

- (x) the inspection of any works carried out by means of loans ;
- (xi) the instalments, if any, by which loans shall be repaid, the interest to be charged on loans, and the manner and time of repaying loans and of paying the interest thereon ;
- (xii) the sum to be charged against the funds which are to form the security for the loan, as costs in effecting the loan ;
- (xiii) the attachment of such funds, and the manner of disposing of or collecting them ,
- (xiv) the accounts to be kept in respect of loans ;
- (xv) the utilization of unexpended balances of loans either in the reduction in any way of the debt of the local authority, or in carrying out any works which that authority is legally authorized to carry out ; and the sanction necessary to such utilization ,

and as to all other matters incidental to carrying this Act , into effect.

(2) The Governor General in Council may, subject to such conditions and restrictions as he thinks fit, delegate to a Local Government, or to Local Governments generally, all or any of his powers to make rules under sub-section (1).

(3) All rules made under this Act shall be published in the Gazette of India, if made by the Governor General in Council, or, if made by the Local Government in the exercise of a delegated power, in the local official Gazette ; and on such publication, shall have effect as if enacted in this Act.

5. If any money borrowed in accordance with the provisions of this Act, or any interest or costs due in respect thereof, is or are not repaid according to the conditions of the loan, the Local Government, if itself the lender, may, and, if the Local Government is not the lender, shall, on the application of the lender, attach the

Remedy by attachment if loan not repaid.

funds on the security of which the loan was made. After such attachment, no person, except an officer appointed in this behalf by the Local Government, shall in any way deal with the attached funds, but such officer may do all acts in respect thereof which the borrowers might have done if such attachment had not taken place, and may apply the proceeds in satisfaction of the loan and of all interests and costs due in respect thereof, and of all expenses caused by the attachment and subsequent proceedings :

Attachment not to defeat prior charges legally made. any debt for which the funds attached were previously pledged in accordance with law; but all such prior charges shall be paid out of the proceeds of the funds before any part of the proceeds is applied to the satisfaction of the liability in respect of which such attachment is made.

6. (1) Subject to the provisions of section 26 of the Indian Paper Currency Act, 1910, the local authorities mentioned in Schedule I and any other local authority to which the Governor General in Council may, by notification in the Gazette of India, extend the provisions of this section, may, with the previous sanction of the Governor General in Council, borrow money by means of the issue of bills or promissory notes payable within any period, not exceeding twelve months, for any purpose for which such local authority may lawfully borrow money under any law for the time being in force :

Provided that the amount of the bills or promissory notes which may be so issued, shall not exceed, when the amount of the other moneys for the time being borrowed by such local authority is taken into account, the total amount which such local authority is empowered by law to borrow.

(2) The Governor General in Council may, by general or special order, regulate the conditions on which money may be borrowed or repaid under this section.

7. Except as provided by or under this Act, no local authority shall, for any purpose, borrow money upon, or otherwise charge, its funds; and any contract otherwise made for that purpose after the passing of this Act shall be void.

Provided that nothing herein contained shall be deemed—

(a) to preclude any local authority from exercising the borrowing powers conferred on it by any special enactment now or hereafter in force; or

(b) to affect the power conferred on any local authority by any such enactment to charge its funds, by guaranteeing the payment of interest on money to be applied to any purpose to which the funds of the local authority can legally be applied

8 The Secretary of State in Council shall be entitled to the remedy mentioned in section 5 for the recovery of any money lent by him to any local authority before the 5th day of September, 1871, and the interest due on such money.

9. The enactments mentioned in Schedule II are repealed to the extent specified in the fourth column thereof.

Provided that all applications, declarations, authorizations, attachments, loans and rules made under any of these enactments shall be deemed to have been made under this Act.

## SCHEDULE I.

(See section 6.)

The Corporation of Calcutta.

The Commissioners for the Port of Calcutta.

The Commissioners for the Port of Chittagong.

The Municipal Corporation of the City of Bombay.

The Trustees of the Port of Bombay

The Corporation of Madras.

The Trustees for the Port of Madras.

The Municipal Committee of Rangoon.

The Commissioners for the Port of Rangoon.

The Municipality of Karachi.

The Trustees of the Port of Karachi.

The Trustees for the Improvement of the City of Bombay.

The Trustees for the Improvement of the City of Calcutta.

## SCHEDULE II.

### ENACTMENTS REPEALED.

*See section 9.*

Year.	No.	Short title.	Extent of repeal.
1	2	3	4
1879	XI	The Local Authorities Loan Act, 1879.	So much as is not repealed.
1885	XV	The Local Authorities Loan Act, (1879) Amendment Act, 1885.	The whole.
1897	XII	The Local Authorities (Emergency) Loans Act, 1897.	So much as is not repealed.
1904	III	The Local Authorities Loan Act, 1904.	So much as is not repealed.
1905	I	The Local Authorities Loan (Amendment) Act, 1907.	The whole.
1907	V	The Local Authorities Loan (Amendment) Act, 1907.	The whole.
1908	VIII	The Local Authorities Loan (Amendment) Act, 1908.	The whole.
1912	XI	The Local Authorities emergency. Loan (Amendment) Act, 1912.	The whole.



**Rules for raising loans by the Local Authorities in the open Market.**

*Statement showing the annual charges on account of a loan of one lakh at 4 per cent. with a sinking fund calculated on a 3 per cent. basis, the payments to the sinking fund being made half yearly.*

Terms of loan.	Annual payments to sinking fund.	Interest charges.	Total charges.	Reduction effected by last postponement.
Years.	Rs.	Rs.	Rs.	Per cent.
10	8,649	4,000	12,649	...
15	5,328	4,000	9,328	26
20	3,635	4,000	7,635	18
25	2,714	4,000	6,714	13
30	2,079	4,000	6,079	9
35	1,634	4,000	5,634	7
40	1,310	4,000	5,310	6
44	1,108	4,000	5,108	4
50	874	4,000	4,874	5
60	603	4,000	4,603	6

**ACCOUNTS AND FINANCE.**

**LOAN AND ADVANCES.**

*The 24th October 1907.*

No. 6565 A.—In exercise of the powers conferred by Section 5 of the Local Authorities Loan Act, 1879, the Governor-General in Council has made the following rules for the grant of loans to Local Authorities by the Government :

1. These rules shall come into force on the 1st day of November 1907. On and from that date the rules published with Notification No. 15, dated 1st January 1889 as subsequently amended, shall be rescinded except as regards loans applied for before these rules come into force.

2. In these rules—

(1) "the Act" means the Local Authorities Loan Act, 1879:

(2) "the Local Authority" means the Local Authority applying for or, as the cases may be, receiving, or having received the loan;

(3) "Loan" means a loan under the Act.

3. A loan shall not be granted except for a work of utility—

(a) within the local limits of the area subject to the control of the local authority, or

(b) for the benefit of the inhabitants within those limits.

4. The term of a loan shall not, except with the previous sanction of the Government of India, extend over a period exceeding twenty years

(NOTE.—The term should be calculated from the date on which the loan is completely made.)

5. In the case of loans for works or in connection with works which are mainly ornamental or convenient, such as town hall, public garden, market-place, the term shall not, except with the previous sanction of the Government of India, exceed ten years.

[NOTE.—The term should be calculated from the date on which the loan is completely made.]

6. Without the previous sanction of the Government of India a loan shall not be made at a lower rate of interest than 4 per cent.

7. An application for a loan shall state—

1st—the work for which the loan is required and an estimate of the cost of the entire work or of such part of it as it is proposed to meet from loan funds;

2nd—the amount which it is proposed to borrow;

*3rd*—the fund on the security of which it is proposed to borrow ;

*4th*—the law under which the said fund is levied, received or held ;

*5th*—the period for which the loan is required, the number and amount of the instalment, if any, in which it is proposed that the loan shall be taken, the dates proposed for receiving such instalments, if any, in which it is proposed to repay the loan ;

*6th*—the rate of interest at which it is proposed to borrow ;

*7th*—a detailed account of the revenue and expenditure of the Local Authority for the three last preceding years ;

[NOTE —The receipt side of the account should show only ordinary revenue. Receipts from loans or deposits of the investments of sinking funds should be excluded as well as items of abnormal character, which should be indicated separately when required. On the expenditure side interest on debt and any payments to a sinking fund should be included, but all expenditure from loan funds and repayment of advances or deposits should be excluded. A full explanation should be given of all important variations in the amounts of revenue and expenditure.]

*8th*—all existing prior charges upon the funds of the Local Authority.

8. The Local Government shall cause such inquiry as it thinks necessary or expedient to be made into the statement contained in the application and into the use and value of the work for which the loan is proposed.

9. If it appears to the Local Government that the loan ought not to be granted, it shall reject the application.

10. If it appears to the Local Government probable that the loan ought to be granted it shall cause to be published in the local official Gazette, and otherwise, as it deems fit within the local limits of the area subject to the control of the Local Authority, a copy of the application and such particulars in regard to any enquiry made under Rule 8 as it may think necessary.

11. (1) After the expiry of one month from such application, and after calling for any further information which it may

require, and considering any objections which may be preferred, the Local Government may either reject the application, or grant the loan if funds are available from the grant placed at its disposal for the purpose: Provided that—

(i) when the sanction of the Government of India is required under rule 4, 5, or 6, or

(ii) when the application is made by one of the corporations specified in clause (a) of the proviso to Section 8 of the Act, or by the Rangoon Municipality,

the Local Government if it approve the application, shall not itself proceed to sanction it, but shall refer it for the orders of the Governor-General in Council.

(2) If it is not proposed to take the whole of the loan during the current financial year, and if the portion to be taken in future years exceeds one lakh of rupees per annum, the Local Government shall report the proposals to the Government of India.

12. The Local Government shall make such provisions as may seem to be necessary for the proper inspection of all works which are being carried out by means of a loan, and for ascertaining and securing that the loan is duly applied to the works for which it has been made. Every such work and the accounts connected therewith shall be open at all times to the inspection of the Superintending or Executive Engineer in whose division the work is situated and of any person who may be authorised to inspect the accounts of the Local Authority, and of any other person specially authorized by the Local Government in this behalf.

13. If the Local Government considers that the conditions on which a loan was granted have not been fulfilled, or that the Local Authority has failed to comply with any of these rules, it may, at any time, order that no further payments shall be made on account of such loan, and recover the amount advanced, with interest thereon, in the manner mentioned in section 6 of the Act.

14. (1) Interest shall be charged yearly or halfyearly, as the Local Government may determine, on each loan at the rate agreed upon ; and shall be reckoned and paid on each instalment from the date on which it is received.

(2) A penal rate of compound interest not less than 6 per cent. per annum, shall be payable, at the discretion of the Local Government, upon all overdue instalments of interest or of principal and interest.

15. The Local Authority may, at any time, with the previous consent of the Local Government, repay the whole or any part of a loan in advance of the period fixed by the conditions of the loan.

16. The cost of any enquiry made under Rule 8, of advertisements published under Rule 10, of inspections made under Rule 12, and of any other proceedings by order of the Local Government or the Governor-General in Council under these rules, shall be determined by the Local Government, and shall be paid by the Local Authority.

17. (1) The accounts of every loan shall be kept by the account officer of the province in which it is made.

(2) The Local Authority shall give to the account officer and the Local Government any information which they may require regarding the expenditure of the loan and regarding its funds.

18. An annual statement of all loans granted under the Act, repayments due and made during the year, and balances outstanding at the beginning and end of the year in each province, or under each Local Government shall be prepared by the account officer and submitted to the Government of India through the Local Government which shall add a report of the progress of the work for which a loan has been made. Such statement shall be published in the local official Gazette.

