolls leviable at landing-places. The question has lately arisen in connection with the embarkation and disembarkation of troops at the ports of Bombay and Karachi, and it was originally proposed to provide in the manner indicated by this clause of the Bill for these important cases alone by amending s. 44 of the Bombay Port Trust Act, 1879 (Bombay Act VI of 1879), and s. 45 of the Karachi Port Trust Act, 1886 (Bombay Act VI of 1886), so as to require compensation to be given by the Government for any services rendered by the Port authorities in this connection. There may, however, be other similar cases, and it has, therefore, been decided to include in the Bill a general enactment on the subject and to repeal the provisions of the special Acts above referred to.

Clause 5.—The alterations here made in sub-section (3) of s. 143 of the Army Act are shown in italics. It is proposed, in exercise of the power conferred by s. 169 of the Statute, to reduce the fine to a maximum of fifty rupees, and it has been thought unnecessary expressly to fix any minimum.

Clauses 6 to 9.—These clauses contain provisions for the admission of claims to compensation in cases where actual loss may be occasioned by the operation of clause 3. For the present no attempt has been made to indicate precisely what the machinery should be for determining the extent of such loss; but it is felt that, if possible, claims for compensation should be provided for, and these clauses have been drawn more as indicating this feeling and as a basis for discussion than as definitely expressing the conditions and limitations under which claimants should receive compensation.

Clause 6 declares that the lessees of tolls shall be entitled to compensation for any loss which they may be proved to have incurred from the introduction of the new exemptions mentioned in clause 3. The clause follows precedents in Indian legislation, and it seems only just that, where a right to collect tolls has been purchased on the basis of the existing law, the purchaser should receive compensation for any curtailment of that right. It is considered important to refer to exemptions made in accordance with local usage because it is believed that military establishments are in practice sometimes allowed to pass free of tolls even although no exemption could be claimed under statutory authority or under the terms of leases, and there is no necessity for paying compensation for any but actual losses.

Compensation should clearly be provided for in the case of new exemptions from tolls leviable by railway companies. This it is proposed to effect by clause 7 of the Bill.

It is for consideration, however, whether a right to compensation should be given in the case of new exemptions from tolls leviable by the Government or by local authorities.

As regards the Government, it seems clear that there is no real necessity for paying compensation, since the result would merely be to transfer money from one Department of the State to another. But it is apprehended that State Railway Administrations would object to allowing any new exemptions without payment of compensation, on the ground that their earnings as commercial undertakings would be decreased; and these bodies have accordingly been included.

As regards local authorities, it may be said that, since their power to levy taxes is derived from the Government, the Government may fairly claim that its own establishments and property should be exempted from such taxes without payment of compensation; and it may be noted that many of the Indian enactments already expressly provide for such exemptions. On the other hand, it has been said that local self-governing bodies will be discouraged from improving communications if the loss by exemptions should turn out to be serious, a result which would be unsatisfactory to all concerned. Pending the settlement of this question, local authorities have been included in clause 7 of the Bill.

The right to compensation for new exemptions is given by clause 7 in the case of those tolls only which are leviable on roads or bridges. Compensation in the case of tolls at ferries is provided for by clause 8. The case of the other tolls mentioned in s. 143 of the Army Act, namely, those leviable at landing-places, has already been noticed in connection with clause 4 of the Bill.

Tolls at ferries and at landing-places stand on a somewhat different footing from other tolls, since they represent payments for services directly rendered; and it seems but fair that compensation should be allowed for the new exemptions, although the existing Indian enactments do not, as a matter of fact, provide for compensation for the exemptions already allowed in such cases.

Clause 9 provides for the settlement of the amount payable as compensation under clause 6, clause 7 or clause 8. In placing this duty on the Commissioner of the Division or an officer to be selected by the Local Government, the clause follows s. 15 of the Northern India Ferries Act, 1878 (XVII of 1878). It has, however, been deemed right to make all awards subject to the control of the Governor General in Council so as to give the Government of India power to supervise the disbursements on account of compensation. It will not be necessary for every petty case to be referred for the orders of the Governor General in Council; but, in order to make the control really effective, instructions will probably be issued to the effect that the amounts proposed to be paid in the more important cases must be submitted for previous sanction. The cases in which previous sanction should be obtained can be declared by means of rules more appropriately than by the Bill itself, and this matter is accordingly mentioned in clause 10.

Clause 10.—The only other matter of importance here dealt with is the identification of persons and property for whom or for which exemptions may be claimed under the proposed measure. The necessity for enacting some provisions on this head has been pressed upon the Government of India by several Local Governments, and the best course seems to be to leave such details to rules.

It has been provided that all rules shall be made by Local Governments in consultation with the proper military authorities, and, in order to secure uniformity as far as possible, that the previous sanction of the Governor General in Council shall be required in each case.

Clause 11 and Schedule.—This part of the Bill proposes the repeal of such of the provisions to be found in existing Indian enactments as will be superseded if the Bill, in its present form, becomes law.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

ANNEXURE

TO

Amend the law relating to the exemption
from tolls of persons and property be-
longing to the Army.

(Statement of Objects and Reasons.)

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