

- (2) Chaukidars are empowered to seize and impound cattle doing damage or found straying on public roads and other public places. They are also bound, when required, to assist any private person if opposed when seizing or taking to the pound cattle found trespassing on land in his occupation and damaging the land or any crop (cf. Sections 10 and 11, Cattle Trespass Act pp:....)
- (B) For the proper performance of the duties imposed on them, it is advisable to assign to chaukidars separate beats, each comprising one or more entire revenue survey villages (or mouzas) or a specifically defined portion of such a village.
- (C) District magistrates may, by order under section 24 (1) (viii) require all dafadars and chaukidars to report promptly to the officer in charge of the police station and the president of the union board, the occurrence of large fires, storms or floods and the amount of damage done; any damage to roads, bridges, ferries, telegraph posts or wires; the outbreak of any pest or disease causing damage to crops; the existence of distress among any class of the population and any important matter likely to affect the maintenance of law and order or the safety and well being of the people.

24. Whenever a dafadar or chaukidar arrests any person under section 23, he shall forthwith take the person so arrested to the police-station within the limits of which the union is situated:

Procedure on arrest by dafadar or chaukidar. Provided that, if the arrest is made at night, such person shall be so taken, as soon as convenient, on the following morning.

Note.—If an arrest is made during the day time, the persons arrested should not be taken to the president, as this would cause delay. But if an arrest is made at night the prisoner may be kept until morning in the president's house or any other convenient place. Information of the occurrence must, of course, be given to the president, under Clause (i) of Section 23, as soon as possible.

25. All fines realized from a dafadar or chaukidar under section 22 of this Act shall be credited to a district chaukidari reward fund, the control over which shall rest with the district magistrate.

Note.—Fines under Section 22 by the union board should be remitted to this circle officer (vide rule....., p.....)

CHAPTER IV.

POWERS AND DUTIES OF UNION BOARDS.

Duties of union boards.

26. Every union board—

- (1) (a) shall take such action as is necessary to secure the due performance by the dafadars and chaukidars of the union of the duties imposed on them under this Act, and shall exercise a general control over them ;
 - (b) shall provide, as far as possible, for the sanitation and conservancy of the union and for the prevention of public nuisances therein ;
 - (c) shall make special arrangements for the sanitation and conservancy of fairs and mélas held within the union ;
 - (d) shall have control of all drains and other conservancy works within the union which are not under the control of any other authority ;
 - (e) shall execute all works that are necessary for the preservation of public health and for improving the sanitation, conservancy or drainage of the union ;
 - (f) shall supply any local information which the district magistrate or the district board or local board may require ; and
 - (g) shall perform all such other acts as may be necessary to carry out the purposes of this Act ;
- (2) shall perform such functions as may be transferred to it by notification under section 31 of the Cattle-trespass Act, 1871 ;

(3) if required to do so by the district magistrate, shall provide for the registration of births and deaths within the union under the provisions of the Bengal Births and Deaths Registration Act, 1873;

(4) shall cause such processes as may be received by the union board for service to be duly served by a dafadar or chaukidar in accordance with rules under section 101; and

(5) may undertake and carry out any other local work of public utility likely to promote the health, comfort or convenience of the public, and not otherwise provided for in this Act.

Notes.—Sub-section (1) *Clause (a).* Members of a union board should do their utmost and use all their personal influence to preserve peace and prevent crime within the union. They should see that the chaukidars and dafadars placed under their control perform with due diligence the duties of prevention and arrest imposed on them by section 23. They should assign detailed duties of watch and ward to each chaukidar and of supervision to each dafadar. These details they should modify from time to time when experience shows that a change would be advisable. They should keep the thana police and the magistrate informed of all matters of importance and co-operate fully with the police for the prevention and detection of crime.

Sub-section (1)—clauses 1 (b) to 1 (g) and sub-sections (2) to (5).—It is important that the work of the union board should be managed with the utmost economy. The services of the chaukidars should be utilised in all kinds of work which the union board takes up.

Clause (c).—If it is necessary to charge fees to cover expenditure in connection with measures for the sanitation or conservancy of a mela or fair, the union board can move the district board to exercise its powers under sub-section (3) of section 100 of the Local Self-Government Act of 1885.

Clause (d).—Under this clause the union board is vested with powers of control over private drains and other private conservancy works.

Clause (e).—Under this clause the union board may engage a resident union doctor (see note 2 under sec. 32).

Clause (f).—See note under clause (viii) of sec. 23.

Sub-section (1).—Probably the control and surplus proceeds of all pounds within the union will be made over to the union board. If so, it will be the duty of the union board to lease each pound to

a reliable person, to see that impounded cattle are properly fed and watered and that the pound-keeper commits no illegality. Consistently with these requirements the pound should be leased to the highest bidder. (See also notes under Cattle Trespass Act on pp....)

Sub-section (4)—Criminal and revenue processes, except such as involve arrest or the realisation of money, are now served through panchayats or union boards in districts or parts of districts where the circle system is in force and where adequate postal facilities exist.

Under the Court Fees Act the serving of processes is governed by rules of the High Court.

In unions where there is not a daily postal delivery at the president's house, he should move the postal authorities to improve the post office facilities. The circle officer and subdivisional magistrate should assist the union board in this matter. Pending the institution of a daily postal delivery, the president should arrange for a dafadar or chaukidar to bring the dak daily from the most convenient post office to his house.

Additional notes.—

A. District magistrates will probably ordinarily appoint every member of a union board to be a head man of the village in which he resides. The duties of a village headman are detailed on pages.....

It is a convenient arrangement to divide the whole union between the members of the union board, so that each member shall be headman of the mauza, (or revenue survey village) or part of the mauza in which he resides, and perhaps some adjacent mauzas. Chaukidars' beats should be so arranged that one or more beats correspond as nearly as possible with the area under the headship of one member of the union board.

B. Government may authorise district magistrates to empower presidents of union boards under section 64, 127 and 128 of the Code of Criminal Procedure to arrest persons committing offences in their presence, to order unlawful assemblies to disperse and to compel them to disperse by the use of civil force. They may also be authorised in cases of unnatural death, where there is no suspicion of suicide or foul play, to enquire into the circumstances and to permit the relatives to dispose of the body. All the powers aforesaid may also be extended to vice-presidents and, as regards powers under Secs. 64, 127 and 128 Criminal Procedure Code, to members of the union bench.

C. The powers of a District Magistrate under chapters I to III of the Cattle Trespass Act will probably be conferred on union boards. That is to say, they will, within their respective unions, be vested with power to establish pounds, to appoint pound-keepers and to determine fees for the feeding and watering of cattle and generally the executive management of pounds will be one of the duties of union boards (see notes under section..... of the Cattle Trespass Act). This will enable union boards to improve the management

of pounds while the transfer of the surplus proceeds of pounds will increase the income of the union fund.

- D. The district magistrate may direct, under sec. 14, Cattle Trespass Act, that if impounded cattle are not claimed within 7 days, the pound-keeper shall report the fact to the president of the union board, who shall thereupon affix 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 market place nearest to the place of seizure.

If the cattle are not claimed within 7 days from the date of the notice, they shall be sold by public auction by the president or an officer of the union board deputed for that purpose.

- E. Under section 35 of the Bengal Ferries Act, as now amended, the Government will probably direct that certain ferries shall be managed by the union board of the union in which they are situated. This will enable the union board to improve the ferry service while the transfer of the surplus proceeds of the ferries and of fines under the Act will further increase the income of the union fund (see notes under sections.....of the Bengal Ferries Act).

- F. District magistrates may, by order under section 25 (1) (f), require all union board to report promptly the occurrence of any large fire, storm or flood and the amount of damage done, the existence of distress among any class of the population, the outbreak of any pest or disease causing damage to crops, the prevalence of crime and any other important matter likely to affect the safety and well-being of the people.

Powers of union board as to sanitation, conservancy and drainage.

27. (1) If it appears necessary to improve the sanitary condition of the union or any part thereof—

(a) the union board may, or, under the orders of the district board, shall—

(i) cause huts or privies to be removed either wholly or in part ;

(ii) cause private drains to be constructed, altered or removed ;

(iii) cause public drains to be constructed, altered or removed ;

(iv) cause—

any well, pool, ditch, tank, pit or pond, or any place containing or used for the collection of any drainage, filth or stagnant water,

which appears to be injurious to health or offensive to the neighbourhood or in any other respects a nuisance, to be filled up, cleansed or deepened or the water to be drained off or removed therefrom, or such other action to be taken therewith as may be deemed necessary ;

(v) cause any land, which by reason of thick vegetation, undergrowth or jungle appears to be in a state injurious to health or offensive to the neighbourhood or to form an impediment to efficient ventilation, to be cleared of such vegetation, undergrowth or jungle ;

(vi) cause burning-ghats and burial grounds to be established ; and

(vii) cause such other improvements to be made as are necessary to improve the sanitary condition of such union or part ; and

(b) the union board may, by written notice, require, within a reasonable period to be specified therein,—

(i) the owner or occupier of any hut, or the owner of any privy to remove such hut or privy either wholly or in part ; or

(ii) the owner or occupier of any building to construct private drains therefor or to alter or remove private drains thereof ; or

(iii) the owner or occupier of any land or building to which any such well, pool, ditch, tank, pit, pond or place as is referred to in clause (a)(iv) pertains, or of any such land as is referred to in clause (a)(v), to do anything which the

union board is itself empowered to do under either of those clauses.

(2) If any work required by any such notice is not executed within the period specified in the notice, the union board may itself cause such work to be carried out, and may recover the cost of such work or part thereof from the owner or occupier referred to in clause (b) of sub-section (1), as if it were an arrear of rate imposed under section 73.

(3) An appeal shall lie against every notice issued under clause (b) of sub-section (1), to the chairman of the district board, who after giving the owner and occupier full opportunity of adducing evidence and of being heard, may make an order cancelling, modifying or confirming the said notice. Such appeal shall be filed within fifteen days from the date of service of the notice.

Notes.—This section gives the union board ample power to make the union a healthy place of residence. The power to compel private persons to take action to put their own holdings into good sanitary condition should be exercised in a reasonable spirit, not asking for too much at first, but effecting improvements gradually year by year. Under section 61 compensation may be awarded by the union board to any person whose property is damaged by an improvement carried out for the general benefit of the public health.

- (2) As to payment of compensation to owners or occupiers, see note under section 61.
- (3) The orders of the district board can be enforced under the provisions of sec. 55.

28. (1) A union board may employ an establishment for the cleansing of the union or any part thereof.

Power of union board as to cleansing of unions.

(2) Where no such establishment is employed by a union board, the board may, by written notice, require owners or occupiers of land in the union to cleanse such land to the satisfaction of the board within a reasonable period to be specified in the notice.

(3) If any person on whom notice has been served under sub-section (2) fails to comply with the requisition

contained in the notice, the union board shall, unless reasonable cause to the contrary is shown,—

(a) cause the land to be cleansed, and

(b) recover from such person such portion of the cost of such cleansing as the union board may direct, as if it were an arrear of rate imposed under section 37.