19. An attachment of any funds under section 6 of the Act shall be made by a notice to the Local Authority prohibiting the collection or management of such funds by the Local Authority, and vesting the administration thereof in such officer as

the Local Government may appoint. Such notice shall be published in the local official Gazette and otherwise, as may be directed by the Local Government, within the local limits of the area subject to the control of the Local Authority. The moneys collected or received under such attachment shall be paid into the Government Treasury; and the accounts of money so collected and of the cost of the collection, shall be prepared in such form as the Local Government may from time to time direct. A copy of the accounts shall be delivered to the Local Authority, and published in the local official Gazette.

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No. 6566A.—In exercise of the powers conferred by sections 5 and 7 of the Local Authorities Loan Act, 1879, the Governor-General in Council has made the following rules for the raising of loans by local authorities in the open market :

1. These rules shall come into force on the 1st day of November 1907. On and from that date the rules published with the Notification No. 16, dated the 1st January 1889, as subsequently amended, shall be rescinded, except as regards loans applied for before these rules come into force.

2. In these rules—

(1) "the Act" means the Local Authorities Loan Act, 1879 ;

(2) "the Local Authority" means the Local Authority applying for permission to raise, or, as the case may be, raising or having raised the loan ; and

(3) "Loan" means a loan under the Act.

3. Every loan shall be defined in rupee currency unless the Local Government, with the previous sanction of the Governor-General in Council directs that any particular loan shall be defined in sterling currency.

4. A loan shall not be raised except for works of public utility—

(a) within the local limits of the area subject to the control of the Local Authority, or

(b) for the benefit of the inhabitants within those limits.

5. The Governor General in Council shall determine, in each case, the period within which the loan shall be repaid.

6. When it is desired to obtain the authorization of the Government to the raising of a loan under section 7 of the Act, a statement shall be submitted to the Local Government showing .

*1st*—the work for which the loan is required, and an estimate of the cost of the entire work or of such part of it as it is proposed to carry out from loan funds ;

*2nd*—the amount which it is proposed to borrow ;

*3rd*—the fund on the security of which it is proposed to borrow ;

*4th*—the law under which the said fund is levied, received or held ;

*5th*—the dates within which the money is to be raised, and when it is proposed to raise the loan in instalments, the amount of each instalment, the dates within which the first instalment, is to be raised, and the years in which it is intended to raise the other instalments ;

*6th*—the rate of interest at which it is proposed to borrow ;

*7th*—the term of years for which the money is to be borrowed, the instalments in which it is to be repaid. or the amount of the sinking fund provided for its repayment, and the rate of interest at which the instalment of such sinking fund is to be calculated ;

*8th*—a detailed account of the revenue and expenditure of the Local Authority for the three last preceding years ;

(NOTE.—The receipt side of the account should show only ordinary revenue. Receipts from loans or deposits or the investment of sinking funds should be excluded, as well as items of abnormal character, which should be indicated separately when required. On the expenditure side interest on debt and payments to a sinking fund should be included and all expenditure from loan funds and repayment of advances or deposits should be excluded. A full explanation should be given of all important variations in the amounts of revenue and expenditure.)

9th—all existing prior charges upon the funds of the Local Authority.

7. The Local Government shall cause such enquiry as it thinks necessary or expedient, to be made into the statements contained in the application and into the use and value of that work for which the loan is proposed.

8. If it appears to the Local Government that the loan ought not to be raised, it shall reject the application.

9. If it appears to the Local Government probable that the loan ought to be raised, it shall cause to be published in the local Official Gazette, and otherwise, as it deems fit, within the local limits of the area subject to the control of the Local Authority, a copy of the application and such particulars in regard to any enquiry made under Rule 7 as it may think necessary.

10. After the expiry of one month from such publication, and after calling for any further information which it may require, and considering any objections which may be preferred, the Local Government may either reject the application or refer it for the orders of the Governor-General in Council.

11. When a loan has been sanctioned by the Governor-General in Council, the Local Authority shall not, without the previous approval of the Government of India vary the dates within which the raising of the loan, or of the first instalment of it has been sanctioned. If the loan is raised by instalments, the dates within which each further instalment is to be raised shall be reported for the previous approval of the Government of India before it is put upon the market.

12. The Local Government shall make such provisions as may seem to be necessary for the proper inspection of all works



which are being carried out by means of a loan, and for ascertaining and securing that the loan is duly applied to the work for which it has been made. Every such work and the accounts connected therewith shall be open at all times to the inspection of the Superintending or Executive Engineer, in whose division the work is situated, and of any person who may be authorized to inspect the accounts of the Local Authority, and of any other person specially authorized by the Local Government in this behalf.

13. The cost of any enquiry made under Rule 7, of advertisements published under Rule 9, of inspections made under Rule 12, and of any other proceedings by order of the Local Government or the Governor-General in Council under these rules, shall be determined by the Local Government and shall be paid by the Local Authority

14. If a loan is not repayable by annuities or annual drawings, the Local Authority shall out of its income pay yearly or half-yearly, into a sinking fund, a sum which, accumulating at such rate of compound interest as the Government of India may fix, will be sufficient to secure the liquidation of the loan within the term fixed for its re-payment. The Local Authority shall submit the accounts of its sinking fund to the Accountant-General and shall at once make good from its revenues any amount by which he may certify that the fund falls short of what it ought to contain.

15. The Local Authority shall give to the account officer and the Local Government any information which they may require regarding the expenditure of the loan, and regarding its funds.

16. An attachment of any funds under section 6 of the Act shall be made by a notice to the Local Authority prohibiting the collection or management of such funds by the Local Authority, and vesting the administration thereof in such officer as the Local Government may appoint. Such notice shall be published in the local official Gazette, and otherwise, as may be directed by the Local Government within the local limits of the

area subject to the control of the Local Authority. The moneys collected or received under such attachment shall be paid to the lender, and the accounts of moneys so collected, and of the cost of collection, shall be prepared in such form as the Local Government may from time to time direct. A copy of the accounts shall be delivered to the Local Authority, and published in the local official Gazette.

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III

THE CATTLE-TRESPASS ACT.

INDIA ACT I OF 1871.

*As modified up to 1st May, 1906.*

Whereas it is expedient to consolidate and amend the law relating to trespasses by cattle; It is hereby enacted as follows:—

Preamble.

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CHAPTER I.

*Preliminary.*

Title and extent. 1. (1) This Act may be called the Cattle-trespass Act, 1871; and

(2) It extends to the whole of British India except the Presidency-towns and such local areas as the Local Government, by notification in the official Gazette, may from time to time exclude from its operation.

(3) The Local Government may at any time, by notification in the official Gazette, cancel or vary a notification under subsection (2).

Repeal of Acts. 2. The Acts mentioned in the schedule hereto annexed are repealed.

References to any of the said Acts in Acts passed subsequently thereto shall be read as if made to this Act.

References to repealed Acts.

All pounds established, pound-keepers appointed and villages determined under Act No. III of 1857 (*relating to trespasses by cattle*), shall be deemed to be respectively established, appointed and determined under this Act.

Interpretation-  
clause.

3. In this Act:—

“officer of police” includes also village-watchman and

“cattle” includes also elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats, and kids, and

“local authority” means any body of persons for the time being invested by law with the control and administration of any matters within a specified local area, and

“local fund” means any fund under the control or management of a local authority.

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## CHAPTER II.

### *Pounds and Pound-keepers.*

4. Pounds shall be established at such places as the Magistrate of the District, subject to the general control of the Local Government, from time to time directs.

Establishment of  
pounds.

The village by which every pound is to be used shall be determined by the Magistrate of the District.

5. The pound shall be under the control of the Magistrate of the District; and he shall fix, and may from time to time alter, the rates of charge for feeding and watering impounded cattle.

Control of  
pounds. Rates of  
charge for feeding  
impounded cattle.

6. The Magistrate of the District shall also appoint for each pound a pound-keeper :

Appointment of  
poundkeepers.

**Ex-officio pound-keepers in Madras and Bombay.** Provided that, in the Presidency of Fort St. George, the heads of villages and in the Presidency of Bombay, the police patils or (where there are no police patils) the heads of villages, shall be *ex-officio* the keepers of village pounds.

**Suspension or removal of pound-keepers.** Every pound-keeper appointed by the Magistrate of the District may be suspended or removed by such Magistrate.

**Pound-keepers may hold other offices.** Any pound-keeper may hold simultaneously any other office under Government.

**Pound-keepers to be "public servants." XLV of 1840.** Every pound-keeper shall be deemed a public servant within the meaning of the Indian Penal Code.

#### *Duties of Pound-keepers.*

**To keep registers and furnish returns** 7. Every pound-keeper shall keep such registers and furnish such returns as the Government from time to time directs.

**To register seizures.** 8. When cattle are brought to a pound, the pound-keeper shall enter in his register—

- (a) the number and description of the animals,
- (b) the day and hour on and at which they were so brought,
- (c) the name and residence of the seizer, and
- (d) the name and residence of the owner, if known, and shall give the seizer or his agent a copy of the entry.

**To take charge of and feed cattle.** 9. The pound-keepers shall take charge of, feed and water the cattle until they are disposed of as hereinafter directed.

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### CHAPTER III.

#### *Impounding Cattle.*

**Cattle damaging land.** 10. The cultivator or occupier of any land,

or any person who has advanced cash for the cultivation of the crop or produce on any land,

or the vendee or mortgagee of such crop or produce, or any part thereof,

may seize or cause to be seized any cattle trespassing on such land, and doing damage thereto or to any crop or produce thereon, and send them or cause them to be sent within twenty-four hours to the pound established for the village in which the land is situate.

All officers of police shall, when required, aid in preventing (a) resistance to such seizures, and (b) rescues from persons making such seizures.

11. • Persons in charge of public roads, pleasure-grounds, plantations, canals, drainage-works, embankments and the like, and officers of police, may seize or cause to be seized, any cattle doing damage to such roads, grounds, plantations, canals, drainage-works, embankments, and the like, or the sides or slopes of such roads, canals, drainage-works or embankments, or found straying thereon,

and shall send them or cause them to be sent within twenty-four hours to the nearest pound.

12. For every head of cattle impounded as aforesaid, the pound-keeper shall levy a fine according to the following scale :—

Elephant	...	...	...	two rupees.
Camel or buffalo	...	...	...	Eight annas.
Horse, mare, gelding, pony, colt, filly, mule,				
bull, bullock, cow or heifer	...	...	...	four „
Calf, ass or pig	...	...	...	two „
Ram, ewe, sheep, lamb, goat or kid			...	one anna.

Provided that when it appears to the Local Government from the report of a Magistrate of a District, or on the representation of a local authority, that, in any local area subject to the jurisdiction or control of such Magistrate or authority, cattle are habitually allowed to trespass on land and damage crops or other

produce thereon, the Local Government may, by notification in the official Gazette, direct that, for every head of cattle of any kind specified therein which may be seized within such local area and impounded as aforesaid, the pound-keeper shall levy such fine, not exceeding double the fine mentioned in the foregoing scale, as may be prescribed in the notification.

All fines so levied shall be sent to the Magistrate of the District through such officer as the Local Government from time to time directs.

A list of the fines and of the rates of charge for feeding and watering cattle shall be stuck up in a conspicuous place on or near to every pound.

The Local Government may at any time, by notification in the official Gazette, cancel or vary a notification under the proviso to the first paragraph of this section.

#### CHAPTER IV.

##### *Delivery or Sale of Cattle.*

13. If the owner of impounded cattle or his agent appear and claim the cattle, the pound-keeper shall deliver them to him on payment of the fines and charges incurred in respect of such cattle.

The owner or his agent, on taking back the cattle, shall sign a receipt for them in the register kept by the pound-keeper.

14. If the cattle be not claimed within seven days from the date of their being impounded, the pound-keeper shall report the fact to the officer in charge of the nearest police-station, or to such other officer as the Magistrate of the District appoints in this behalf.