(4) An appeal shall lie against every notice issued under sub-section (2) to the chairman of the local board, who, after giving the owner and occupier full opportunity of adducing evidence and of being heard, may make an order cancelling, modifying or confirming the said notice. Such appeal shall be filed within fifteen days from the date of service of the notice.

Note 1.—The powers conferred by this section may be exercised to enforce the regular cleansing of a bazar or hat.

2. In the cases of a bazar or hat, it will be convenient to issue a notice for an unlimited period. For instance, the owners or occupiers may be required to cleanse a bazar daily, or the owners of a hat may be required to cleanse the place on the day after the hat is held. Nevertheless, when a change of owners or occupants occurs, it is reasonable that a fresh notice should be served on the new owner or occupant.

3. If a union board maintains a conservancy establishment for a part of the union, an additional assessment should be imposed on the residents of that part approximately equal to the cost of such establishment.

4. As to the making of compensation to owners or occupiers, see note under sec. 61.

Power of union board to control erection of buildings, etc.

29. (1) The union board may, subject to rules made under section 101, by written order,—

(a) direct, in accordance with a scheme approved by the local board for any part of the union, that no building, wall or platform shall be erected, re-erected or added to in advance of an alignment to be prescribed by the union board and demarcated on the ground; and

- (b) prescribed, in accordance with the said scheme, the space which shall intervene between any new or enlarged building and the building next adjacent and between any new or enlarged building and any road in the union.

(2) Where any building, wall or platform has been placed in contravention of an order passed by the union board under sub-section (1), the union board may apply to the district magistrate, and such magistrate may make an order—

- (i) directing either that the work done, or so much of the same as has been executed in contravention of the order passed under sub-section (1), be demolished by the owner of the building, wall or platform, or that it be altered by him to the satisfaction of the union board, within such time as may be fixed by the district magistrate ; or
- (ii) directing that the work done, or so much of the same as has been executed in contravention of the order passed under subsection(1), be demolished or altered by the union board at the expense of the owner within such time as may be fixed by the district magistrate :

Provided that the magistrate shall not make any such order without giving the owner full opportunity of adducing evidence and of being heard.

(3) If any person to whom a direction to demolish or alter any building, wall or platform, is given under clause (i) of sub-section (2), fails to obey the same, he shall be liable to a fine which may extend, in the case of a masonry building, wall or platform, to one hundred rupees, and, in the case of any other building, wall or platform, to twenty rupees, and to a further fine which may extend, in the case of a masonry building, wall or platform, to ten rupees, and in the case of any other

building, wall or platform, to two rupees for each day during which, after the period fixed by the district magistrate, he fails to obey the direction to demolish or alter the building, wall or platform.

Notes.—1. This section empowers the union board to arrange that when a new bazar or village is established it should be laid out in a manner convenient to the public. The alignment prescribed should be marked on a large scale map to be kept with the union board records and should also be clearly demarcated on the ground by means of brick pillars or other permanent marks.

2. If any person commences to erect a structure which contravenes the provisions of the scheme, the fact should immediately be reported to the president, who should explain to the person concerned the orders issued by the union board, and ask him to stop the work. If the person refuses to comply, the assistance of the district magistrate must be invoked; but this should only be done in the last resort. It is very desirable that by the exercise of its own authority combined with tact the union board should avoid references to the magisterial head of the district.

30. (1) A union board may provide the union or any part thereof, with a supply of water, proper and sufficient, for public and private purposes; and, for such purposes, may, or, under the orders of the district board, shall,—

- (a) construct, repair and maintain tanks or wells, and clear out streams or water-courses;
- (b) with the sanction of the Local Government, and subject to such rules as may be made under section 101, construct, repair and maintain water-works;
- (c) purchase or acquire by lease or gift any tank, well, stream or water-course, or any right to take or convey water within or without the union;
- (d) with the consent of the owner thereof, utilize, cleanse or repair any tank, well, stream or water-course within the union, or provide facilities for obtaining water therefrom;

(e) contract with any person for a supply of water; or

(f) do any other acts necessary for carrying out the purposes of this section.

(2) The union board may, by order published at such places as it may think fit, set apart for the supply to the public of water for drinking or culinary purposes any tank, well, stream or water-course in respect of which action has been taken under clause (a), (c) or (d) of sub-section (1), subject to any rights which the owner referred to in clause (d) of that sub-section may retain with the consent of the board.

(3) The union board may, by order published at such places as it may think fit, prohibit all bathing, washing of clothes and animals, or other acts calculated to pollute the water of any tank, well, stream or water-course set apart for drinking or culinary purposes under sub-section (2).

(4) Any person who disobeys an order issued under sub-section (3), shall be punished with fine which may extend to twenty-five rupees.

Notes.—1. No expenditure should be incurred from the union fund for the provision or improvement of a supply of water unless a right of user of the said water is expressly and assuredly secured for the public.

2. The union board may reasonably agree that the owner referred to in clause (d) shall retain a right to fish with rod and line at all times and with nets on certain specified days in the year and that if the tank should cease at any time to be a source of water supply, the property therein shall be again fully vested in the owner.

3. As to the making of compensation to owners, see note under section 61.

4. An offence under sub-section (4) may be tried by the union bench.

5. An order of the district board under sub-section (1) can be enforced under the provisions of sec. 55.

31. The union board shall have control of all roads, bridges and water-ways within the union, not being private property and not being under the control of the Local Government or the district board or local board, and may do all things necessary for the maintenance and repair thereof, and may—

Powers of union board as to roads, bridges and water-ways.

- (a) lay out and make new roads ;
- (b) construct new bridges ;
- (c) divert, discontinue or close any road or bridge ;
- (d) widen, open, enlarge or otherwise improve any road or bridge ;
- (e) deepen or otherwise improve water-ways ; and
- (f) provide for the lighting of any road or public place within the union.

Notes.—1. Where there is a public right of way over private property, it is the duty of the union board to maintain that right of way and to prevent its being stopped or encroached upon.

- 2. The entry of a thoroughfare in a settlement map is an authoritative finding that a public right of way exists. Where an existing right of way is not recorded in a settlement map, whether owing to carelessness or to the smallness of the scale on which a map is made, the union board may place or record a resolution to the effect that a public right of way exists and may define its course, breadth and other particulars.
- 3. Where the public have acquired only a limited right of user, the section does not give to the union board any rights beyond those acquired by the public. For instance, if it is admitted that the public have acquired a right of way as a footpath, but the owner of the land proves that he has always prevented funeral and other processions from passing along that way, the union board is not given rights further than those acquired by the public.
- 4. As to the making of compensation to persons sustaining damage by reason of the exercise of any powers of the union board under this section, see note under section 61.

32. The union board may, subject to any rules made under section 101, establish primary schools or dispensaries, or assume charge of existing primary schools or dispensaries, and shall repair, maintain and manage any primary school or dispensary under its charge.

Establishment of primary schools and dispensaries.

Notes.—1. The union board should, as rapidly as circumstances permit, increase the number of primary schools in the union until there are teachers, school-houses and equipment sufficient for every child in the union to be given a sound primary education.

2. See notes under Primary Education Act, section 3.

3. Where no competent medical practitioner is available the union board may with great advantage engage a qualified doctor and agree to pay him a subsidy for a limited period, during which he may establish a private practice sufficient to secure him an adequate income for the future. No condition should be imposed on him except that he must reside and practise exclusively within the union. He should be allowed to charge fees; but it may be expected that, for his own reputation, he will treat poor persons free. He should be encouraged also to establish his own dispensary and may be granted a loan for this purpose. He should be provided with free quarters. The provision of funds for the purpose of establishing a union doctor will be an admirable object for a donation from a philanthropic resident of the union.

4. If the union board assumes charge of any private school or dispensary, the owner may, under Sec. 61, be compensated for any damages he sustains.

33. The district board or local board may, from time to time, with the consent of the union board, make over to a union board, subject to such conditions as they may deem necessary, the management of any institution or the execution of any work or duty within the area over which the union board has control; and thereupon such union board shall do all things necessary for the management of the institution or the execution of the work or duty;

Transfer of certain duties from the district or local board to a union board.

Provided that the funds necessary for the management of the institution and the execution of the work

or duty shall be placed by the district board or local board at the disposal of the union board.

Notes—1. Village roads and local board roads and bridges will generally be made over for maintenance to the union board of the unions in which they are situated. To encourage the union board to show good results, it is a good plan to give the union board a grant equal to the average annual expenditure by the district board and local board on the works and institutions made over to the union board.

2. When a union board takes control of a board primary school, the district board should give the union board an annual grant equal to the sanctioned expenditure on the school. For any other primary school maintained by a union board, the district board should give the union board the same grant-in-aid as would have been given if the school were under private management.

34. (1) This section shall not apply to any union constituted under section 5 until the Local Government specially extends it thereto by notification.

. Prohibition of certain offensive or dangerous trades without license.

(2) In any union to which this section is so extended, no place shall be used without a license from the union board, which shall be renewable annually, for the purpose of any trade or business which the Local Government may, by notification, declare to be offensive or dangerous.

(3) A notification under sub-section (2) may authorize the union board to levy a fee not exceeding such maximum amount as may be specified in the notification in respect of any license granted by it, and, subject to the approval of the district magistrate, to impose such conditions in respect of such license as may be considered necessary.

(4) Whoever, in any union, uses any place for the purpose of any trade or business which is declared under sub-section (2) to be offensive or dangerous, or fails to comply with any condition subject to which a license is granted under that sub-section, shall be

punished with fine which may extend to twenty-five rupees, and to a further fine which may extend to five rupees for each day after conviction during which he continues so to offend.

(5) The union board, upon the conviction of any person for failing to comply with any condition of a license granted under sub-section (2), may suspend or cancel any such license.

(6) An appeal shall lie to the district magistrate against every order by a union board refusing, suspending or cancelling a license; and the decision of the district magistrate thereon shall be final.

Note.—A union board can try an offence punishable with fine up to Rs. 25; but in view of the provision for a further fine for a continuing offence, it is doubtful whether a union bench is empowered to try a case under sub-section (4) of section 34. If an offence under that sub-section is committed the best course to adopt is for the president or the union board to report the facts to the subdivisional magistrate and request him to institute a prosecution.

35. The union board, or any member, officer or servant thereof, may enter into or upon any building or land, with or without assistants or workmen, in order to make any inspection or execute any work for the purposes of, or in pursuance of, clause (1) of section 26 or section 27, 28, 29, 30, 31, 32, 33 or 34.

Provided as follows :—

(a) no such entry shall be made between sunset and sunrise;

(b) no dwelling-house shall be so entered, unless with the consent of the occupier thereof, without giving the said occupier at least twenty-four hours' previous written notice signed by the president or vice-president of the intention to make such entry; and

- (c) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the premises entered.

36. With the approval of the local board, a union board may appoint such staff of officers and servants as it may consider necessary to carry out its duties under this Act, and may fix the salaries to be paid to such staff.

Appointment of establishment union board.