Such officer shall thereupon stick up in a conspicuous part of his office a notice stating—

(a) the number and description of the cattle,

- (b) the place where they were seized,
- (c) the place where they are impounded,

and shall cause proclamation of the same to be made by beat of drum in the village and at the market-place nearest to the place of seizure.

If the cattle be not claimed within seven days from the date of the notice, they shall be sold by public auction by the said officer, or an officer of his establishment deputed for that purpose, at such place and time and subject to such conditions as the Magistrate of the District by general or special order from time to time directs :

Provided that, if any such cattle are, in the opinion of the Magistrate of the District, not likely to fetch a fair price if sold as aforesaid, they may be disposed of in such manner as he thinks fit.

15. If the owner or his agent appear and refuse to pay the said fines and expenses, on the ground that the Delivery to owner disputing legality of seizure, but making deposit seizure was illegal and that the owner is about to make a complaint under section 20, then upon deposit of the fines and charges incurred in respect of the cattle, the cattle shall be delivered to him.

16. If the owner or his agent appear and refuse or omit to Procedure when owner refuses or omits to pay the fines and expenses pay or (in the case mentioned in section 15) to deposit the said fines and expenses, the cattle, or as many of them as may be necessary, shall be sold by public auction by such officer, at such place and time and subject to such conditions, as are referred to in section 14.

The fines leviable and the expenses of feeding and watering, Deduction of fines and expenses together with the expenses of sale, if any, shall be deducted from the proceeds of the sale.

The remaining cattle and the balance of the purchase-money, Delivery of unsold cattle and balance of proceeds. if any, shall be delivered to the owner or his agent, together with an account showing—

- (a) the number of cattle seized,
- (b) the time during which they have been impounded,
- (c) the amount of fines and charges incurred,

(d) the number of cattle sold,

(e) the proceeds of sale, and

(f) the manner in which those proceeds have been disposed of.

The owner or his agent shall give a receipt for the cattle delivered to him and for the balance of the purchase-money (if any) paid to him according to such account.

17. The officer by whom the sale was made shall send to the Magistrate of the District the fines Disposal of fines, expenses and surplus proceeds of sale so deducted.

The charges for feeding and watering deducted under section 16 shall be paid over to the pound-keeper, who shall also retain and appropriate all sums received by him on account of such charges under section 13.

The surplus unclaimed proceeds of the sale of cattle shall be sent to the Magistrate of the District, who shall hold them in deposit for three months, and if no claim thereto be preferred and established within that period, shall, at its expiry, dispose of them as hereinafter provided.

18. Out of the sums received on account of fines and Application of fines and unclaimed proceeds of sales. the unclaimed proceeds of the sale of cattle shall be paid—

- (a) the salaries allowed to pound-keepers under the orders of the Local Government;
- (b) the expenses incurred for the construction and maintenance of pounds, or for any other purpose connected with the execution of this Act;

And the surplus (if any) shall be applied, under orders of the Local Government, to the construction and repair of roads and bridges and to other purposes of public utility.

19. No officer of police, or other officer or pound-keeper appointed under the provisions herein contained, shall directly or indirectly, purchase any cattle at a sale under this Act. Officers and pound-keepers not to purchase cattle at sales under Act.



No pound-keeper shall release or deliver any impounded cattle otherwise than in accordance with the former part of this Chapter, unless such release or delivery is ordered by a Magistrate or Civil Court.

Pound-keepers when not to release impounded cattle

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CHAPTER V.

*Complaints of Illegal Seizure or Detention.*

20. Any person whose cattle have been seized under this Act, or, having been so seized, have been detained in contravention of this Act, may, at any time within ten days from the date of the seizure, make a complaint to the Magistrate of the District or any Magistrate authorized to receive and try charges without reference by the Magistrate of the District

Power to make complaints.

21. The complaint shall be made by the complainant in person, or by an agent personally acquainted with the circumstances. It may be either in writing or verbal. If it be verbal, the substance of it shall be taken down in writing by the Magistrate.

Procedure on complaint.

If the Magistrate, on examining the complainant or his agent, sees reason to believe the complaint to be well founded, he shall summon the person complained against, and make an enquiry into the case.

22. If the seizure or detention be adjudged illegal, the Magistrate shall award to the complainant, for the loss caused by the seizure or detention, reasonable compensation, not exceeding one hundred rupees, to be paid by the person who made the seizure or detained the cattle, together with all fines paid and expenses incurred by the complainant in procuring the release of the cattle ;

Compensation for illegal seizure or detention.

and, if the cattle have not been released, the Magistrate shall, besides awarding such compensation, order their release and direct that the fines

Release of cattle.

and expenses leviable under this Act shall be paid by the person who made the seizure or detained the cattle.

23. The compensation, fines and expenses mentioned in section 22 may be recovered as if they were  
Recovery of com. fines imposed by the Magistrate  
pensation.

## CHAPTER VI.

### *Penalties.*

Penalty for forcibly opposing the seizure of cattle or rescuing the same.

24. Whoever forcibly opposes the seizure of cattle liable to be seized under this Act,

and whoever rescues the same after seizure, either from a pound or from any person taking or about to take them to a pound, such person being near at hand and acting under the powers conferred by this Act,

shall, on conviction before a Magistrate be punished with imprisonment for a period not exceeding six months, or with fine not exceeding five hundred rupees, or with both.

25. Any fine imposed under the next following section or for the offence of mischief by causing cattle to trespass on any land may be recovered by sale of all or any of the cattle by which the trespass was committed, whether they are the property of the person convicted of the offence, or were only in his charge when the trespass was committed.

26. Any owner or keeper of pigs who, through neglect or otherwise, damages or causes or permits to be damaged any land, or any crop or produce of land, or any public road, by allowing such pigs to trespass thereon, shall, on conviction before a Magistrate, be punished with fine not exceeding ten rupees.

Penalty for damage caused to land or public roads by pigs.  
The Local Government, by notification in the official Gazette, may from time to time, with respect to any local area specified

in the notification, direct that the foregoing portion of this section shall be read as if it had reference to cattle generally, or to cattle of a kind described in the notification, instead of to pigs only, or as if the words "fifty rupees," were substituted for the words "ten rupees," or as if there were both such reference and substitution.

The Local Government may at any time, by notification in the official Gazette, cancel or vary a notification under this section.

27. Any pound-keeper releasing or purchasing or delivering cattle contrary to the provisions of section 19 or omitting to provide any impounded cattle with sufficient food and water, or failing to perform any of the other duties imposed upon him by this Act, shall, over and above any other penalty to which he may be liable, be punished, on conviction before a Magistrate, with fine not exceeding fifty rupees.

Such fines may be recovered by deductions from the pound keeper's salary.

28. All fines recovered under section 25, section 26 or section 27 may be appropriated in whole or in part as compensation for loss or damage proved to the satisfaction of the convicting Magistrate.

Penalty on pound-keeper failing to perform duties

Application of fines recovered under sections 25, 26 or 27.

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## CHAPTER VII

### *Suit for Compensation.*

29. Nothing herein contained prohibits any person whose crops or other produce of land have been damaged by trespass of cattle from suing for compensation in any competent Court.

Saving of right to sue for compensation.

30. Any compensation paid to such person under this Act by order of the convicting Magistrate shall be set off and deducted from any sum claimed by or awarded to him as compensation in such suit.

Set-off.

CHAPTER VIII

*Supplemental.*

Power for Local Government to transfer certain functions to local authority and direct credit of surplus receipts to local funds.

31. The Local Government may, from time to time, by notification in the official Gazette,—

(a) transfer to any local authority within any part of the territories under its administration in which this Act is in operation, all or any of the functions of the Local Government or the Magistrate of the District under this Act, within the local area subject to the jurisdiction of the local authority, or

(b) direct that the whole or any part of the surplus accruing in any district under section 18 of this Act shall be placed to the credit of such local fund or funds as may be formed for any local area or local areas comprised in that district,

and may, from time to time, by notification in the official Gazette, cancel or vary any notification under this section.

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IV

THE MUNICIPAL TAXATION ACT.

INDIA ACT No. XI OF 1881.

WHEREAS it is expedient to empower the Governor-General in Council to prohibit, in certain cases, the levy of Municipal taxes payable by persons in the military service or by the Secretary of State for India in Council; it is hereby enacted as follows:—

Short title

1. This Act may be called The Municipal Taxation Act, 1881.

Local extent. It extends to the whole of British India ;

Commencement. and shall come into force at once.

2. In this Act "Municipal Committee" includes a Municipal "Municipal Com- Corporation or a body of Municipal Commis- mittee" defined. sioners constituted by or under the provisions of any enactment for the time being in force.

3. Notwithstanding anything contained in any enactment Power.to prohibit for the time being in force, the Governor- levy of tax 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 Discipline and Regulation Act, 1879, 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.

4. So long as any order made under section three, prohibit- Secretary of State ing the levy of a tax on any person mentioned in Council to pay in clause (a) of that section, remains in force, taxes referred to in the Secretary of State for India in Council section 3, clause (a). shall be liable to pay to the Municipal Committee mentioned in the order the amount which otherwise would have been payable to such committee by such person :

provided that the 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.

5. So long as any order made under section three prohibit- Payments to be ing the levy of any tax payable by the Secretary of State for India in Council, remains in force, made in lieu of taxes referred to in sec- tion 3, clause (b). the said Secretary of State in Council shall be liable to pay to the Municipal Committee, in lieu of such tax, such sum (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.

6. If any question arises whether any duty is military duty within the meaning of this Act, the decision of the Governor-General in Council thereon shall be conclusive.

If any question arises whether any person is compelled as aforesaid to reside within the limits of a municipality, or is bound as aforesaid to keep any horse, the decision thereon of such authority as the Governor-General in Council may, from time to time, appoint in this behalf, shall be conclusive.

## V

### THE CALCUTTA SURVEY ACT.

BENGAL ACT I No. of 1887.

**Preamble.** WHEREAS it is expedient to provide for the survey and demarcation of land in the Town of Calcutta ;  
It is hereby enacted as follows :—

1. This Act shall be called the Calcutta Survey Act, 1887,  
**Commencement.** and shall come into force from the date on which it may be published in the Calcutta Gazette with the assent of the Governor-General.

It extends to the Town of Calcutta within the local limits of the ordinary original civil jurisdiction of Her  
**Local extent.** Majesty's High Court of judicature at Fort William in Bengal.

2. In this act, unless there be something repugnant in the subject or context,—  
**Interpretation clause.**

"Survey" includes indentification of boundaries and all other operations antecedent to, or connected with survey ;  
**Survey.**

"Superintendent" means the Superintendent of Survey under this Act ;  
**Superintendent.**

"Land" includes anything attached to the earth or permanently fastened to anything attached to the earth.

"Premises" means any land described as such in the registers of the Corporation of the Town of Calcutta or as a holding in the registers of the Calcutta Collectorate ;

"Owner." "Owner" includes—

- (a) the person having permanent interest in any land or premises ;
- (b) an agent of, or manager on behalf of, such person ;
- (c) a trustee of such person ;
- (d) a body corporate in which land is vested by operation of Statute.

3. The Local Government may, whenever it thinks fit, order, by a notification in the Calcutta Gazette that a survey shall be made of the lands situated in the Town of Calcutta, and for such purpose may appoint a Superintendent of Survey and one or more Assistant Superintendents of Survey. The Assistant Superintendents of Survey shall exercise such powers as may be delegated to them by the Superintendent.

4. The Superintendent of Survey shall for the purposes of this Act, have power, either by himself or by an Assistant Superintendent of Survey or by other officers employed in the survey, to enter between the hours of sunrise and sunset, upon any land or premises within the local limits aforesaid, without being liable to any legal proceedings on account of such entry, or of anything done on such land or premises in pursuance of this Act ;

Provided that no such entry shall be made upon lands or premises which may be occupied at the time, unless with the consent of the occupier thereof, or without previously giving the said occupier twenty-four hours' notice of the intention to do so.