- Notes.*—1. It is preferable that all the work of the Union Board should be done by members themselves. If, however, that is impossible, a clerk may be employed to make records of proceeding, to keep accounts and registers, to do clerical work connected with the union bench and union court and to collect the union rate. A union clerk need not be a whole-time officer. In small unions the village postmaster or a school teacher may be employed in that capacity.
2. There is a tendency where clerks are employed for the power to fall into their hands. This tendency must be guarded against and the clerk must not be allowed to do anything on his own authority. He must work under the orders of the president and must not be allowed to make any entry in a record except by the order and over the signature of the president or a member of the board. He should never appear to the public except as the ministerial assistant of the board.
3. A union board may sometimes find it necessary to engage a temporary sub-overseer in carrying out some important work for which some knowledge of survey or civil engineering is required; but usually members should manage such work themselves, and it is very desirable that they should do so because in that way not only will the pay of the sub-overseer be saved; but also more interest will be taken in the work and the risk of dishonesty will be reduced. In any case it should never be necessary for a union board to retain a permanent sub-overseer.
4. A union board may also employ coolies for carrying out any of the duties imposed on it and sweepers for the cleansing of a hat or bazar or any other part of the union (cf. see 23).

CHAPTER V.

UNION FUND.

37. The union board shall impose yearly on the owners or occupiers of buildings, within the union, a rate amounting to—

- (a) the sum required, after deduction of the contribution, if any, made by the Local Government in this behalf, for the salaries and equipment of the dafadars and chaukidars and the salaries of the establishment of the union board, and
- (b) the sum estimated to be required to meet the expenses of the board in carrying out any of the other purposes of this Act, if such estimate has been approved by not less than two-thirds of the total number of the members of the board at a meeting specially convened for the purpose, together with ten *per cent.* above such sums to meet the expenses of collection and the losses due to non-realization of the rate from defaulters.

Notes.—1. Every union must levy a union rate. Under clause (a) this rate must be at least sufficient to defray the pay of the chaukidars and dafadars and of the union clerk and any other officers employed by the union board. It must also cover the cost of the equipment of the chaukidars and dafadars.

- 2. If it is desired that any work should be done for the improvement of the conditions of the union, the union board is authorised by clause (b) to raise funds for such purposes by increasing the union rate. Any such increase requires the assent of at least two-thirds (e. g. six out of 9) of the members of the board at a special meeting.
- 3. A budget should be laid before the meeting, which should show works it is desired to carry out during the year of assessment, the estimated cost of the works, the estimated expenditure under clause (a) of Sec. 37, the probable income of the union board from all sources and the balance to be provided by the levy of union rate.

4. It would be a mistake for a union board to impose taxation under clause (b) without considering the wishes of the inhabitants of the union. But if the people are really in earnest in desiring any improvement in village roads, bridges, tanks, schools, sanitary works or the like and if they know by experience that funds provided for such purposes will be expended carefully and efficiently by the union board, the people will readily acquiesce in an increase of the union rate.
5. It is important that it should be realised that no work of village improvement can be undertaken without some taxation under clause (b). Of most unions it would be true to say that the amount levied under clause I (b) may be considered not so much as a measure of the needs of people as of the extent of their confidence in the union board. It is for this reason desirable that some definite improvement, however small, should be carried out by the union board at an early date after it is first constituted, in order that it may obtain the confidence of the people as to its integrity, its devotion to public interests and its ability to serve them well.
6. In sections 37 and 38, the word "person," includes any company or association or body of individuals, whether incorporated or not (cf. Bengal Act I of 1809).
7. Persons living with a particular individual, who occupy a building by reason of some connection with or relation to them, such as sons or servants, are not separately assessable even if they have separate incomes (see ruling in 2 C. W. N. 689 which refers to sec. 85 (a) Bengal Municipal Act which is in substance identical with the opening words of secs. 37 and 38 (1) of this Act.)
8. A joint undivided family should be assessed jointly as one "person"; but, if the members of a family mess separately, they are not a joint family or such an association of individuals as falls within the definition of "person." The very act of separation in mess breaks up the association. The members of such a family should be assessed separately even if they occupy the same building. The essential element of jointness is, in fact, the provision of a common *chula* or hearth.
9. A temporary occupier of a building, as for example a jute trader who erects or hires a building for use as a temporary godown or office, should be assessed.
10. A person who owns a vacant building is assessable; so also is a person holds the lease of building and keeps it ready for occupation though it is not actually occupied.
11. See also rules on pp.....

38. (1) The rate to be imposed by a union board under section 37 shall be an assessment according to the circumstances and the property within the union of the persons liable to the same:

Nature assessment.

Provided that the amount assessed upon any person in any one year shall not be more than eighty-four rupees.

(2) Any person who, in the opinion of the union board, is too poor to pay half an anna a month, shall be altogether exempted from payment of any rate under this Act.

Notes.—1. In municipalities the tax on persons is assessable according to their circumstances and property within the municipality (cf. sec. 85 (a) Bengal Municipal Act). The interpretation of the words used in the Municipal Act should therefore be held as applicable also to this section.

2. The general effect of the cases decided by the courts is that the words "circumstances and property within the union" are to be taken as equivalent to "the income derived from and the property situated in the union." Income derived from property outside the union is not to be considered in making an assessment.
3. If a building is in the charge of an agent, the person to be assessed is the employer and the assessment should be based on the employer's means within the union. The agent is assessable on his salary and his other personal means within the union.

39. The assessment for the imposition of rate

Procedure of assessment and revision thereof by the union board.

under section 37 shall be made in accordance with rules prescribed under section 801, and any person dissatisfied with the amount at which he has been assessed may, within such time as may be specified in those rules, supply to the union board, either orally or in writing, for a revision of the assessment, and the union board may amend the assessment or confirm the same.

Note.—Meetings of the union board for the revision of assessment should be held at various villages in the union. Notice should be issued beforehand of the time and place at which the meeting will be held and all residents of the union should be freely admitted.

40. The district magistrate may, at any time, call for the papers containing the assessment of the union rate imposed under section 37, and may, after such inquiry as may be necessary, pass such orders thereon as he may think proper.

Power of district magistrate to revise assessment.

Notes.—1. The district magistrate may order an inquiry on his own motion, on information received, or on a petition.

2. The officer who makes the inquiry should, before submitting his report, discuss the matter with the union board.

41. The payment of the rate shall be made in accordance with rules prescribed by distraint and sale of movable property of defaulter. under section 101, and, in case of default of any such payment, the president of the union board, or, if so directed by him, the vice-president, shall cause the chaukidar or any other person authorized in writing by the president or the vice-president to levy, by the distraint and sale of a sufficient portion of the movable property of the defaulter, the amount of his arrear, together with a sum equal to half the amount of such arrear, by way of penalty.

Notes.—1. The union clerk, or other officer appointed by the union board to collect the union rate should not be expected to visit the houses of assessesees for this purpose.

2. The union board should fix the instalments in which the rate will be payable, the latest date of payment for each instalment, and the hours and days of the week at which the collecting officer will attend his office for the receipt of payments.

3. For the convenience of assessesees in various parts of the union, the board may also notify that on a specified date at a specified time and place the collecting officer will attend to receive payments.

4. Care should be taken to fix the latest dates for payments at times when the assessesees can most conveniently meet their dues. In an individual case of calamity the union board may allow a postponement of the latest date of payment, provided that the funds of the union board are sufficient to defray its obligations.

5. If an instalment is not paid by the latest date for payment, the president should at once proceed to realize the arrear and penalty.

6. The rules regarding the realisation of the rate will be found on p.

42. (1) The distraint and sale of such movable property shall be conducted in accordance with rules prescribed under section 101. What property may be distrained and sold for arrears.

(2) All goods and chattels, except plough-cattle and tools and implements of trade and agriculture, found in

or upon any building or land occupied by any defaulter, shall be deemed to be his property, and shall be liable to be distrained and sold for the recovery of the arrear, and also the penalty due under section 41.

(3) If any of the goods and chattels liable to be distrained belong to any person other than the defaulter, the defaulter shall be liable to indemnify the owner of such goods and chattels for any damage he may sustain by reason of such distress, or by reason of any payment he may make to avoid such distress or any sale under the same.

Notes.—1. Provisions similar to those in sub-section (2) and (3) are in force in municipalities (cf. sec. 121 ...municipal act.)

2. The rules regulating distrains and sales will be found on p...

43. If the union board is unable to recover under section 42 the amount due for the arrear of rate and the penalty,

Distrain and sale of property beyond limits of the union.

the district magistrate may, on the application of the union board issue, his warrant to any officer of his court for the distress and sale of any movable property or effects belonging to the defaulter within any other part of the jurisdiction of the magistrate, or for the distress and sale of any movable property belonging to the defaulter within the jurisdiction of any other magistrate exercising jurisdiction within Bengal; and such other magistrate shall endorse the warrant so issued, and cause it to be executed, and the amount, if levied, to be remitted to the magistrate issuing the warrant, who shall remit the same to the union board.

Note—Application is not to be made to the district magistrate unless there is no movable property within the union which can be distrained under sections 41 and 42 for the recovery of the amount due.

44. No distress levied by virtue of this Act shall be deemed unlawful, nor shall

Irregularities not to avoid distrain.

any person making the same be deemed a trespasser on account

of any defect, irregularity or want of form in any assessment, notice, summons, power, writing, inventory or other proceeding relating thereto, nor shall such person be deemed a trespasser from the commencement on account of any irregularity afterwards committed by him, but all persons aggrieved by such irregularity may recover full satisfaction for any special damage sustained by them, in any court of competent jurisdiction, sustained by them, in any court of competent jurisdiction, subject to the provisions of section 64.

45. The district board may make to the union Grants-in-aid from district fund. board such grants-in-aid from the district fund, as they may think fit, to enable the union board to carry out any of the purposes of this Act, and may attach to such grants any conditions that may appear to the district board to be desirable :

Provided always that in the case of any union board which has imposed a rate under clause (b) of section 37 the district board shall make a suitable grant-in-aid.

Note.—1. It is advantageous in every way that the district board should make its grants to union boards proportional to the amount of rate realised under clause (b) of section 37.

2. It is not sufficient to consider only the rate assessed under section 37 (b). District board grants should be disbursed in proportion only to the amount actually realised under that clause.

46. (1) All sums realized under section 41 and all Union fund. sums realized as fines, fees or costs under section 22, any fees paid to the union board in respect of processes served through the board, and all other receipts of the union board, union bench or union court, including any donation or contribution from a private person, shall be paid into a fund to be called "the union fund," the accounts of which shall be kept in accordance with rules prescribed under section 104.

(2) Except as is otherwise provided in this Act, the expenses incurred by the union board, the union bench or the union court in carrying out the purposes of this Act, including such reasonable compensation as the board may think fit to pay under section 61, shall be paid out of the union fund :

Provided that the salaries and cost of equipment of dafadars and chaukidars and the salaries of establishment of the union board shall be the first charge upon the union fund :

Provided also that all sums made over to a union board for any specific purpose shall be applied solely to that purpose.