5. Before entering on any land or premises for the purposes of survey, the Superintendent may cause a notice in writing under his hand to be served on the owner of the land or premises about to be surveyed, and on the owner of conterminous lands or premises, calling upon them to attend either personally or by agent on such land or premises, before him or before such officer as may be authorized by him in that behalf, within a specified time (which shall not be less than three days after the service of such notice) for the purpose of pointing out boundaries, and of affording such information as may be needed for the purposes of this Act, and every person on whom such notice may be served shall be legally bound to attend as required by the notice, and to give any information which may be required so far as he may be able to give it.

6. If after due service of notice under the last preceding section, any person fails to appear without showing sufficient cause to the satisfaction of the Superintendent, the Superintendent, or such officer as may be authorized by him may proceed with the survey, and the person who is so absent shall be bound by the results of the survey in the same manner and to the same extent as if the survey were made in his presence.

7. If in the course of survey, it shall come to the notice of the Superintendent that a dispute exists as to any boundaries which should be surveyed, the Superintendent, shall cause an enquiry to be held by an Assistant Superintendent, as hereinafter provided, for the purpose of determining such boundaries.

8. When any dispute exists as to any boundaries, the Assistant Superintendent who may be authorised by the Superintendent in this behalf shall cause a notice in writing under his hand to be served on the parties concerned requiring them to appear before him in person, or by authorised agent on a specified



day, and to produce evidence of possession of the land in dispute. The Assistant Superintendent shall, on the specified day, or on such other day to which the hearing may be adjourned, hear the parties, receive the evidence produced by them respectively, consider the effect of such evidence, take such further evidence as he may think necessary, and, without reference to the merits of the claim of such parties to a right to possess the land in dispute, decide which of the parties is in possession of the said land at the time of the survey.

9. For the purposes of the enquiry aforesaid the Assistant Superintendent shall have power to summon and enforce the attendance of witnesses and compel the production of documents by the same means and in the same manner as is provided in the case of a Court under the Code of Civil Procedure.

10 After the enquiry has been completed, the Assistant Superintendent shall pass an order in writing defining clearly the subject of dispute, and shall record his decision and reasons for such decision.

11. An appeal shall lie from any order passed by an Assistant Superintendent under the last preceding section to the Board of Revenue, or to such other authority as the Local Government may, by notification in the Calcutta Gazette, appoint in this behalf if preferred within thirty days from the date of such order.

12. In every case of disputed boundaries the Assistant Superintendent authorised to hold the enquiry may, on the written application of the parties, refer the dispute to one or more arbitrators nominated by the parties respectively, and shall fix such time, and allow such extension of time, as may seem reasonable for the delivery of the award.

Provided that if it appears to the Assistant Superintendent that the Local Government or the Corporation of Calcutta is interested in any such dispute he shall appoint, in the former

case, the Collector or Deputy Collector of Calcutta, and, in the latter case, the Chairman, Vice-Chairman or Surveyor of the Corporation, one of the arbitrators, unless the parties agree to such officer being appointed sole arbitrator.

13. Where an arbitrator nominated by a party, refuses to act or becomes incapable of acting by reason of death or other sufficient cause, the party by whom he was nominated may, by a written application to the Assistant Superintendent, nominate another arbitrator, and, on being satisfied that the application has been made on sufficient grounds, he shall confirm such nomination, and the arbitrator so appointed may thereupon proceed with the enquiry.

14. If the arbitrators differ, the award shall be in accordance with the opinion of the majority, if they are equally divided in opinion, it shall be competent to them or to the Assistant Superintendent, on the written application of the arbitrators or of the parties to the arbitration, to appoint an umpire, and the decision of the umpire, determining the boundaries in dispute shall have the force of an award of the arbitrators.

15. The Assistant Superintendent shall, on the application of the arbitrators or umpire, issue the same processes to parties and witnesses as he may issue in enquiries held by himself.

16. If the arbitrators or the umpire appointed under the preceding sections fail to deliver the award within the time allowed by the Assistant Superintendent, he may make an order superseding the arbitration, and in such case he shall proceed with the enquiry.

17. The award shall be made in writing, and shall be signed by the persons making it; and shall be filed in the office of the Superintendent with any evidence which may have been taken by the arbitrators

or the umpire. The Superintendent shall lay down the boundaries in accordance with the award.

18. The Superintendent may at any time cause to be erected, on any land which is to be or has been surveyed under this Act, temporary or permanent boundary-marks of such materials and in such number and manner as he may determine to be sufficient.

*Superintendent may erect boundary-marks.*

19. When any temporary boundary-mark has been erected under the last preceding section, the Superintendent may cause a notice in writing under his hand to be served on the owner or person in occupation of the land or premises whereon, or adjoining which such boundary-mark is situate, requiring him to maintain and keep in repair such boundary-mark till the survey has been completed.

*Maintenance of temporary boundary-marks.*

20. After the survey of any part of the Town has been completed, the Superintendent shall deposit all maps, field-books, proceedings, awards and all other documents connected with the survey of such part in the municipal office of the Corporation of Calcutta.

*All documents connected with the survey to be sent to the municipal office.*

Any person interested in the survey may, at any time within two months from the date of such deposit, which date shall be notified in the Calcutta Gazette, inspect such documents free of charge.

And, if during such period any objection to the survey be lodged with the Superintendent, such objection shall be decided by the Superintendent or by such officer as the Local Government may appoint in this behalf.

21. After all objections lodged under the last preceding section have been decided, the Local Government shall, if it approves the survey, signify such approval by notification in the Calcutta Gazette.

*Approval of the survey by the Local Government to be notified.*

**22.** No suit shall lie to set aside any demarcation of boundaries made under the provisions of this Act unless brought within one year from the date of the notification mentioned in the last preceding section.

No suit shall lie unless brought within one year.

**23.** The Local Government may lay down rules not being inconsistent with this Act to provide for the preparation of maps and for the collection and record of any information in respect of any land to be surveyed under this Act, and generally for the proper performance of all things to be done and for the regulation of all proceedings to be taken under this Act.

Local Government may make rules under the Act.

**24.** Every notice in and by this Act required to be served on any person may be served—

How notices may be served.

(a) by delivering the same to the person to whom it is directed, or, on failure of such service, by posting the same on some conspicuous part of the house in which the said person usually resides or holds his office, or carries on his business, or by delivering the same to an agent or servant of such person, or to a male adult member of his family and by fixing a copy on some conspicuous part of the land or premises to which it relates, or

(b) by sending a registered cover through the post office containing such notice directed to the said person at the place where he resides.

Provided that after the publication of the notification referred to in section 21, no survey made under this Act shall be vitiated for any defect in the service of notice.

**25.** Whoever fails to comply with a requisition contained in any notice duly served under section 5 or section 8 of this Act shall be liable to a fine not exceeding one hundred rupees.

Penalty for failure to comply with requisition in notice

26. No proceedings under this Act shall be affected by reason of any informality, provided the directions of this Act be in substance and effect complied with, and no proceedings under this Act shall be affected by reason of the omission to serve any notice on an owner whose name is not registered as owner in the Calcutta Collectorate or in the registers of the Corporation of the Town of Calcutta

Proceedings not to be affected by informality.

Power of Local Government to extend this Act to the suburbs •

27. The Local Government may extend the whole or any of the provisions of this Act to the whole or any part of the suburbs of Calcutta which may hereafter be amalgamated for municipal purposes with the Town of Calcutta.

## VI

### BENGAL ACT III OF 1883.<sup>1</sup>

( THE BENGAL TRAMWAYS ACT, 1883.)

[ As modified up to the 1st March, 1914 ]

( 2nd May, 1883 )

An Act to authorise the making and to regulate the working of tramways in Bengal

WHEREAS it is expedient to facilitate the construction and to regulate the working of tramways within the territories subject to the Government of the Lieutenant-Governor of Bengal<sup>2</sup>; it is enacted as follows.—

1 LOCAL EXTENT.—This Act was passed for the whole of the former Province of Bengal—see the preamble

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (I of 1900), s 4(2).

SIMILAR ACT.—The Indian Tramways Act, 1886 (XI of 1886—printed in General Acts, 1879-86, Ed. 1900, p 583), which runs on lines similar to those of the present Act, does not extend to Bengal, but the Lieutenant-Governor (now the Governor in Council) is, empowered by s 2 of that Act to extend it to Bengal or any part thereof

2 This includes the present Presidency of Fort William in Bengal and other territory.

Short title.                    1. This Act may be cited for all purposes  
as the Bengal Tramways Act, 1883.

(Commencement.) *Rep. by the Repealing and Amending Act,  
1908 (I of 1908).*

2. For the purposes of this Act the terms hereinafter  
Interpretation                mentioned shall, unless there be something  
repugnant in the subject or context, have the  
meanings hereinafter assigned to them:—

“Local authority.” the term “local authority” shall mean—

(1) bodies of persons for the time being appointed or elected  
to conduct the affairs of any municipality under  
Bengal Act V of 1876 or other law<sup>1</sup> for the time  
being in force for the purpose of regulating muni-  
cipalities in Bengal;

(2) any Board, Committee, Department or other body or  
person in whom a road as defined by this Act is  
vested, or who have the power to maintain or repair  
such road;

“Area”                    the term “area” in relation to a local  
authority shall mean the area within the  
jurisdiction of such local authority;

The term “municipality” shall mean any place in which  
“Municipality.”            Bengal Act V of 1876 or any other law<sup>1</sup> for  
the time being in respect of Bengal municipa-  
lities is in force.

The term “road” shall mean any carriage way, being a  
“Road.”                    public thoroughfare, and the carriage way,  
of any bridge forming part or leading to the  
same;

“Tramway.”                The term “tramway” shall mean a  
tramway constructed under this Act.<sup>2</sup>

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<sup>1</sup> Ben. Act V of 1876 has been repealed and re-enacted by the Bengal  
Municipal Act, 1884 (Ben. Act III of 1884)

<sup>2</sup> The expression “promoters” is defined in s. 3.

PART I

ORDERS BY THE LOCAL GOVERNMENT AUTHORIZING THE  
CONSTRUCTION OF TRAMWAYS.

By whom orders  
authorizing the  
construction of  
tramways may be  
obtained.

3. An order made by the Local Government authorizing the construction of any tramways in any municipality or area may be obtained by—

*1st*, the local authority of such municipality or area ;

*2nd*, any person, persons, corporation or company with the consent of such local authority.

And any such local authority, person, persons, corporation or company shall be deemed to be “ promoters ” of a tramway, and are in this Act referred to as “ the promoters.”

Where the local authority consists of a body of persons, Board or Committee, no application shall be made to the Local Government for the purpose of authorizing the construction of tramways in a municipality or area until a resolution, approving of the intention to make such application, shall be passed at a special meeting of the members constituting the local authority in such municipality or area.

When applications  
for authority to  
construct tramways  
may be made

Such special meeting shall not be held unless a month's previous notice of the same and of the purpose thereof has been given in the manner in which notices of meetings of such local authority are usually given, and such notice shall require that all objections to the proposed tramways shall be submitted for the consideration of the local authority before the date fixed for the special meeting.

Such resolution shall not be passed unless two-thirds of the members constituting such local authority are present and vote at such special meeting and a majority of those present and voting concur in the resolution

Documents to be  
forwarded with  
application.

4. At the time of making an application for such order the promoters shall also forward to the Local Government—

- (1) a memorial signed by the promoters, descriptive of the undertaking ;
- (2) a copy of the proceedings and resolution of the special meeting held under the provisions of section 5 ;
- (3) a copy of the provisional agreement made between the promoters and local authority, where the promoters are not themselves the local authority ;
- (4) an estimate of the proposed works, signed by the persons making the same ;
- (5) all necessary maps, plans, sections and drawings of the proposed work.

Local Government  
to determine on  
application and  
objection.

5. The Local Government shall consider the application, and may, if it think fit, direct an inquiry as to the propriety of proceeding upon such application, and it shall consider any objection thereto that may be filed on or before such day as it may from time to time appoint

Local Government  
may make and pub-  
lish order.

Where it appears to the Local Government expedient and proper that the application should be granted, with or without addition or modification, or subject or not to any restriction or condition, the Local Government may settle and make an order<sup>1</sup> accordingly, and such order shall be published in the Calcutta Gazette.

Every such order shall empower the promoters therein specified to make the tramway upon the gauge and in manner therein described, and shall contain such provisions, fix such maximum rates of fare and prescribe such penalties for default as (subject to the provisions of this Act) the Local Government, according to the nature of the application and the facts and circumstances of each case, thinks fit.

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<sup>1</sup> For a list of orders made under section 5 for Bengal as constituted on the 31st March 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.



Where the promoters are not the local authority, the order shall set forth the agreement made between the promoters and the local authority, and one of the provisions of such agreement shall settle the manner in which the value of the tramway shall be calculated in the event of its purchase, by the local authority, under sections 39, 40 or 41.

6. The Local Government, on the application of any promoters empowered by an order to construct a tramway, may from time to time revoke, amend or vary such order by a further order\*.

Provided that, whenever the promoters are not the local authority, the Local Government shall, before passing such order, call upon the local authority to state any objection it may have to such application

7. Subject to and in accordance with, the provisions of this Act, the Local Government may on a joint application, or on two or more separate applications, settle and make an order empowering two or more local authorities, respectively, jointly to construct the whole, or separately to construct parts of a tramway, and jointly or separately to own the whole or parts thereof, and all the provisions of this Act which relate to the construction of tramways shall extend and apply to the construction of the whole and the separate part of such tramway as last aforesaid, and the form of the order may be adapted according to the circumstances of the case

8. Where it is proposed to lay down a tramway in two or more areas, and any local authority having jurisdiction in any of such areas does not consent thereto, the Local Government may nevertheless make an order authorizing the construction of such tramway, if it is satisfied after inquiry that

Local Government may in certain cases dispense with consent of local authority.

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\* For lists of orders made under section 6 for Bengal as constituted on the 31st March 1922 see the Bengal Local Statutory Rules and Orders, 1912. Vol I, Pt VI

two-thirds of the length of such tramway is proposed to be laid in an area or areas the local authority of which area or areas does consent thereto.

9. If the promoters empowered by any order under this Act to make a tramway do not within the period prescribed in such order, complete the tramway and open it for public traffic or,

Promoter's powers to cease at expiration of prescribed time.

if the works are not substantially commenced within the latest date prescribed in such order for their commencement, or,

If the works, having been commenced, are suspended without a reason sufficient, in the opinion of the Local Government, to warrant such suspension ;

the powers given by the order to the promoters for constructing such tramway, executing such works, or otherwise in relation thereto, shall cease to be exercised to the extent and in the manner specified in such order.

A notice inserted by the Local Government in the Calcutta Gazette to the effect that a tramway has not been completed and opened for public traffic, or that the works have not been substantially commenced, or that they have been suspended without sufficient reason, shall be conclusive evidence for the purposes of this section of such non-completion, non commencement or suspension.

10. When the local authority of any area are the promoters of any tramway, the expenses incurred by them in constructing and working such tramway under the provisions of this Act, including the expenses preparatory thereto, may be paid out of the funds under the control of such local authority.

Payment of expenses when local authority are promoters.

11. When the local authority are not the promoters, they may fix and demand from the promoters such rent for the use of roads as may be agreed upon.

Rent for use of road when local authority are not promoters.

12. Any moneys received by any local authority by way of rent or tolls in respect of any tramway constructed and worked under the provisions of this Act may be applied by them to the purposes for which other funds under the control of such local authority may be applied.

13. The Local Government may from time to time make, and when made may revise, modify, annul, add to or confirm, any rules it may be expedient to make for the purpose of carrying this Act into execution.

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## PART II.

### CONSTRUCTION OF TRAMWAYS.

14. Every tramway shall be constructed and maintained on such gauge and in such manner as may be specified in the order of the Local Government empowering the construction of such tramway, and, before the work of construction is begun, the maps, drawings and specification showing the proposed construction of such tramway shall be submitted to the local authority and be approved by it, and the cars and carriages intended to run on the tramways shall also be of such construction and furnished with such brakes and other appliances as shall have been approved by such local authority.

15. The promoters may from time to time, for the purpose of constructing and maintaining any tramways under this Act, open and break up the soil and pavement of any of the roads upon which the construction and maintenance of such tramway has been authorized by the order of the Local Government in that behalf, and therein lay sleepers and rails, and repair, renew, alter or remove the same; and may, for the purposes aforesaid, do in and on such roads all other acts which shall from time to time be necessary for constructing and maintaining their tramways:

Provided that, when the powers granted under this section shall be exercised by the promoters who are not the local authority, such powers shall be exercised subject to the following regulations.—

*1st.*—They shall give to the local authority notice in writing of their intention to open or break up any such road, specifying the time at which they will begin to do so, and the portion of the road proposed to be opened or broken up. Such notice to be given at least seven days before the commencement of the work

*2nd.*—They shall not open or break up or alter the level of any such road, except under the superintendence and to the reasonable satisfaction of the local authority, for which superintendence the promoters shall pay all reasonable expenses unless the local authority neglect to give such superintendence at the time specified in the notice, or discontinue the same during the work.

*3rd.*—They shall not, without the consent of the local authority, in writing, open or break up at any one time a greater length than a quarter of a mile in any one length, and shall leave an interval of at least a quarter of a mile between any two such places at which they may open or break up such road.

*4th.*—They shall, with all convenient speed, and in all cases within two calendar months at the most, unless the local authority otherwise consent in writing, complete the work for which the said road shall be broken up, and fill in the ground, and make good the surface, and, to the reasonable satisfaction of the local authority, restore the road to as good a condition as that in which it was before it was opened or broken up, and clear away all surplus materials or rubbish occasioned thereby.

5th.—They shall in the meantime, when such road is opened or broken up, cause it to be fenced and watched, and to be properly lighted at night.

6th.—They shall make good all damage done to the gas and water-pipes, sewers, drains, culverts, bridges and fences, whether belonging to the local authority or to private individuals, by the disturbance thereof, and shall not cause any interruption in the supply of gas in or through any main or pipe, or the flow of water through any pipe, drain, culvert, bridge or other waterway; if they fail to make such damage good or to remove such interruption within reasonable time, the local authority may, without prejudice to the penalties payable under section 29, cause the same to be made good at the promoters' expense.

16. The promoters shall at their own expense at all times maintain and keep in good condition and repair, in such manner as the local authority shall direct the rails of which any of their tramways shall for the time being consist, and so much of any road as lies between the rails of any tramway; and, in the case of double lines or turnouts or sidings the portion of the road between the tramways, and in every case so much of road as extends eighteen inches beyond the rails of and on each side of any such tramway; and in the course of carrying out repairs it shall not be necessary to give notice thereof to the local authority.

17. In exercising the powers given to them by the last two preceding sections the promoters shall arrange their work so as to afford the least possible obstruction to the ordinary traffic of the roads or to the ordinary means of approach to houses situated on either side of the roads, and so as to admit of as free and unrestricted entry at all times into the sewers, drains, culverts, and bridges for the time being in use as is possible under the circumstances and also so as to enable proper repairs to be made to water or gas pipes by the direction of the local authority.

Promoters to keep  
the tramway roads  
in proper repair

Promoters not to  
obstruct ordinary  
traffic.

18. Nothing in this Act, or in any by-law made under this Act, shall take away or abridge the right of the public to pass along or across every or any part of any road along or across which any tramway is laid, whether on or off the tramway, with carriages not having flange wheel or wheels suitable to run on rails. But the right of the public shall not include the use of any new road-way, embankment or earthwork constructed or acquired for the special and exclusive use of the tramway.

19. Notwithstanding anything in this Act contained, the promoters shall not acquire, or be deemed to acquire, any right other than that of user of any road along or across which they lay any tramway.

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### PART III.

#### WORKING OF TRAMWAYS.

20. No tramway shall be opened for public traffic until the same has been inspected and certified by an Engineer or other officer, appointed in that behalf by the Local Government, to be fit, for such traffic.

21. When a tramway has been completed under the provisions of this Act and certified to be fit to be opened for public traffic under the last preceding section, the local authority or other promoters may, subject to the provisions of this Act, place and run carriages on such tramway, and demand and take tolls and charges in respect of the use of such carriages; or may, by lease to be approved of by the Local Government, demise to any person, persons, corporation or company the right of user by such person, persons, corporation or company of the tramway, and of demanding and taking in respect of the same the tolls and charges authorised; or such authority may leave such tramway open to the public, and may in respect of such user demand and take the tolls and charges authorised.

22. The cars and carriages of the promoters on the lines of the tramway shall be worked with such power, animal, mechanical or otherwise, as may be specified in the order issued by the Local Government under section 5.

23. The promoters may use on their tramways carriages with flange wheel or wheels suitable for running on the prescribed form of rail, and, subject to the provisions of this Act, they shall have the exclusive use of their tramways for carriages with flange wheels or other wheels suitable for the said form of rail.

24. The promoters shall have power from time to time to fix the rates of fares for carrying passengers and goods in the said cars or carriages, and may demand and take the same for every passenger travelling upon any of their tramways, or for the carriage of goods by their tramways.

Provided that the rate of fare for each person or parcel shall not exceed the maximum rates authorized in the order of the Local Government issued under section 5.

25. A printed list, in English and the vernacular of the district, of all the fares and charges fixed under the authority of the last preceding section, and a printed copy in the same languages of all by laws in force as hereinafter mentioned, shall be exhibited in a conspicuous place inside each of the cars or carriages used by the promoters upon any of their tramways.

The fares and charges fixed as aforesaid shall be paid to such persons at such places, upon or near to the tramways, and in such manner and under such regulations as the promoters may, by notice to be annexed to the list of fares, from time to time appoint.

26. The members constituting the local authority in a municipality or area in special general meeting may, subject to confirmation thereof by the Local Government, from time to time make such by-laws as

to the rate of speed, number of passengers and mode of use of the tramways as the convenience and safety of the public may require, and as are not inconsistent with this Act or any rules framed under section 13.

*The promoters may make certain by-laws* 27. The promoters may, subject to confirmation as aforesaid, from time to time make such by-laws\*—

for preventing disturbances, or the entry of persons suffering from infectious diseases, or the commission of any nuisance in or upon any carriage, or in or against any premises, belonging to them; and

for regulating the travelling in or upon any carriage belonging to them :

Provided that such by-laws are not inconsistent with this Act or with any rules or by-laws framed under sections 13 and 26.

28. All rules and by-laws made under sections 13, 26 and 27, and confirmed by the Local Government, shall, when so confirmed, be published in the Calcutta Gazette and such rules and by-laws when so published shall, until repealed or altered, be of the same effect as if they had been inserted in this Act

Provided that no rules and by-laws shall be confirmed by the Local Government until they shall have been published for at least one month previously in the Calcutta Gazette and in one or more of the local newspapers (if any exist) which circulate in the district to which such rules and by-laws relate.

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\* For by-laws made under sections 26 and 27 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I., Pt VI



PART IV

OFFENCES.

29. If the promoters, not being the local authority, fail in any respect to comply with the provisions of sections 14, 15, 16, 17, 20 and 22 of this Act, they shall for every such offence (without prejudice to the enforcement of specific performance of the requirements of this Act, or to any other remedy against them), upon complaint of any person injuriously affected thereby, be liable to a penalty not exceeding two hundred rupees and to a further penalty not exceeding fifty rupees for each day during which any such failure continues after the first day on which such penalty is incurred.