Notes.—1. The union fund may derive income from the following sources, viz :—

- (i) Union rates under section 37.
- (ii) Sums realised as penalty under section 41.
- (iii) Fees for trade licenses under section 54.
- (iv) Fees paid to the union board in respect of processes served through the union board under section 26 (4).
- (v) Fines imposed by the union bench under section 72 or section 96(4).
- (vi) Sums realised under section 99 on the forfeiture of bonds executed under section 70 (3).
- (vii) Suit fees realised under section 90.
- (viii) Fees levied by the union bench or union court for copies of documents (cf. sec. 100 (2) (a).)
- (ix) grants by the district board under section 33 for expenses of works or institutions made over to the union board.
- (x) Income derived from any property, institution or work vested in or maintained by the union board, e.g. :—
 - (a) Fees paid by scholars attending schools maintained by the union board.
 - (b) Proceeds of fishing in union board tanks or of grazing on union board roads.
 - (c) Surplus income accruing within the union under sec. 18 of the Cattle Trespass Act. (cf. note to sec. 31 of that Act on p.....)

- (d) Proceeds of ferries transferred to the union board by order under section 35 of the Bengal Ferries Act, 1885.
 - (x) Additional grants-in-aid made by the district board under section 45.
 - (xi) Donations or contributions from private persons, whether for the general purposes of the union fund or for any specific purpose.
 - (xii) Any grant that may be made by Government to the union fund whether on account of the salaries and equipment of dafadars and chaukidars, or water supply, or primary education, or registration of births and deaths or any other specific purpose.
 - (xiii) Costs levied by the union board under section 27 (2), 28 (3), 29 (2) (ii) will be credited to the union fund but must be offset by entries of equal amounts on the expenditure side of the accounts of the fund.
(viz) Sums levied under decrees of the union court under section 86 and sums realized as compensation under section 72 (2) will be credited to the union fund; but the whole, except the suit fees, will be paid out to the parties to whom it has been awarded by the union court or union bench. If the decree is adjusted out of court, there will be no entry in the union fund accounts except for the suit fee.
2. Expenditure of the union fund will fall mainly under the following heads:—
- (i) Salaries and equipment of dafadars and chaukidars.
 - (ii) Salaries of other staff employed by the union board.
 - (iii) Maintenance and improvement of public roads and waterways.
 - (iv) Demarcation and improvement of thoroughfares.
 - (v) Construction of new roads and bridges.
 - (vi) Maintenance and improvement of existing sources of water supply.
 - (vii) Provision of new supplies of drinking water.
 - (viii) Sanitation work, under section 27 or 28.
 - (ix) Primary education, under section 32.
 - (x) Medical relief, under sections 26 (5) and 32.
 - (xi) Compensation made under section 61.
 - (xii) Stationery and forms for the union board, bench and court.
 - (xiii) Expenses of in connection with union board elections.
3. Until adequate provision has been made for the above purposes, the union board should avoid incurring unnecessary and unproductive expenditure. For instance, a separate building for the union board office or for the union bench or union court need not be provided; or, if a new building is constructed, it may also be made available for use as a school-house. Meetings of the union board and sittings of the union bench or union court may be held at the house of the president or any other convenient place within the union.

CHAPTER VI.

GENERAL PROVISIONS RELATING TO UNION BOARDS.

Delegation.

47. The district magistrate may be an order in writing, delegate the powers or duties specified in the first column of schedule III to the officers mentioned in the second column thereof.

Note.—Delegation may be complete or with certain reservations, e. g. the district magistrate may retain power to deal with any special case or any class of cases himself.

Disputes.

48. (1) If a dispute arises between two or more union boards, which are subordinate to the same local board, the matter shall be referred to such local board: and the decision of the local board thereon shall be final and binding.

(2) If a dispute arises between two or more union boards, which are within the same district but which are subordinate to different local boards, the matter shall be referred to the district board; and the decision of such district board thereon shall be final and binding.

49. If a dispute arises between a municipal authority and a union board within the same district, the matter shall be referred to the district magistrate and the decision of the district magistrate thereon shall be final and binding.

Provided that, if the district magistrate is a member of the municipal authority concerned, his functions under this section shall be discharged by the commissioner.

50. Subject to the *control* of the district board, a local board shall superintend the

Local board to superintend the administration of union boards.

local board shall superintend the administration of union boards within the area under the authority of the local board, except in fadars and chaukidars.

Note.—This section restores to local boards the control over union boards, which it was proposed to give to them under the terms of the Local Self-Government Bill of 1883 (cf. paragraph 98 of the report of the District Administration Committee). The proposal was dropped owing to objections taken by the Secretary of State.

51. (1) It shall be the duty of all commissioners, district magistrates, subdivisional

Supervision of union boards by commissioners and other officers.

Supervision of union boards by commissioners and other officers.

(2) The commissioner may, by order in writing, annul any proceeding which he considers not to be in conformity with law and with the said rules, and may do all things necessary to secure such conformity.

Note 1.—If the circle officer finds that a union board has acted contrary to law or rules, he should bring the irregularity to the notice of the union board and advise them as to how to correct the irregularity. If they do not comply, he should report the fact to the subdivisional magistrate if the matter relates to dafadars or chaukidars, and in other cases to the local board.

2. It is desirable that a copy of the proceedings of every meeting of a union board should be sent by the president to the circle officer. The circle officer should forward to the local board a copy of so much of the proceedings as does not relate to dafadars and chaukidars and to the subdivisional magistrate a copy of the whole of the proceedings.

52. Every union board shall at all times permit the commissioner, the district

* Inspection of union board records.

Inspection of union board
records, the chairman and the
district board or local board, or
any other person authorized by them or by the Local

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Government, to have access to all its books, proceedings and records.

Note.—Circle officers should be authorised and required to constantly inspect all the work and the records of union boards. They should act as the connecting link between the subdivisinal magistrate and the local board on the one hand and the union boards on the other hand. They should keep the subdivisinal magistrate and the local board constantly in touch with the doings of union boards and inform them immediately when any special need or difficulty arises in which a union board requires their assistance.

53. The commissioner, the district magistrate, the chairman of the district board and local board, and any other person authorized by them or by the Local Government, shall have power at all times to enter on and inspect, or cause to be entered on and inspected, any immovable property occupied by, or any work in progress under the orders of, or any institution controlled by, a union board.

Note.—See note under Section 52.

54. (1) If at any time the district magistrate is satisfied that the whole or any portion of the salaries, or of the cost of equipment, of dafadars and chaukidars, or of the salaries of the establishment of a union board, is in arrear, the district magistrate may appoint such person or persons as he may consider necessary to realize any sum so due, together with the incidental cost (if any) of collecting it.

(2) Any person so appointed may realize any such sum and cost either from the balance at the credit of the union fund or by the collection of any outstanding portion of the union rate assessed by the union board, or, if the amount so collected is insufficient, by the imposition and collection of a supplementary assessment.

(3) A person so appointed shall exercise all the powers vested in the union board for the assessment and collection of the union rate.

(4) The amount collected under sub-section (2) shall be disbursed in the payment of the sum and the cost referred to in sub-section (1), and the balance (if any) shall be paid to the union fund.

Notes Clause 1.—If this section has to be applied, one or more persons may be appointed to carry out the duties specified therein. It will be preferable to appoint private persons only but, if necessary, the circle officer may be appointed either alone or with another person. The person or persons appointed will exercise the powers conferred on the union board by sections 37 to 39 and 41 to 44.

2. It will probably be found convenient that the period of appointment should be for the remainder of the year as defined under section 4 (10)

55. (1) When a union board makes default in performing any duty imposed on it by the district board under section 27 or section 30, the district board may fix a period for the performance of that duty.

Power to provide for performance of duties under section 27 or 30 in case of default by a union board.

(2) If any such duty is not performed within the period fixed under sub-section (1), the district board may appoint such person or persons as they consider necessary to perform it, and may direct that the expense of performing it, together with a reasonable remuneration to such person or persons, shall be forthwith paid by the union board.

Notes Clause 1.—If the funds of the union board are not sufficient to defray the expense incurred, the union board will have to impose an additional assessment under sec. 37 (b).

2. If the union board refuses to pass the necessary resolution under sec. 37 (b), the only course open will be to supersede the board under sec. 59.

56. (1) If the commissioner, after consideration of the views of the district magistrate and the district board, is of opinion that a union board is not competent to perform, or per-

Power to remove the president or supersede a union board.

sistently makes default in the performance of the duties imposed upon it by, or under, this or any other Act, or

exceeds or abuses its powers, the commissioner may, by an order in writing specifying the reasons for so doing, either—

(a) remove the president of the union board from his office both as president and as member ;
or

(b) supersede the board for a period to be specified in the order.

(2) Every such order shall be published locally in such manner as may be prescribed by rules under section 101.

Note 1.—If a president is removed under clause (1) (a), he cannot be re-elected to the union board in the by-election held to fill his place ; for under section 13 a new member must be elected.

2. The period of supersession should include a complete working season. It would seem appropriate that the period should be not less than 6 months and not more than 18 months.

57. (1) When a union board is superseded under section 56, sub-section (1), the following consequences shall ensue :—

Consequence of supersession.

(a) all members constituting the board shall, as from the date of the order, vacate their offices as such members ;

(b) all powers and duties of the union board shall, during the period of supersession, be exercised and performed by such local authority, person or persons, and in such manner, as the commissioner may direct ; and

(c) all property vested in the union board shall, during the period, vest in such local authority, person or persons, and in such manner, as the commissioner may direct.

(2) On the expiration of the period of supersession the union board shall be re-established by re-election or re-appointment in the manner provided in section 6.

Note.—During the period of supersession the duties of the union board may either all be performed by one or more persons appointed by the commissioner, or the duties in regard to dafadars and chaukidars may be performed by one or more persons acting in subordination to the district magistrate and the remaining duties by the local board or other persons acting in subordination to the district board. The latter arrangement would give rise to complications in regard to assessments and division of funds and the local board would be handicapped by having no authority over the dafadars and chaukidars as well as by its own lack of local knowledge and interest in the union. It will therefore be preferable not to subdivide the powers and duties of a union board during the period of supersession.

58. The district magistrate, or the district board may, by an order in writing, suspend the execution of any order or resolution of a union board within the jurisdiction of such magistrate or district board, or the doing of any act which is about to be done, or is being done, by such union board, if in the opinion of the district magistrate or the district board the execution of the resolution or order, or the doing of the act, is likely to cause injury or annoyance to the public, or to any class or body of persons, or to lead to a breach of the peace.

Note.—So far as union boards are concerned this section may be regarded as superseding section 124 of the Local Self Government Act (see note under that section.)

59. When the district magistrate or the district board makes any order under section 58, the magistrate or board, as the case may be, shall forthwith submit to the commissioner a copy of the order, with a statement of the reasons for making it and with any explanation which the union board concerned may wish to offer, and the commissioner may thereupon confirm, modify or rescind the order.

60. (1) If any member of a union board otherwise than with the sanction of the local board, or if any officer or servant maintained by or employed under the union board, participates or agrees to participate in the profits of any work done by the union board, or is concerned or participates in the profits of any contract entered into with the board, he shall be liable on conviction before a criminal court to a fine which may extend to five hundred rupees.

Penalty on member, officer or servant being interested in a contract made with a union board.