Penalty for failure of promoters to comply with provisions of this Act.

30. If any person wilfully obstructs any person acting under the authority of promoters in the lawful exercise of their powers in setting out or making, laying down, repairing or renewing a tramway, or injures or destroys any mark made for the purpose of setting out the lines of the tramway, he shall, for every offence, be liable to a penalty not exceeding fifty rupees, and shall also be liable to pay such damages as may be awarded in respect of such injury by any competent Court.

Penalty for obstructing promoters in the exercise of their power.

31. If any person without lawful excuse (the proof whereof shall lie on him) wilfully does any of the following things, namely:—

Penalty for interfering with tramway.

interferes with, removes or alters any part of a tramway of the promoters, or of the works connected therewith;

does or causes to be done anything in such a manner as to obstruct any carriage using the tramways;

or knowingly aids or assists in the doing of such thing,

he shall for every such offence be liable (in addition to any proceedings by way of criminal charge or otherwise to which he may be subject) to a penalty not exceeding one hundred rupees.

32. If any person travelling or having travelled in any carriage of the promoters avoids or attempts to avoid payment of his fare, or if any person having paid his fare, for a certain distance knowingly and wilfully proceeds in any such carriage beyond such distance and does not pay the additional fare for the additional distance, or attempts to avoid payment thereof, or if any person knowingly and wilfully refuses or neglects on arriving at the point to which he has paid his fare to quit such carriage, every such person shall, for every such offence, be liable to a penalty not exceeding ten rupees.

33. It shall be lawful for any servant of the promoters to arrest and take to the nearest police-station any person who shall be discovered in committing or attempting to commit any such offence as in the last preceding section mentioned, and who shall refuse to give his name and residence, and is unknown to such servant.

34. No person shall be entitled to carry or to require to be carried on any tramway any goods which may be of a dangerous or offensive nature, and if any person send by any tramway any such goods without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing to the book-keeper or other servant of the promoters with whom the same are left at the time of such sending, he shall be liable to a penalty not exceeding fifty rupees for every such offence, and it shall be lawful for the promoters to refuse to accept or carry any parcel that they may suspect to contain goods of a dangerous or offensive nature, or to require the same to be opened to ascertain the fact.

35. Any person offending against any by-law made under the provisions of this Act shall forfeit for every offence any sum not exceeding twenty

rupees to be imposed in such by-laws\* as a penalty for such offence.

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PART V.

MISCELLANEOUS.

36. The promoters shall be answerable for all accidents, damages and injuries happening through their act or default, or through the act or default of any person in their employment by reason or in consequence of any of their works or carriages, and in all cases where the promoters are not the local authority they shall save harmless the local authorities and their respective officers and servants from all damages and costs in respect of such accidents, damages and injuries.

37. Nothing in this Act shall limit the powers of the local authority or the police to regulate the passage of any traffic along or across any road along or across which any tramways are laid down and such local authority or police may exercise their authority as well on as off the tramway, and with respect as well to the traffic of the promoters as to the traffic of other persons.

The local authority shall not be liable to pay to the promoters any compensation for loss of traffic occasioned by the reasonable exercise of such authority.

38. Nothing in this Act shall be construed to prevent the local authority or any corporate body or persons, in the exercise of the powers conferred upon them under any law for the time being in force, from opening, breaking up, widening, altering, diverting or improving any of the roads, bridges, drains or culverts traversed by the tramways for the purposes for which they may

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\* For by-laws made under section 35 for Bengal as constituted on the 31st March 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Part VI.

now lawfully open, break up, widen, alter, divert or improve the same :

Provided—

- (1) that they shall cause as little detriment or inconvenience to the promoters as circumstances admit ;
- (2) that they may (if absolutely necessary, but not otherwise), order the temporary stoppage of traffic on the tramways or any of them on giving twenty-four hours' previous notice in writing to the promoters ;
- (3) that, before they commence any work whereby the traffic on the tramway will be interrupted, they shall (except in cases of urgency, in which cases no notice shall be necessary) give to the promoters notice of their intention to commence such work, specifying the time at which they will begin to do so ; such notice to be given eighteen hours at least before the commencement of the work ;
- (4) that, in the event of their so interfering with or stopping the running of any tramway under this section, and abatement, proportioned to the length of road over which and time during which running is stopped, shall be made from the rent (if any) reserved and payable by the promoters ;
- (5) that any alteration of the position of any of the tramways, or the making good of any injury or damage that may be occasioned thereto by reason of such widening, alteration or improvement shall be executed by the promoters at the expense of the local authority.

*Discontinuance of Tramways.*

39. If at any time after the opening of any tramway for traffic the promoters discontinue the working of such tramway or of any part thereof for the space of three calendar months (such discontinuance not being occasioned by circumstances beyond the control of such promoters, for which purpose the want of suffi-

Tramways to be removed in certain cases.

cient funds shall not be considered a circumstance beyond their control), and such discontinuance is proved to the satisfaction of the Local Government, the Local Government, if it think fit, may by order declare that the powers of the promoters in respect of such tramway or the part thereof so discontinued shall from the date of such order be at an end, and thereupon the said powers of the promoters shall cease and determine unless the same are purchased by the local authority in manner by this Act provided.

Where such order has been made the Engineer or other officer appointed on that behalf by the Local Government may, at any time after the expiration of two months from the date of such order, remove the tramway or part of the tramway so discontinued, and the promoters shall pay to such Engineer or officer the cost of such removal and of the making good of the road by such Engineer or officer.

Such cost to be certified by such Engineer or officer, whose certificate shall be final and conclusive,

And, if the promoters fail to pay the amount so certified within one calendar month after delivery to them of such certificate or a copy thereof such Engineer or officer may without any previous notice to the promoters (but without prejudice to any other remedy which he may have for the recovery of the amount) sell and dispose of the materials of the tramway or part of the tramway removed, either by public auction or private sale, and for such sum or sums and to such person or persons as such Engineer or officer may think fit; and may out of the proceeds of such sale make and reimburse himself the amount of cost certified as aforesaid and of the costs of sale, and the balance (if any) of the proceeds of the sale shall be paid over by the said Engineer or officer to the promoters.

#### *Inability of Promoters.*

40. If at any time after the opening of any tramway it appears to the local authority, or to the Magistrate of the district in which such tramway is situate, that the promoters of such tram-
- Proceedings in case of inability of promoters.

way are insolvents, or that they are unable to maintain such tramway, or work the same with advantage to the public

the Local Government, upon a representation to that effect made by such Magistrate or local authority, may direct an inquiry by a referee into the truth of the representation,

and if the referee shall find that the promoters are such insolvents, or that they are unable to maintain such tramway or work the same with advantage to the public, the Local Government may, by order, declare that the powers of the promoters shall, at the expiration of six calendar months from the making of the order, be at an end,

and the powers of the promoters shall cease and determine at the expiration of the said period unless the same are purchased by the local authority in manner by this Act provided and thereupon the Engineer or other officer appointed on that behalf by the Local Government may remove the tramway in like manner, and subject to the same provisions as to the payment of the costs of such removal, and to the same remedy for the recovery of such costs in every respect, as in cases of removal under the last preceding section.

#### *Purchase of Tramways.*

41. The local authority shall have the right of purchasing the tramway, with the plant, buildings, stores, rolling-stock and everything connected therewith, upon the expiration of twenty-one years from the date of the order of the Local Government authorizing the construction of such tramway, upon declaring its intention so to do in writing not less than six months before the expiration of the said twenty-one years, and shall have a renewed right of purchase at the end of every seven years after the expiration of the said twenty-one years upon similar notice being given; and the value to be placed upon the tramway shall be calculated in a manner to be settled in the agreement entered into between the promoters and the said local authority and set forth in the order of the Local Government:

Local authority  
to have right of  
purchasing tram-  
way after twenty-  
one years

Provided that the promoters and the local authority may, with the consent of the Local Government, provide in the said agreement for sale and purchase of the tramway on the expiration of any shorter\* [or longer] periods than those hereinbefore specified.

11. When the local authority are not the promoters, they may fix and demand from the promoters such rent for the use of roads as may be agreed upon.

Rent for use of road when local authority are not promoters.

12. Any moneys received by any local authority by way of rent or tolls in respect of any tramway constructed and worked under the provisions of this Act may be applied by them to the purposes for which other funds under the control of such local authority may be applied.

Application of rent or tolls.

13. The Local Government may, from time to time, make, and, when made, may revise, modify, annul, add to, or confirm, any rules it may be expedient to make for the purpose of carrying this Act into execution.

Power to make rules.

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## VII.

### THE CALCUTTA HACKNEY-CARRIAGE ACT.

BENGAL ACT No. II OF 1891.

WHEREAS it is expedient to consolidate and amend the law relating to hackney-carriages and palanquins in Calcutta; It is hereby enacted as follows :—

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#### CHAPTER I.

##### *Preliminary.*

1. (1) This Act may be called the Calcutta Hackney-carriage Act, 1891.

Title.

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\*The words "or longer" were inserted by the Bengal Tramways (Amendment) Act, 1904 (Ben. Act I of 1904), s. 2.

**Commencement.** (4) It shall come into force from the date on which it may be published in the Calcutta Gazette with the assent of the Governor-General.

**Application and extension of Act.** (5) It shall apply to Calcutta as hereinafter defined, and may be extended from time to time to any other town or place in Bengal by a notification published in the Calcutta Gazette.

**Repeal.** 2. (1) Acts V of 1866 and IV of 1878 are hereby repealed.

**Savings.** (2) This repeal shall not affect the validity of anything done or suffered, or of any right, title, obligation or liability which may have accrued, and all appointments, extensions and registrations made, licenses issued, notifications published, penalties incurred, and other things duly done under any such enactments shall, so far as they are consistent with this Act, be deemed to have been respectively made, issued, published, incurred or done hereunder.

(3) All references made to any such enactment shall, as far as may be practicable, be deemed to be made to this Act.

(4) All proceedings now pending which may have been commenced under any such enactment shall be deemed to be commenced under this Act.

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

(1) "Calcutta" (subject to the inclusion or exclusion of any local area by the Local Government under section four) means Calcutta as defined by the Calcutta Municipal Consolidation Act, 1888.

(2) "Hackney-carriage" means any wheeled vehicle drawn by horses and used for the conveyance of passengers which is kept or offered, or plies for hire by the hour or day or according to distance; but shall not include any carriage used wholly upon any railway or tramway.

(3) "Horse" includes mule and pony.



(4) "Stage-carriage," means any hackney-carriage, the passengers in which shall be charged or shall pay separate and distinct fares, or shall be charged or pay, at the rate of separate and distinct fares, for their respective places or seats therein or conveyance thereby.

(5) "The Commissioners" means the Corporation of Calcutta.

4. The Local Government may, by notification published in the Calcutta Gazette, exclude from Calcutta any local area or include therein any local area in the vicinity of the same, and defined in the notification:

Provided that, where the local area to be included is a Military Cantonment, a notification shall not be published under this section in respect of it without the previous sanction of the Governor-General in Council

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## CHAPTER II

### *Registration of Hackney-carriages.*

5 (1) Every hackney-carriage in Calcutta shall be annually registered by a Registering Officer who shall be appointed for the purpose by the commissioners, and who shall keep a register in which he shall enter every hackney-carriage under either the first, the second, or the third class.

(2) Every act, matter or thing done by Registering Officer, under or by virtue of this Act, shall be subject to the control of the Chairman of the Commissioners.

(3) The appointment and removal of such Registering Officer shall be subject to the provisions of section 41 of the Calcutta Municipal Consolidation Act, 1888.