Provided that the penalty herein prescribed shall not be deemed to apply by reason only of a person—

- (a) having a share in any joint-stock company which shall contract with, or be employed by, or on behalf of, the union board; or
- (b) having a share or interest in any newspaper in which any advertisement relating to the affairs of the union board may be inserted; or
- (c) holding a debenture or being otherwise concerned in any loan raised by, or on behalf of, the union board; or
- (d) being a member of a society registered under the Co-operative Societies Act, 1912, which enters into any contract with the union board.

(2) Nevertheless it shall not be lawful for a person having any share or interest, such as is described in clauses (a) and (b) of the proviso to sub-section (1), to act as a member of the union board in any matter relating to a contract or agreement between the union board and such company or the manager or publisher of such newspaper.

(3) Nothing in this section shall apply to the payment of fees to a legal practitioner for services tendered by him in his professional capacity.

Note.—A member of a union board is not prohibited from carrying out work on behalf of the board. In fact, it is most desirable that, so far as possible, the members should do all the work of the union board and that it should be done without remuneration or profit. One of the greatest advantages derived from union committees has been that the members have usually been willing to give their services free. Not only has the work been better done than before such committees existed, but great economy has been effected by avoiding employing contractors and salaried officers. Section 60 only provides a penalty in case any member or officer of a union board without express sanction has a pecuniary interest in any work or contract of the union board.

61. Every union board may make compensation to any person sustaining any damage by reason of the exercise of any of the powers conferred by his Act.

Power to make compensation for damage.

Notes 1.—This section is to be read with sections 46 (2) and 64 (3). Under the later a union board is empowered to compromise a civil suit. Under the former the union board can make reasonable compensation to persons who suffer pecuniary loss, or whose property is decreased in value, owing to action taken by the union board for the public benefit, in pursuance of this Act.

2. In the exercise of its powers under sections 27 (1) (b), 28 (2), 30 (1), 31 or 32 a union board may require an owner or occupier to take action with his property or may itself take action with private property under circumstances where it may be reasonable and equitable that part of the expense should be borne by the public. Under this section the union board may make compensation to the owner or occupier to such extent as is reasonable and fair. The union board is the sole judge of the amount of compensation which should be granted and its decision is final (cf. sec. 46 (2)).

62. (1) No member of a union board shall be personally liable for any contract made, or expense incurred, by or on behalf of the board.

Liability of members.

(2) Every member shall be personally liable for any wilful misapplication of money entrusted to the union board to which he shall knowingly have been a party.

and he shall be liable to be sued for the same by the district board.

Note.—See notes under sections 18 and 60.

63. No suit or other legal proceeding shall lie against a union board, or any member or officer thereof acting under the direction of such board, in respect of anything done lawfully and in good faith and with due care and attention under this Act or any rule made hereunder.

Note 1—The provisions of this section are a valuable protection to union boards and their members and officers. There is no corresponding provision in the Local Self-Government Act.

2. This section should be quoted in every written statement filed in defence of a suit against a union board or any member or officer of a union board in respect of anything done under this Act. If they have acted in good faith, and their lawful powers have not been exceeded and they have not been unduly careless, the court must find in their favour.

64. (1) No suit or other legal proceeding shall be brought against any union board or any of its members or officers, or any person acting under its direction, for anything done under this Act, until the expiration of one month next after notice in writing has been delivered or left at the office of such board, and also (if the suit is intended to be brought against any member or officer of the said board, or any person acting under its direction) at the place of abode of the person against whom such suit is intended to be brought, stating the cause of action and the name and place of abode of the person who intends to bring the suit; and unless such notice be proved, the court shall find for the defendant.

(2) Every such action shall be commenced within three months after the accrual of the cause of action, and not afterwards.

(3) If any union board or person to whom a notice under sub-section (1) is given shall, before a suit is brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover.

Note 1.—This section differs materially from section 146 of the Local Self-Government Act. By inserting the words "or other legal proceeding" the legislature has made it clear that this section applies not only to suits but also to civil court injunctions and legal proceedings of all kinds.

2. The insertion of Section 63 makes it clear that the legislature intends the provisions of section 64 to apply to legal proceedings of any kind arising out of any action of a union board or any of its members or officers. It has been held that Sec. 146 of the Local Self-Government Act applies only to suits arising out of a pecuniary claim for acts done by boards or committees and their subordinates, in excess of their statutory powers ; but in the Local Self-Government Act there is no provision corresponding to Sec. 63 of this Act. Reading Secs. 61, 63 and 64 as they stand it seems clearly to be the intention of the legislature that no legal proceedings shall be commenced against a Union Board or any of its members or officers without serving previous notice of the intention to institute such proceedings. The object of the notice is to give the union board and the district board time to consider whether the proceedings instituted should be contested.
3. A rule will probably be made to the effect that before instituting legal proceedings or entering appearance in defence of legal proceedings a union board shall obtain the sanction of the district board who should, before pronouncing orders, consult the Government pleader.
4. The words "sufficient amends" in sub-section (3) mean an amount which is accepted as sufficient by the plaintiff, or which the court decrees to be sufficient.

PART II.

CHAPTER VII.

UNION BENCHES AND UNION COURTS.

Union benches.

65. Whenever a union board has been established for any union, the Local Government may, by notification, appoint any two or more of the members of the board to be a union bench, during their term of office as members of the board, for the trial, in the whole or any part of the union, of the offences specified in-schedule IV, if committed within the limits of its jurisdiction.

Note 1.—After union boards are established it will apparently be the duty of the district magistrate to recommend, from time to time, the constitution of union benches and union courts in unions which are sufficiently advanced for this development.

2. Only members of the union board can be appointed as members of a union bench or union court.
3. Members of union benches and union courts will be appointed by name and probably it will never occur that all the members of a union board are appointed *ex-officio* to be members of the bench or court; for it is inconceivable that all the members of a board will always be persons suitable to serve on a bench or court.
4. After a general election of a union board, the court and bench will cease to exist (cf. sec. 11) unless members of the new union board are appointed afresh to the court and bench. If fresh appointments are made the new court or bench will have continuity of jurisdiction, subject to the right of parties to claim *de novo* trial.
5. The quorum is fixed by rule at two; but there is no objection to more members being appointed to the union bench. It would frequently be difficult for more than 2 members to sit together throughout the trial of a case. A bench may very suitably be composed of a senior man, say a retired munsif or deputy magistrate, and an intelligent young man of the locality. The junior member would benefit by the experience of the senior and the latter would be helped by the former's general knowledge of local affairs.

6. Since the president should not sit on the bench when a case instituted by him is being tried, it is advisable that at least 2 other members besides the president of the union board should be appointed to the union bench (see note under sec. 95).

66. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, the union bench shall have jurisdiction concurrent with that of the criminal court within the local limit of whose jurisdiction the union is situated, for the trial of all offences specified in schedule IV, part A, and the union bench may try any offence specified in schedule IV, part B, if the case is transferred to the bench by a district magistrate, subdivisional magistrate or any other magistrate empowered to receive petitions under section 190 of the Code of Criminal Procedure, 1898:

Provided is follows:—

(a) a magistrate before whom a complaint of an offence cognizable by a union bench is brought may transfer the complaint to the union bench;

(b) the district magistrate or subdivisional magistrate may transfer any case from one union bench to another or to any other court subordinate to him.

67. A case before a union bench may be instituted by petition, made orally or in writing to a member of the union bench. If the petition is made orally, the member shall record the name of the petitioner, the name of the person against whom the petition is brought, the nature of the offence and such other particulars, if any, as may be prescribed by rules under section 101, and shall direct the petitioner to appear before the bench.

Note:—A petition can be received and recorded by a single member of the union bench. When that is done, the member must direct the petitioner to appear before the union bench, which will proceed in the manner indicated in section 68, 69 or 70.

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The Rules regulating the procedure of union benches are given later.

Power of bench to dismiss or to refuse to entertain petition.

68. (1) If upon the face of the petition, or on examining the petitioner, the union bench is of opinion that the petition is frivolous, vexatious or untrue, it shall dismiss the case by order in writing.

(2) If at any time it appears to the bench—

(a) that it has no jurisdiction to try the case, or

(b) that the offence is one for which the sentence which the bench is competent to pass would be inadequate, or

(c) that the case is one which should not be tried by the bench.

it shall direct the petitioner to the proper court.

Note :—As regards clause (2) (c), see section 95 and note thereunder.

Dismissal of case for default.

69. If in any case before a union bench the petitioner fails to appear on the day fixed, or if in the opinion of the bench he shows negligence in prosecuting his case, the bench may dismiss the case for default, and such order of dismissal shall operate as an acquittal.

Proceedings preliminary to trial.

70. (1) If the petition be not dismissed the union bench shall, subject to the provisions of section 98, by summons or otherwise, require the accused to appear and answer the petition.

(2) If the accused fails to appear or cannot be found, the bench shall report the fact to the nearest magistrate, who may issue a warrant for the arrest of the accused, and when arrested may forward him for trial to the bench, or release him on bail to appear before it.

(3) The union bench shall if possible try the case on the day on which the accused appears or is brought before it; but if that is not possible, the union bench shall release him on his executing a bond for a sum not exceeding twenty-five rupees to appear before the bench on any subsequent day or days to which the trial may be adjourned.

Notes :—Sub-section (1)

1. If the accused resides within the union, the union bench should ordinarily send a dafadar or chaukidar to call him before it. If he does not reside within the union he should be summoned in the manner indicated in note 1 under section, 96. Witnesses should be sent for in the same manner as accused.
2. If the union bench thinks fit, the accused may be permitted to appear by agent (Cf. sub sec. (1), sec. 97).

Sub-section (2). 3. If a bail bond is executed, it should be forwarded to the union bench for their information, and if the accused fails to appear on the date fixed in the bail bond, the union bench should return the bond to the magistrate with a report recommending that action be taken under sec 514 of the Criminal Procedure Code.

4. If by warrant the arrest of the accused is not effected, the subdivisional or district magistrate may transfer the case to his own file, and issue orders for proclamation and attachment of the property of the accused.
5. The words "nearest magistrate" in this sub-section must mean the nearest magistrate having power to try offences committed in that union.

Sub-section (3)—See note (2) under sec. 99.

Bar to appeal from or revision of the order of union bench; but power to order retrial.

Act V of 1898.

71. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, there shall be no appeal by a convicted person in any case tried by a union bench.

Provided that the district magistrate or subdivisional magistrate if satisfied that a failure of justice has occurred, may, of his own motion, or on the application of the parties concerned, cancel or modify

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any order of conviction or of compensation made by a union bench or direct the retrial of any case by a court of competent jurisdiction subordinate to him.

Notes on Proviso (1)—The expression "any order of conviction" is used in a rather unusual sense. In all probability, it was adopted for the sake of brevity and was intended to include "any finding of conviction and any sentence passed." As it stands, the proviso might be read as meaning that if the magistrate upholds the conviction he is not empowered to modify the sentence. It may be presumed that this was not the intention of the legislature and that the magistrate is by this proviso authorised to cancel or modify any order of conviction and sentence under sec. 72 (1) or any order of compensation under sec. 72 (2).

2. A magistrate will not interfere with the order of a union bench on a mere technical point or unless he is convinced that material injustice has been done.

72. (1) A union bench shall record its decision

in writing, and may sentence any offender convicted by it to pay a fine not exceeding twenty-five rupees, or in default to imprisonment for a period not exceeding seven days.

Power of union bench to impose fine or to award compensation.

(2) If a union bench is satisfied that a complaint made before it or transferred to it for trial is vexatious or frivolous, the bench may order the complainant to pay to the accused such compensation, not exceeding twenty-five rupees in all, as it thinks fit, or in default may sentence the complainant to simple imprisonment for a period not exceeding seven days.

(3) When a person has been sentenced to imprisonment under sub-section (1) or sub-section (2) in default of such payment, if such fine or compensation be not paid or realized within ten days of the passing of the sentence or order, or within such further time, if any, as the bench may allow, the bench may cause him to be arrested and may commit him to the nearest jail to serve his sentence.

Provided that, notwithstanding anything contained in the Indian Penal Act XLV of 1860. Code,—

- (a) the fine imposed or compensation awarded by a union bench shall not be realized from any person who has served his term of imprisonment under this section ;
- (b) the person serving his term of imprisonment shall be forthwith released, if the fine or compensation is paid before the expiry of the term of imprisonment :

Provided also that no woman shall be sentenced to imprisonment in default of payment of fine or compensation.

(4) All fines realized by the union bench shall be credited to the union fund.

Notes 1.—Any fine or compensation ordered to be paid may, if not paid voluntarily, be realised in the same manner as an arrear of union rate (cf. sec. 99). If the amount is not paid or realised in that manner within 10 days the provisions of sub-section (3) come into force.

- 2. If the offence is punishable with rigorous imprisonment, the accused may be sentenced in default of payment of fine either to rigorous or to simple imprisonment. In all other cases the imprisonment in default must be simple (cf. sec. 66 Indian Penal Code).
- 3. The sentence of imprisonment should commence from the date on which the union bench passes order under sub-section (3) committing the prisoner to jail. The day on which the order is passed will be counted as a day of the sentence.
- 4. With reference to proviso (b), it is to be noted that the prisoner will not be released before the expiry of his sentence unless the whole amount of the fine or compensation is paid.
- 5. The union bench is not empowered when passing sentence to order payment of compensation to the person injured (cf. sec. 545 C. P. C.) As section 345 of the Criminal Procedure Code also, does not apply to trials before union benches (cf. sec. 93 of this act) there seems to be some difficulty in securing the payment of some compensation to persons injured. Moreover a case which is dropped on compensation being paid leaves behind less bitter feelings than a case fought to a finish. No harm will result and much good will be done by a

union bench securing suitable compensation to the person injured and then dismissing the case. It is suggested that the union bench may allow cases under the following sections to be withdrawn on payment of suitable compensation to the person injured, viz :—

Sec. 24, Cattle Trespass Act,

Secs. 289, 323, 334, 341, 352, 430, 358, 426, 447, 448, 504 and 506 of the Indian Penal Code.

After the accused has paid compensation, if the petitioner does not continue to prosecute the case, the bench may dismiss it under sec. 69.

73. Whenever a union court has been established for a union, the Local Government may, by notification appoint any two or more of the members of the board, to be a union court during their term of office as members of the board, for the trial, in the whole or any part of the union, of all or any of the classes of civil suits specified in section 74.

Constitution of union court.

Notes 1.—See notes under Sec. 65.

2. Civil judicial power may be conferred by instalments, so that union courts may begin by trying the simplest kind of suits, their jurisdiction being extended gradually according to the measure of success they obtain.

74. Notwithstanding anything contained in the Bengal, Agra and Assam Civil Courts Act, 1887, the Provincial Small Cause Courts Act, 1887, and the Code of Civil Procedure, 1908, and subject to the provisions of section 75 and 76, the union court and the ordinary civil court, within the local limits of whose jurisdiction the union is situated, shall have concurrent jurisdiction to try the following classes of suits, namely :—

Jurisdiction of union court.

XII of 1887.

IX of 1887.

Act V of 1908.

(a) suits for money due on contracts ;

(b) suits for the recovery of movable property or the value of such property ; and

- (c) suits for compensation for wrongfully taking or injuring movable property.

when the value of the suit does not exceed two hundred rupees :

Provided that, on the application of any defendant made in accordance with the provisions of section 81, the court of small causes or court of the munsif, within the local limits of whose jurisdiction the union is situated,—

- (i) may withdraw the suit when its value does not exceed twenty-five rupees, and
- (ii) shall withdraw the suit when its value exceeds twenty-five rupees,

from a union court for trial by itself.

Certain suits not to be tried by union court. **75.** No suit shall lie in any union court—

- (1) on a balance of partnership account,
- (2) for a share or part of a share under an intestacy, or for a legacy or part of a legacy under a will,
- (3) by or against Government or public officers in their official capacity,
- (4) by or against minors or persons of unsound mind
- (5) for the assessment, enhancement, reduction, abatement, apportionment or recovery of rent of immovable property, or
- (6) by a mortgage of immovable property for the enforcement of the mortgage by foreclosure or sale of the property or otherwise, or by a mortgagor of immovable property for the redemption of the mortgage.

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Note.—The expression—"public officers" in clause (3) is not defined. Assuming it to bear the same meaning as the term "public servant" in the Penal Code, it will include any member or officer of a union board (cf. sec. 21 I. P. C.). Section 95 should be read in this connection.

76. No suit shall lie in any union court, unless at least one of the defendants resides within the limits of its jurisdiction at the time of the institution of the suit, and the cause of action has arisen wholly or in part within those limits.

Note.—The exact meaning to be attached to the word "resides" as used in this section is not quite clear. It is certain that a person who spends the greater part of his time within the union is to be deemed to reside there; but it is doubtful whether a person who only has a place of residence within the union, which he seldom visits, should be considered as residing therein. In the absence of any ruling, it will be fairly safe to assume that the word "resides" is intended to include any person who has a place of residence within the union, in which he usually lives, or which he visits at frequent intervals.

77. (1) A suit before a union court may be instituted by petition made orally or in writing. If the petition is made orally, the court shall record such particulars as may be prescribed by rules under section 101.

(2) The plaintiff on instituting his suit shall state the value of the claim.

Note 1.—The plaintiff may appear by agent, (cf. sec. 97 (2)).

2. Rules regulating the procedure of union courts will be found on subsequent pages.

78. (1) If at any time the union court is of opinion that the suit is barred by limitation, the court shall dismiss the suit by order in writing.

Action to be taken if suit not triable by a union court.

(2) If at any time it appears to the court that it has no jurisdiction to entertain the suit, the court shall direct the petitioner to the proper court.

Note 1.—An order of dismissal under sub-section (i) is a “decree” (cf. sec. 4 (ii) and a suit fee may be levied under sect. 86.)

2. As regards sub-section (2)—cf. secs. 85 and 95.

79. If in any suit before a union court the plaintiff fails to appear on the day fixed, or, if in the opinion of the court, he shows negligence in prosecuting his suit, the court may dismiss the suit for default:

Dismissal of suit for default.

Provided that a union court may restore a suit dismissed for default, if within thirty days from the date of such dismissal the plaintiff satisfies the court that he was prevented by sufficient cause from appearing.

Note.—An order of dismissal under this section is not a decree (cf. sec. 4 (ii) and no suit fee may be levied thereon.)

80. If on receiving the petition the union court is satisfied that the trial of the suit may be proceeded with, it shall, by summons or otherwise, require the defendant to appear and answer the suit either orally or in writing.

Notes 1.—Usually the union court should send a dafadar or choukidar to call the defendant and witnesses before it (cf. sec. 96).

2. The defendant may appear by agent (cf. sec. 97 (2))

3. If the defendant does not appear either personally or by agent, it will probably be advisable in view of the proviso to Section 82, that the union court should record the statement of the person deputed to call the defendant as to the manner in which he communicated to the defendant the order of the union court and, if there is any doubt as to the order having been duly communicated, should issue another order calling the defendant to appear.

4. If the defendant cannot be found when called for, the union court should cause a written summons to be served on him personally or at his place of residence within the union. In the summons a date should be fixed for his appearance which will give him sufficient opportunity to appear either in person or by agent.

5. As to whether a person should or should not be considered as residing within the union, see note under sec. 76; and, as to the manner of summoning persons resident outside of the union, see note under sec. 96.

81. If before the commencement of the hearing of the suit, the defendant notifies the union court that he has applied or that he intends to apply under the proviso to section 74 for the transfer of the suit to the court of small causes or the court of the munsif, the union court shall postpone the trial in such a manner as will afford a reasonable time for the application being made and an order being obtained thereon.

82. If the defendant fails to appear, and the union court is satisfied that he received notice of the date fixed for the hearing, the court may decide the suit *ex parte*.

Provided that any defendant against whom a suit has been decided *ex parte* may, within thirty days from the date of executing any process for enforcement of the decision, apply, orally or in writing, to the union court to set aside the order; and the court, if satisfied that the defendant did not receive due notice of the date of hearing, or was prevented from appearing by any sufficient cause, shall set aside the decision and shall appoint a day for proceeding with the suit.

Note.—See notes 3 and 4 under sec. 80.

83. No decision or order of a union court shall be set aside under section 79 of section 82 unless notice in writing has been served by the union court on the opposite party.

No order to be set aside without notice to opposite party.

Notes 1.—In the written notice a date should be specified on which the union court after hearing any objections that are made, will pass final orders in the matter.

2. The written notice should be served personally, if addressed to a person who resides within the union, and by registered post if addressed to a person who does not reside therein.

84. (1) Subject to the provisions of clauses (3) and (4) of section 75 the union

Power of union court to determine necessary parties.

court shall add as parties to a suit any persons whose presence as parties it considers necessary

for a proper decision thereof, and shall enter the names of such parties in the register of suits, and the suit shall be tried as between the parties whose names are entered in the said register :

Provided that when any party is added, notice shall be given to him and he shall be given an opportunity of appearing before the trial of the suit is proceeded with.

(2) In all cases where a new party appears under the proviso to sub-section (1) during the trial of a suit, he may require that the trial shall begin *de novo*.

Note 1.—The "register of suits" is one of the registers to be prescribed under section 101 (2) (p.)

2. The notice prescribed in sub-section (1) need not be in writing : but if the person to whom it is addressed does not reside within the union it is advisable that it should be in writing and that it should be served in the manner indicated in note 1 under sec. 96.

85. No union court shall proceed with the trial of any suit in which the matter

Certain suits not to be tried by union court.

directly and substantially in dispute is pending for decision in the

same court or in any other court in a previously instituted suit between the same parties, or between parties under whom they or any of them claim, or has been heard and finally decided in a suit between the same parties, or between parties under whom they or any of them claim.

86. When the parties or their agents have been heard and the evidence on both

Decision of union court.

sides considered, the union court

shall, by written order, pass such decree as may seem just, equitable and according to good conscience, stating

in the decree the amounts payable as fees under section 90, and the amount, if any, paid to witnesses under section 96, sub-section (3), and the persons by whom such amounts are payable.