6. The year of registration shall commence on the first day of October of each year, and shall terminate on the thirtieth day of September following.

Time and duration of registry.

7. (1) The owner of any carriage, who is desirous of registering it as a hackney-carriage shall apply to the Registering Officer, stating the class in which he desires that the carriage may be registered, and shall submit the carriage for the inspection of the Registering Officer.

Application for registry.

(2) The Registering Officer shall decide whether the carriage is fit to be registered in the class applied for, and shall register it in that class or refuse to grant the application.

Application may be granted or refused.

(3) The person in whose name any carriage is registered shall be deemed the owner of such carriage for the purposes of this Act.

"Owner" of carriage.

8. (1) The Registering Officer shall, at the time of registration, deliver a license duly signed by him to the owner of every hackney-carriage.

License to be delivered to owner.

(2) Such license shall be in force for the year of registration.

Duration of license.

9. The following particulars shall be entered in the register, and shall be specified in the license to be given to the owner —

Particulars of register and license

(a) the class and the number assigned to the carriage in the register ;

(b) the name and residence of the owner, the description of the carriage, and the place where such carriage is intended to be kept.

(c) the number and description of horses to be employed in drawing such carriage, and the place where such horses are intended to be kept ;

(d) the number of persons the carriage is licensed to carry.

10. A fee of four rupees shall be paid for each registration of a carriage of the first class, a fee of three rupees for each registration of a carriage of the second class, and a fee of two rupees for each registration of a carriage of the third class.

11. The Registering Officer may suspend for such period as he thinks fit or cancel the registration of any carriage and the license granted to the driver under this Act, whenever it shall appear to him that such carriage or any horse or harness used with such carriage is unfit for public use; due regard being had to the class in which such carriage is registered.

12. (1) Whenever any change shall take place in the ownership of a hackney-carriage, if the person to whom such carriage shall have been transferred shall desire to use it as a hackney-carriage, he shall before so using it give to the Registering Officer notice in writing of such transfer, and shall include in such notice the particulars specified in clauses (b) and (c) of section nine.

(2) If any such person shall, before giving such notice as aforesaid, use such carriage as a hackney-carriage, he shall be liable to a fine not exceeding five rupees for every day during which he shall so use the same.

13. (1) Whenever the owner or driver of a registered hackney-carriage shall change his residence or the place where such carriage and horses are kept, he shall, within one week from the date of such change, give to the Registering Officer a notice in writing which shall include the particulars specified in clauses (b) and (c) of section nine.

(2) Every such owner or driver who shall neglect to give such notice shall be liable for every such offence to a fine not exceeding ten rupees.

14. The Registering Officer, on receiving the notices specified in either of the two last preceding sections shall make the necessary alteration in the register and in the license ; and a fee of eight annas shall be chargeable in respect thereof.

Change of ownership or residence to be entered in register.

15. (1) Whoever keeps or is the proprietor of any hackney-carriage which has not been duly registered under this Act shall be liable to a fine not exceeding one hundred rupees.

Penalty for keeping unregistered carriage.

(2) Any Police Officer or any person duly authorised by the Commissioners in that behalf and wearing a distinctive badge to indicate his official capacity may seize and remove to a police-station such carriage, together with the horse drawing the same.

Seizure of such carriage and horse.

(3) If the hackney-carriage or horse so seized be not claimed and if any fine imposed be not paid, together with any costs or charges incurred, within ten days of such seizure or imposition of such fine respectively, such carriage and the horse seized therewith may be sold by auction, and the proceeds applied to the payment of the fine and all costs and charges incurred on account of the detention and sale.

When such carriage or horse may be sold

(4) The surplus, if any, if not claimed by the owner within a further period of twenty days, shall be credited to the hackney-carriage fund.

When surplus to be credited to hackney-carriage fund.

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### CHAPTER III.

#### *Plate on hackney-carriage.*

16. Upon the registration of any hackney-carriage, the Registering Officer shall provide a plate bearing the class and the number of such carriage in the register and the number of persons it

Plate to be affixed outside carriage.

is licensed to carry, and shall cause such plate to be affixed on some conspicuous part of the outside of the carriage.

17. If any hackney-carriage shall be let, used, or ply for hire without having a proper plate duly affixed as required by the last preceding section, the owner thereof shall be liable to a fine not exceeding fifty rupees.

Penalty for using carriage without plate.

18. Whenever the words or figures on any plate shall, during the term of the license, become indistinct or obliterated, and also whenever any plate shall have been lost or stolen, the owner of the hackney-carriage on which such plate was affixed shall deliver such plate (if he shall have the same in his possession) to the Registering Officer and shall be entitled to have a new plate affixed upon payment of one rupee

New plate may be had on loss or obliteration of former one.

Provided that if any plate which shall have been proved to have been lost or stolen shall afterwards be recovered, the same shall forthwith be delivered to the Registering Officer; and every person in or into whose possession any such plate as last aforesaid shall be or come and who shall refuse or neglect for three days to deliver the same to the said Registering Officer, and also every registered owner who shall use or permit to be used any plate after the writing thereon shall have become indistinct or obliterated shall, for every such offence be liable to a fine not exceeding ten rupees.

Penalty for using obliterated plate or for failing to deliver lost plate when recovered

19. (1) On the expiration or other determination of the registration, the owner of every hackney-carriage shall cause the plate of such hackney-carriage to be delivered to the Registering Officer.

Plate to be delivered on expiry of registration.

(2) Any person who, after the expiration of the period aforesaid, shall wilfully neglect for three days to deliver the plate to the said officer, and every person who shall retain any plate affixed in

Penalty for neglecting to deliver such plate.

respect of a registration which is no longer in force shall, for every such offence, be liable to a fine not exceeding fifty rupees.

20. (1) Every person who shall, for the purpose of deception, use or have any plate resembling or intended to resemble any plate affixed under this Act shall, for every such offence, be liable to a fine not exceeding two hundred rupees.

Penalty for fraudulently using counterfeit plate.

(2) It shall be lawful for any Police Officer or any person employed for the purposes of this Act by the Registering Officer, to seize and take away any plate used or had as aforesaid wheresoever the same may be found, and to deliver the same to the Registering Officer.\*

Police may seize counterfeit plate.

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#### CHAPTER IV.

##### *Driver's License.*

21. (1) It shall be lawful for the Registering Officer to grant a license to Act as driver of hackney-carriage to any person who shall apply for the same, and to whom it may seem proper to the said officer to grant it :

Driver of hackney-carriages to have license.

Provided that no person shall be so licensed who is under sixteen years of age.

Proviso.

Particulars of license (2) Every such license shall contain—

- (a) the number of the license ;
- (b) the name, father's name, place of abode, and age of the person to whom such license is granted ;
- (c) the description of carriage and horses such person is licensed to drive ;
- (d) the date on which the license was granted, and shall bear the signature of the Registering Officer.

(3) The license shall continue in force for one year from the date thereof unless the same shall be sooner revoked or suspended.

Duration of license.

(4) For every such license there shall be paid a fee of two rupees.

Fee for license.

22. If any person shall act as the driver of a hackney-carriage without having a license in force for the time being, or having a license shall transfer or lend the same or allow the same to be used by any other person, he shall be liable to a fine not exceeding twenty rupees, and in default of payment of fine to imprisonment for a period not exceeding fourteen days.

Penalty for not having license or lending it out.

23. Any owner of a hackney-carriage who shall suffer any person not duly licensed under this Act to act as driver of any hackney-carriage of which he shall be the owner, shall be liable for every such offence to a fine not exceeding fifty rupees,

Penalty for suffering unlicensed person to act as driver

Provided that such owner and such unlicensed driver shall be subject to all the provisions of this Act, for any act done or omitted to be done by such driver during such employment in like manner as if such driver has been duly licensed

Proviso.

24. The particulars of every license which shall be granted under the provisions of this Act shall be entered in books to be kept for that purpose at the office of the Registering Officer; and every person applying shall, at all reasonable times, be furnished with a certified copy of such particulars on payment of a fee of eight annas.

Particulars of license to be registered and copy given on payment of fee

CHAPTER V.

*Driver's Ticket.*

25. (1) The Registering Officer shall, at the time of granting a license to any driver of a hackney-carriage, deliver a metal ticket marked or engraved with a number corresponding the number of his license.

Driver to wear metal ticket

(2) Every driver to whom such ticket is delivered shall, at all times while acting as driver or while attending before any Magistrate, carry such ticket exposed to view.

Driver to wear ticket exposed to view.

(3) In case any such driver shall omit to wear such ticket exposed to view while acting as driver or attending before a Magistrate, he shall be liable to a fine not exceeding ten rupees, and in default of payment of fine to imprisonment for a period not exceeding one month.

Penalty for omitting to wear ticket.

26. Whenever the number on any ticket shall, during the term of the license, become indistinct or obliterated, and also whenever any ticket shall have been lost or stolen, the person to whom the license relating to any such ticket shall have been granted shall deliver such ticket (if he shall have the same in his possession), and shall produce such license to the Registering Officer, and such person shall then be entitled to have a new ticket delivered to him upon payment of eight annas :

Driver entitled to new ticket on loss or obliteration of former one.

Provided that if any ticket which shall have been proved to have been lost or stolen shall afterwards be recovered, the same shall forthwith be delivered to the Registering Officer ; and every person in or into whose possession any such ticket as last aforesaid shall be or come who shall refuse or neglect for three days to deliver the same to the said Registering Officer, and also every person licensed under the authority

Penalty for using obliterated ticket or for failing to deliver lost ticket when recovered.



of this Act who shall use or wear the ticket granted to him after the writing thereon shall have become indistinct or obliterated shall, for every such offence, be liable to a fine not exceeding ten rupees, and in default of payment of fine to imprisonment for a period not exceeding seven days.

27. (1) Upon the expiration or other determination of any license granted to a driver under this Act, such driver shall deliver such license and the ticket relating thereto to the Registering Officer.

Penalty for neglecting to deliver such license and ticket.

(2) Every driver who shall neglect for three days to deliver such expired license and ticket to the said officer, and also every person who shall use, wear or detain any such expired license or ticket or other than such as shall have been delivered to him under the provisions of this Act, and every person to whom any ticket shall have been delivered as aforesaid who shall lend such ticket to any other person, and every person who shall wear or use the ticket of any other person shall, for every such offence, be liable to a fine not exceeding twenty rupees, and in default of payment of fine to imprisonment for a period not exceeding one month.

28. (1) Every person who shall for the purpose of deception use or wear any ticket resembling or intended to resemble any ticket granted under the authority of this Act, shall, for every such offence, be liable to a fine not exceeding one hundred rupees, and in default of payment of fine to imprisonment for a period not exceeding one month.

Penalty for using or wearing counterfeit ticket.

(2) It shall be lawful for any Police Officer or any person employed for the purposes of this Act by the Registering Officer to seize and take away any such expired or counterfeit ticket wheresoever the same may be found, and to deliver the same to the Registering Officer.

Police may seize counterfeit ticket.

29. (1) Whenever any driver shall be summoned to appear before any Magistrate to answer any charge preferred against him under this Act, he shall carry with him his license and produce the same if required so to do; and any driver who shall on such requisition fail to produce such license shall, for every such offence, be liable to a fine not exceeding five rupees, and in default of payment of fine to imprisonment for a period not exceeding seven days.

Penalty for failing to produce license before Magistrate.

(2) It shall be lawful for any Magistrate, on conviction of any driver of any offence under this Act, to endorse on such license the nature of the offence, the date of the conviction and the amount of the penalty inflicted.

Conviction of any charge to be endorsed on driver's license.

30. (1) It shall be lawful for any Magistrate before whom any driver shall be convicted of any offence, whether under this Act or under any other Act, to revoke the license of such driver or to suspend the same for such time as the Magistrate shall think proper, and for that purpose to require the driver or any other person in whose possession such license and the ticket thereto belonging shall then be, to deliver up the same.