87. A union court in ordering the payment of a sum of money or the delivery of any movable property may direct that the money be paid, or the movable property be delivered, by instalments.

88. The decision of a union court in every suit shall be final as between the parties to the suit :
 Decision of union court to be final ; but power to order retrial.

Provided that the district Judge may, on the application of any party to the suit made within thirty days of the decree of the union court, cancel or modify the order of the union court or direct a retrial of the suit by the same or any other union court or by any other court subordinate to him if he is satisfied that there has been a failure of justice.

Note.—The district judge will not interfere on a technical point but only if satisfied that injustice has been done.

89. If the plaintiff or defendant in any suit dies before the suit has been decided, the suit may, subject to the provisions of clause (4) of section 75, be proceeded with at the instance of, or against, the legal representatives of the deceased plaintiff or defendant, as the case may be.

Notes 1.—If a defendant dies before a suit is decided, the claim against him should be dismissed unless the plaintiff applies to the union court to substitute the name of the legal representatives for that of the deceased, or unless the union court considers that their presence as parties is necessary for a proper decision of the suit. In either of the latter events the union court should substitute the names of the legal representatives for that of the defendant in the register of suits and no further proceeding should be taken until notice has been served on the legal representatives. Such notice should be served in the manner indicated in note 2 under Section 84.

2. The term "legal representatives" is defined in the note under sec. 4 (11).

90. (1) In all suits instituted in and decided by a union court a fee of one anna in the rupee shall be payable on the amount of the claim up to twenty-five rupees, and an additional fee of half-an-anna for every rupee of the claim above twenty-five rupees.

(2) If the claim is decreed in full, the fee shall be realized from the judgment-debtor together with the amount decreed.

(3) If the amount is decreed in part, the fee shall be realized *pro rata* from the decree-holder and the judgment-debtor.

(4) If the suit is dismissed, the fee shall be realized from the plaintiff.

(5) All such fees realized by the union court shall be credited to the union fund and shall not be paid to either party.

Notes 1.—The plaintiff must state the value of the claim at the time of instituting the suit (cf. sub-section (2), sec. 77) but the fee need not be paid in advance.

2. The rate of fees charged in union courts is somewhat less than half the rate in Small Cause Courts and in union courts parties have the further advantage that no process fees are levied.

91. (1) If the union court granting a decree is unable to effect satisfaction thereof, it shall grant the decree-holder a certificate to that effect stating the amount due to him and the amount due on account of fees under section 90.

(2) Any decree-holder wishing to execute a decree of a union court may apply to the court of the munsif within the local limits of whose Jurisdiction the union is situated and shall present with his application a certified

copy of the order of the union court ; but no application for execution shall be entertained by the munsif—

- (a) unless the union court has certified that it is unable to effect satisfaction of the decree and
- (b) unless the application is made after the expiry of three months from the date of the decree.

(3) In executing a decree of a union court a munsif shall have the same powers and follow the same procedure as if he were executing a decree passed by himself, but any amount realized on account of fees under section 90 shall be credited to the Local Government.

Notes.—The decree-holder may accept satisfaction in any form to which he and the judgment debtor may naturally agree. If the holder of a decree for money is unable to obtain satisfaction amicably, he should apply to the union court, which will issue an order on the union board under section 99 for the recovery of the various amount payable by the judgment debtor. If, even after exercising its powers under sections 41 to 43, the union board also is unable to realize the whole of the amounts payable by the judgment debtor, the decree-holder should apply for a certificate under section 91 (1).

- 2. If the decree is adjusted out of court, the whole of the fees will be payable.
- 3. If, one month after the decree, the fees or any part of the fees remain unpaid and the decree holder has not applied to the union court for the recovery of his dues, the union court should proceed under section 99 to realize the fees due.

92. When the amount decreed under section 86

Sums realized in part satisfaction of demand to be distributed rateably.

and the amount due on account of fees under section 90 are not realized in full, such sum as is realized shall be rateably distributed—

- (a) If realised by the union court, between the decree-holder and the union fund, and
- (b) If realized by the court of the munsif, between the decree-holder and the Local Government.

Note.—This section deals with the amount decreed and with the amount of fees due; but nothing is said as to the expenses paid to witnesses under sec. 96 (3). Apparently, if the union court orders that expenses paid in advance to witnesses by one party shall be recovered from another party, this recovery is to be treated as a last charge to be defrayed after other dues from the party liable have been discharged. For instance, if a claim for Rs. 39/- is decreed in full, the fee of 2/- will be payable by the defendant. Supposing that the union court also orders him to pay the expenses (say Rs. 5½ of witnesses summoned at the instance of the plaintiff, that order will not be carried out unless the amount of the decree and the suit fee are first paid in full. If the total amount that can be realised from the defendant is only Rs. 30/-, the plaintiff will be entitled to receive $\frac{2}{11} \times 39$ or Rs. 28/9 out of his total dues of Rs. 44 and Rs. 1/7 will be credited to the union fund as suit fee. As another instance, suppose that the claim for Rs. 39 is decreed only to the extent of one half and that the union court orders the plaintiff to pay the expenses (say Rs. 3) paid to some witnesses summoned by the defendant. Each of the parties will have to pay one rupee as suit fee but, in paying the decretal amount of Rs. 19/8, the defendant will be entitled to deduct the sum of Rs. 3 advanced by him as expenses of witnesses. Suppose again that only Rs. 10 can be realised from the defendant, the plaintiff will be entitled to $\frac{2}{11} \times 10$ or Rs. 9/8 out of that amount, 8 annas only will be credited as suit fee and the defendant will not be able to recover any amount from the plaintiff.

*General provisions relating to union benches
and union courts.*

Procedure by union
benches and union courts.

93. (1) The provisions of—

VII of 1870.

(a) the Court-fees Act, 1870.

(b) the Code of Criminal Procedure, 1898, excepting
Act V of 1898. Chapter XXXIII. and

Act V of 1908. (c) the Code of Civil Procedure, 1908,

shall not apply to any trial, suits or proceeding before a union bench or a union court.

(2) The procedure to be followed by a union bench or a union court in any trial, suit or proceeding and in the enforcement of its decisions and orders, and in the

method of forming a quorum shall, subject to the provisions of this Act, be in accordance with rules prescribed under section 101.

Note.—Chapter XXXIII of the Criminal Procedure Code relates to the trial of European British subjects. Such persons cannot be tried by a union bench unless they relinquish their right to be dealt with as European British subjects (cf. sec. 454 C. P. C.)

94. (1) The union bench and the union court shall be presided over by the president of the union board, if he is a member of the bench or court.

Persons who are to preside over union bench or union court.

(2) If the president of the union board is absent from a sitting of the union bench or court, or if he is not a member of the bench or court, the bench or court, as the case may be, shall elect its own president.

(3) In case of difference of opinion among the members of the bench or court the decision or order of the bench or court shall follow the opinion of the majority of the members present and voting.

(4) In case of an equality of votes, the person presiding over the bench or court shall have a second or casting vote.

Note.—It is probable that the union bench or union court will be able to arrive at a unanimous decision, as is invariably done by benches of honorary magistrates, although they usually consist of two members.

Member of union bench or court not to try case or suit in which he is interested.

95. No member of a union bench or union court shall try any case or suit or other proceeding to or in which he is a party, or personally interested.

Explanation.—A member of a union bench or union court shall not be deemed a party or personally interested within the meaning of this section in any case by reason only that he is a member of a union board.

Note.—Under the provisions of section 75 (3) a union court cannot try a suit in which a union board, or any member or officer, of a union board, as such, is a party. There is nothing to prevent a union

bench from trying a criminal case in which the union board is the prosecutor; but the president or other member of the union board who instituted the prosecution should not sit on the union bench which tries the case.

96. (1) Subject to the provisions of section 98, a union bench or a union court may, by summons or otherwise, send for any person to appear and give evidence or to produce or cause the production of any document:

Attendance of witnesses. Provided that no person who is exempt from personal appearance in court under section 133, sub-section (1), of the Code of Civil Procedure, 1908, shall be required to appear in person before a union court.

(2) A union bench or a union court shall refuse to summon a witness or to enforce a summons already issued against a witness, where, in the opinion of the bench or court, the attendance of the witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable.

(3) A union bench or union court shall not require any person living outside the union to give evidence, unless such a sum of money be paid to him as appears to the bench or court to be sufficient to defray his travelling and other expenses in passing to and from the bench or court and for one day's attendance.

(4) If any person whom a union bench or a union court summons by written order to appear or give evidence, or to produce any documents before it fails to obey such summons a union bench may take cognizance of such offence and may sentence any person convicted thereof to a fine not exceeding twenty-five rupees.

Notes 1.—The act does not prescribe the manner in which witnesses and parties living outside the union shall be summoned. This will be done by rules under sec. 101 (2) (r). It may be presumed that

in suits before union courts, summonses to such witnesses and parties will be served by registered acknowledgment post and that in trials before union benches they will be served through the union board of the union in which they are living, or through the president panchayat if there is no union board, or through the magistrate if the summonses have to be served within a municipality.

2. It may also be presumed that it will be prescribed by rule that, before a witness living outside the union is summoned, the union bench or union court will require the party at whose instance he is summoned to deposit his expenses under sub-section (3) and will cause that amount to be paid to him at the time the summons is served.
3. Under the Oaths Act (X of 1873) all witnesses, excepting in criminal cases the accused, must give their evidence before a union bench or union court on oath or affirmation. A Hindu or other person who objects to make an oath must make an affirmation.
4. As members of a union bench or union court are "public servants" within the meaning of section 21 of the Indian Penal Code, a witness who refuses to bind himself by an oath or affirmation when so required by a union bench or union court is guilty of an offence under section 178 Indian Penal Code.
5. Having made an oath or affirmation, a witness is legally bound to state the truth. If he refuses to answer any question demanded of him by the union bench or union court touching the subject matter of the trial he commits an offence under section 179, Indian Penal Code. (See p.)
6. As the provisions of sections 195 and 476 of the Criminal Procedure Code do not apply to proceedings or trials before a union bench or union court (of sec. 93) a union bench may, when an offence under 178 or 179, Indian Penal Code is committed before it, proceed at once to the trial of the offender. A union court should report such cases to the union bench for trial.

Appearance of parties before union bench or union court.

97. (1) The parties to cases triable by a union bench shall appear personally before such bench :

Provided that the union bench, if it sees reason so to do, may dispense with the personal attendance of an accused and permit him to appear by agent.

(2) The parties to suits triable by a union court may appear by agent.

"Agent" in sub-sections (1) and (2) means a full-time servant or a partner or a relative of the party,

whom the union bench or union court may admit as a fit person to represent a party, and who is authorized to appear and plead for such party.

(3) Notwithstanding anything contained in the Legal Practitioners Act, 1879, legal practitioners shall not be permitted to practise before a union bench or union court.

Notes 1.—A person making a complaint before a member of a union bench must appear personally; but a complaint may be made by a person other than the person injured.