Revocation or suspension of driver's license on conviction.

(2) Every driver or other person who being so required shall refuse or neglect to deliver up such license and such ticket shall be liable for every such offence to a fine not exceeding twenty rupees, and in default of payment of fine to imprisonment for a period not exceeding fourteen days.

Penalty for refusal or neglect to deliver up license.

(3) The Magistrate shall forward every license and every ticket so delivered up to him to the Registering Officer, together with a memorandum of his sentence in the case.

Magistrate to send surrendered license to Registering Officer.

(4) The Registering Officer shall enter the fact of such sentence in the register referred to in section nine, and shall either suspend or cancel such

Cancellation or re-delivery.

license according to the sentence of the Magistrate; and if it has been suspended, the Registering Officer shall, on application at the end of the time of suspension, re-deliver such license or ticket to the person to whom it was granted

## CHAPTER VI.

### *Fares, Hiring and Plying for Hire.*

31. (1) The owner or driver of every hackney-carriage shall be entitled to demand and take for the hire of such carriage the fares specified in the first schedule to this Act :

Fare to be paid for hackney-carriage

Provided that when the owner or driver of any hackney-carriage, to be paid a fare calculated according to the distance, shall be required by the hirer thereof to stop such carriage for any time or times amounting altogether to not less than fifteen minutes, it shall be lawful for the owner or driver to demand and receive from the hirer so requiring him to stop a further sum of one-fourth of the rate for the first hour, for every fifteen minutes that he shall have been so stopped.

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(2) No owner or driver shall demand or receive over and above the said fare any sum for back fare for the return of the carriage from the place at which it was discharged :

Back fare not to be demanded

Provided that any contract entered into to accept a fare lower than the fare so fixed shall be binding.

Contract for lower fares to be binding.

32. (1) The owner of every registered hackney-carriage shall put up and at all times keep distinctly printed, painted or marked in the English, Urdu and Bengalee languages, in such manner and in such position as shall be directed by the Registering

Owner to keep list of fares inside carriage.

Officer, on the inside of such carriage, the amount of fare according to distance and time which may legally be demanded and taken from the hirer of such carriage as hackney-carriage.

(2) Every such owner who shall fail to comply with the provision of this section shall, for each offence, be liable on conviction to a fine not exceeding ten rupees.

33. (1) The driver of every registered hackney-carriage shall (unless he has a reasonable excuse to be allowed by the Magistrate before whom the matter shall be brought in question) drive such carriage to any place to which he shall be required by the hirer thereof to drive the same, not exceeding six miles from the place where the same shall have been hired.

(2) When any such carriage shall have been hired by time, the driver thereof shall drive the same at a rate not less than four miles within one hour; and if the driver of such carriage shall be required to drive more than four miles within one hour, then in every such case the driver thereof shall be entitled to demand, in addition to the fare regulated by time in the first schedule to this Act for every mile or any part thereof exceeding four miles, the fare regulated by distance as set forth in that schedule.

(3) Any such driver failing without reasonable excuse to comply with the provisions of this section shall be liable to a penalty not exceeding ten rupees, and in default of payment of fine to imprisonment for a period not exceeding seven days.

34. The driver of every registered hackney-carriage shall carry in or upon such carriage a quantity of luggage not exceeding two maunds, together with one additional maund for every person below four carried in the carriage without any additional charge.

**35. Any owner, person in charge of any registered hackney-carriage or driver who shall without sufficient reason refuse to let such carriage for hire, shall be liable for every such offence to a fine not exceeding fifty rupees, and to pay such further sum by way of compensation to the party complaining as to the Magistrate who shall hear the case may seem just; and such further sum shall, in default of immediate payment, be levied in the mode provided for the levying of fines under this Act.**

Penalty for refusing to let a carriage for hire.

**36. Every driver of hackney-carriage who shall—**

Penalty on driver for certain offences.

- (a) be drunk during his employment ;
- (b) make use of insulting or abusive language, or gesture ;
- (c) stand (elsewhere than at some stand or other place appointed for the purpose) or loiter for the purpose of being hired in or upon any public street, road or place ;
- (d) suffer his carriage to stand for hire across any street or alongside of any other carriage ,
- (e) refuse to give way (when he reasonably and conveniently may do so) to any other carriage ;
- (f) wilfully obstruct or hinder the driver of any other carriage in taking up or setting down any person into or from such other carriage ;
- (g) wrongfully prevent or endeavour to prevent the driver of any other carriage from being hired ;
- (h) demand or take more than the proper fare to which he is legally entitled ;
- (i) refuse to admit and carry in his carriage the number of persons painted or marked on the registered plate affixed to such carriage or specified in the register ;
- (j) carry more than such number of passengers ;

(k) refuse to carry by his carriage a reasonable quantity of luggage;

(l) before he has been discharged by the hirer (being hired by time) desert from the hiring;

(m) ply for hire with any carriage or horse which shall be at the time unfit for public use,

shall be liable to a fine not exceeding ten rupees, and in default of payment of fine to imprisonment for a period not exceeding seven days.

37. Any driver employed as such by the owner of any registered hackney-carriage who shall without sufficient excuse, refuse or neglect to attend at the premises of such owner for the purposes of driving any such carriage, whereby such owner is prevented from letting out the same, shall, on complaint by such owner, be liable for each offence to a fine not exceeding ten rupees, (which or any part of which may, by order of the Magistrate, be paid to the owner as compensation) and in default of payment of fine to imprisonment for a period not exceeding seven days.

38. (1) When a complaint is made before a Magistrate against the driver of a registered hackney-carriage for any offence committed by him against the provisions of this Act, such Magistrate may forthwith summon the owner of the carriage personally to appear and to produce the driver of such carriage to answer the complaint.

(2) If such owner, being duly summoned, shall, without a reasonable excuse, neglect or refuse personally to appear or to produce the driver according to such summons, he shall be liable to a fine not exceeding fifty rupees, and so from time to time as often as he shall be so summoned, until such driver shall be produced by him :

Provided that if such owner shall, without a reasonable ex-

Magistrate to hear and determine complaint on failure to appear.

cuse, neglect or refuse to appear and produce such driver on the second or any subsequent summons requiring him so to do, it shall be lawful for the Magistrate to proceed to hear and determine the complaint in the absence of the owner and driver, or either of them.

39. (1) If any person, who shall have hired a registered

Procedure on refusal to pay fares.

hackney-carriage, shall refuse to pay to the owner or driver thereof on demand the fare payable under this Act, it shall be lawful for the Magistrate to order payment of such fare and also of such compensation for loss of time as shall seem reasonable, and in default of payment of such fair and compensation may be recovered in the same way as a fine.

(2) If any person who shall have used any such carriage

Penalty for fraudulent evasion

shall attempt to evade payment of the fare or any portion of the same which he may be deemed liable to pay, he shall be liable to a fine not exceeding fifty rupees, or to imprisonment for a period not exceeding one month, in addition to the payment of such fare and compensation as hereinbefore mentioned.

40. (1) Any person who shall maliciously or knowingly

Penalty for destroying carriage plate, &c.

tear, destroy, deface, obliterate or remove any carriage-plate, table of fares or driver's ticket which shall have been granted under the provisions of this Act, shall be liable for every such offence to a fine not exceeding twenty rupees, and in default of payment of fine to imprisonment for a period not exceeding fourteen days.

Award of fine to owner of carriage-plate, &c.

(2) Any portion of the fine may be awarded to the person to whom such carriage-plate, table of fares or driver's ticket shall belong.

41. Any person using a registered hackney-carriage who shall wilfully injure the same shall be liable to a fine not exceeding twenty rupees, and in default of payment of fine to imprisonment for a period not exceeding fourteen days ; and shall also pay to the owner of the carriage such compensation for the injury as the Magistrate may direct.

42. In case of any dispute between the hirer and driver of any registered hackney-carriage, the hirer may, if any Magistrate be then sitting, require the driver to drive to the Court of such Magistrate, or, if no Magistrate be then sitting, to the Registering Officer ; and if any driver shall refuse to obey such requisition, it shall be lawful for the hirer to give such driver into the custody of the nearest Police Officer ; such Police Officer shall thereupon take the driver and the hirer together with the carriage and horse to such Court or Registering Officer, and the then sitting Magistrate or Registering Officer shall in either of the cases aforesaid hear and determine the dispute in a summary way

43. In the case of disputes as to fare to be calculated according to the distance, any table or book signed by the Registering Officer shall, on proof of such signature, be taken to be conclusive evidence of the distances therein stated.

44. (1) It shall be lawful for any registered hackney-carriage to ply for hire as a stage-carriage.

(2) The owner or driver of a carriage so plying for hire or hired as a stage-carriage, shall not be subject to the provisions of section thirty-one of this Act, but shall be entitled to demand and take for the hire of such carriage such fares as shall be agreed upon between him and the several hirers respectively,



(3) All the other provisions of this Act shall be applicable to the case of a hackney-carriage plying as a stage-carriage, so far as the same shall be applicable in each particular instance.

Hackney-carriages plying as stage-carriages subject to provisions of Act.

45. (1) The Registering Officer shall from time to time appoint one or more stands in Calcutta for hackney-carriages registered under this Act, and may also assign for the use of such carriages, as public stands, any coach-houses, stables or sheds, or other suitable places.

Stands to be appointed.

(2) Every public stand so appointed or assigned shall have a board affixed in a conspicuous place in front thereof, containing a notice in the English, Urdu and Bengalee languages that the stand is a public stand under this Act.

Stands to have boards affixed in front of them.

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## CHAPTER VII

### *Palanquins.*

46. (1) Every palanquin plying for hire in Calcutta shall be annually registered by the officer appointed for registering hackney-carriages at the time and in the manner hereinbefore provided with respect to the registration of hackney-carriages

Palanquins to be registered annually

(2) Upon each registration a fee of eight annas shall be paid

Fee for registration.

Provided that the Registering Officer may refuse to register any palanquin or may cancel the registration thereof whenever it may appear to him to be unserviceable or unfit for public use

Refusal to register palanquins.

47. (1) The following particulars shall be entered in the register, namely—

Particulars of register.

- (a) the number of the palanquin ;
- (b) the name and residence of the owner.

- (2) Every change of ownership or residence shall be notified to the Registering Officer, subject to the same provisions and penalties in default as are provided in the case of the owners of hackney-

Change of ownership or residence to be notified.

carriages.

48. (1) The owner of every registered palanquin shall cause the register number thereof to be painted in the English and Bengalee figures on a conspicuous part thereof.

Registered number to be painted on palanquin.

- (2) The owner of any palanquin plying for hire without being registered or having the number affixed thereto as aforesaid shall be liable to a fine not exceeding ten rupees.

Penalty for neglecting to register palanquin.

- (3) The person in whose name a palanquin is for the time being registered shall be deemed the owner thereof for the purposes of this Act

"Owner" of palanquin,

49. The owner of every palanquin shall put up and at all times keep distinctly printed, painted or marked in the English, Urdu and Bengalee languages, in such manner and in such position as shall be directed by the Registering Officer, on the inside of such palanquin the amount of fare according to distance and time which may be legally demanded and taken from the hirer of such palanquin.

Owner to keep list of fares inside palanquin.

50. (1) The owner or person in charge of every palanquin shall be entitled to demand and take for the hire of such palanquin the fares specified in the second schedule to this Act.

Fares to be paid for palanquin.

Provided that when the owner or person in charge of any palanquin to be paid a fare calculated according to the distance shall be required by the

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hirer thereof to stop such palanquin for fifteen minutes, or for any longer time, it shall be lawful for the owner or person in charge to demand and receive from the hirer so requiring him to stop a further sum of one-fourth of the rate for the first hour for every fifteen minutes that he shall have been so stopped.