2. Authority to appear and plead for a party need not necessarily be in writing. It is sufficient if the union bench or union court is satisfied that the person appearing for a party is authorised to represent such party in the case.
3. Legal practitioners include pleaders, muktars and revenue agents (Cf. Sec. 3. Legal practitioner's Act.
4. It is very important to keep away from union benches and union courts persons commonly called "village touts"—those unauthorised legal parasites who foment litigation and coach parties in the conduct of their cases. If such persons are allowed to appear, the proceedings of union benches and union courts will be a mere travesty of justice. The members of union benches and union courts should therefore firmly refuse to allow such persons to be present during the hearing of cases.

98. No woman shall, against her will, be compelled to appear in person before a union bench as an accused, or before a union bench or union court as a witness.

Note.—A woman need not appear against her will as complainant before a union bench (cf. note 1 under sec. 97) or as plaintiff before a union court (cf. sub-section (2), section 97.)

99. All fees and fines imposed and all sums due on bonds and all sums decreed and compensation awarded under this Act by a union bench or union court may be realized under the orders of the union bench or union court, as the case may be, in the same manner as an arrear of rate imposed under section 37.

Realization of fees, fines, etc.

Note 1.—Expenses of witnesses.—In passing a decree, the union court must state the fees due on the suit and the amount paid as witnesses' expenses (cf. sec. 86). Under section 99 these amounts are leviable in the same manner as an arrear of union rate.

2. *Sums due on bonds.*—If an accused fails to carry out the terms of a bond executed under sub-section (3) of section 70 the bond is forfeited and the union bench should direct that the penalty of the bond be paid. If the accused does not pay when so ordered, the penalty is leviable in the same manner as an arrear of union rate.
3. *Period of Limitation.*—Rules will probably be made under section 101 (5) prescribing the period within which sums due may be levied under section 99.

100. Every union bench and union court shall
 Register and Records. maintain such registers and records
 and submit such returns as may
 be prescribed by rules under section 101.

PART III
CHAPTER VIII.

MISCELLANEOUS.

101. (1) The Local Government may, after previous publication, make rules to carry out the purposes of this Act.

Power of Local Government to make rules.

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

- (a) determining the manner and time of appointment or election of members of union boards, the action to be taken under section 6. subsection (4) in the case of the failure of an election, the registration of voters and candidates and the manner in which the votes shall be taken, and generally regulating all elections under this Act and determining the authority who shall decide disputes relating to such elections ;
- (b) fixing the time within which the elections of the president of a union board shall be held, and the time within which an election to fill a casual vacancy in such office shall be held ;
- (c) regulating the powers of union boards to transfer property ;
- (d) prescribing the powers to be exercised by the president or vice-president of a union board ;
- (e) regulating the conduct of meetings of union boards and the method of forming a quorum ;

- (f) prescribing the registers and records to be maintained and the returns to be submitted by union boards, union benches and union courts ;
- (g) regulating the powers and duties of union boards in regard to the control to be exercised by them over dafadars and chaukidars within the union ;
- (h) prescribing the duties of dafadars and chaukidars, and fixing the time and manner of the payment by the union board of the salaries of dafadars and chaukidars, and the cost of their equipment ;
- (i) prescribing the processes to be served by dafadars or chaukidars, and regulating the service of such processes ;
- (j) regulating the powers and duties of union boards in regard to sanitation, conservancy, drainage, buildings, roads, bridges and water-supply under sections 26, 27, 28, 29, 30, 31 and 35, and in regard to schools and dispensaries under section 32 ;
- (k) for the making of an assessment by the union board under section 39, for imposing the rate under section 37, and prescribing under section 41 the method and time of payment of such rate.
- (l) for the conduct of the distraint and sale of movable property of defaulters under section 42 ;
- (m) prescribing the method in which the accounts of the union fund shall be kept and audited ;
- (n) regulating the realization and disbursement, under section 54, of the amount required to meet the arrears therein specified ;

- (o) prescribing the manner in which orders under section 56 shall be published ;
 - (p) prescribing the particulars of petitions under sections 67 and 77 which shall be entered in the registers of union benches and union courts ;
 - (q) regulating the procedure to be followed by a union bench or a union court in the institution, trial and disposal of criminal cases and civil suits, and prescribing the method of forming a quorum ;
 - (r) regulating the issue, service or execution of summonses and other processes by union benches or union courts, and the issue and service of notices by union boards ;
 - (s) determining the procedure for the execution of decrees, orders and sentences of union courts and union benches ;
 - (t) regulating the transfer by union benches or union courts of summonses and other processes to ordinary courts for their service or execution by such courts ; and
 - (u) prescribing the fees to be levied by union benches and union courts for copies of documents, and determining the procedure to be followed in furnishing such copies.
- (3) The rules made under sub-section (2) shall be published in such manner as the Local Government may direct.

Note. Under section 24 of the Bengal General Clauses Act (I of 1899) the proposed rules must be published in draft form in the Calcutta Gazette and time allowed for persons concerned to make any objections or suggestions before the rules are made final. After they are made final, they will be again published under the provisions of sub-section (3) above.

102. No member of a union board, union bench or union court, or other officer having any duty to perform in connection with any sale under this Act, shall directly or indirectly bid for, or acquire any interest in, any property sold at such sale.

Members of union board, etc., not to bid for or buy property sold.

103. A judge or a magistrate shall not be deemed to be a party, to, or personally interested in, any case under this Act, within the meaning of section 556 of the Code of Criminal Procedure, 1898, merely because he is a member of the union board.

Membership not a bar to trial of cases

Notes. Sec. 556, of the Criminal Procedure Code prohibits a judge or magistrate from trying any case to which "he is a party" or in which he is personally interested." Under the present Sec. 103 it is provided that a judge or magistrate who is a member of a union board shall not, merely for that reason, be deemed to be "a party or personally interested." This makes it clear that a judge or magistrate is not precluded from trying a case merely because he is a member of a union board. A judge or magistrate should not, however, try a case in which the union board is a party, if he is president of the union board or if he caused the case to be instituted.

(Schedule I.—Enactments repealed or amended.)

SCHEDULE I.

ENACTMENTS REPEALED OR AMENDED.

(See section 2)

1	2	3	4
Year.	No.	Short title.	Extent of repeal or amendment.
1870	VI	The Village-chaukidari Act, 1870.	* The whole except the preamble and section 1, 48 to 61 (Part II), 66, 67 and 69, and Schedules C and D, shall be repealed.

(Schedule I.—Enactments repealed or amended.)

1	2	3	4
Year.	No.	Short title.	Extent of repeal or amendment.
1871	1	The Bengal Village-chaukidari Act, 1871.	The whole shall be repealed.
1885	1	The Bengal Ferries Act, 1885.	<p>For section 35, the following shall be substituted, namely :—</p> <p>“ 35. It shall be lawful for the Local Government to order that any public ferry shall be managed by a local authority having jurisdiction over the area or any part of the area in which such ferry is situated; and such local authority shall have all the powers vested in the magistrate of the district under this Act except the powers specified in sections 7, 17 and 32, and the Local Government may further order that all or any part of the proceeds of such ferry, and all or any part of the fines levied, any compensation received, under this Act in respect thereof, be paid to such local authority; and thereupon such ferry shall be managed and such proceeds, fines and compensations shall be paid accordingly.</p>

(Schedule I.—Enactments repealed amended.)

1	2	3	4
Year.	No.	Short title.	Extent of repeal or amendment.
1885	III	The Bengal Local Self-Government Act of 1885.	<p>1. In section 5, for the definition of "local authority" the following shall be substituted, namely:— "local authority" means any district board, local board or joint committee constituted under this Act, or any union board constituted under the Bengal Village Self-Government Act 1919."</p> <p>2. In section 6,— (i) the second paragraph after the words "any subdivision" the words "or part of a subdivision or" shall be inserted, (ii) for the proviso to that paragraph the following shall be substituted, namely:— "Provided that a local board shall be established in every district or part of a district in which the Bengal Village Self-Government Act, 1919, is in force." and (iii) in the last paragraph for the words "subdivision or subdivisions" the word "area" shall be substituted.</p> <p>3. In section 7, the first proviso shall be omitted.</p> <p>4. For section 9, the following shall be substituted, namely:— "9 (1) Such proportion of the members of a local board as the Local Government may from time to time determine shall be qualified voters of the local boards."</p>

(Schedule I.—Enactments repealed or amended.)

1	2	3	4
Year.	No.	Short title.	Extent of repeal or amendment.
1885	III— <i>contd.</i>	The Bengal Local Self- Government Act of 1885 —contd.	<p>to time direct, shall be elected by persons entitled to vote at an election of members of a union board within the area under the authority of the local board within such time and in accordance with such rules as may be prescribed in this behalf under clause (a) of section 138:</p> <p>Provided that not less than two-thirds of the members of a local board shall be elected.</p> <p>(b) Every person who is qualified to vote at an election of members of a union board within the area under the authority of a local board shall be entitled to be a member of the local board if duly elected thereto."</p> <p>5. In section 11, for the words "One-third of the members of each local board established in a district mentioned in the third schedule of this Act" the words "The remaining proportion of the members of each local board" shall be substituted.</p> <p>6. In section 12, the words "or by three" in the two places where they occur and the words "or one-third, as the case may be" shall be omitted.</p>

88 THE BENGAL VILLAGE SELF-GOVERNMENT ACT.

Schedule I.—Enactments repealed or amended.)

1	2	3	4
Year.	No.	Short title.	Extent of repeal or amendment.
1885	III— <i>contd.</i>	The Bengal Local Self- Government Act of 1885 — <i>contd.</i>	<p>7. Sections 13, 14 and 15 shall be repealed.</p> <p>8. In sections 18 and 18A, for the words "local board or union committee" the words "or local board" shall be substituted.</p> <p>9. Section 36 and the whole of Chapter II of Part I (sections 37 to 44) shall be repealed.</p> <p>10. At the end of clause (2) of section 52 the following shall be added, namely:— "except when levied by a union bench appointed under the Bengal Village Self-Government Act, 1919"</p> <p>11. For sub-clause (d) of clause <i>Fifthly</i> of section 53, the following shall be substituted, namely:— "(d) any sums assigned by the district board to a local board or to a union board constituted under the Bengal Village Self-Government Act, 1919."</p> <p>12. The whole of Chapter III of Part II (sections 56 to 58) shall be repealed.</p> <p>13. In section 62, after the words "under this Act" the words and figures "and to the provisions of the Bengal Village Self-Government Act, 1919" shall be inserted.</p>

(Schedule I.—Enactments repealed or amended.)

1	2	3	4
Year.	No.	Short title.	Extent of repeal or amendment.
1885	III— <i>contd.</i>	The Bengal Local Self Government Act of 1885 — <i>contd.</i>	<p>14. In section 73, the following words and figures shall be omitted, namely :— “but subject to the provisions of Chapter III of Part III thereof.”</p> <p>15. In section 89, the following words shall be inserted at the beginning of the section, namely :— “Subject to the provisions of the Bengal Village Self-Government Act, 1919.”</p> <p>16. The whole of Chapter III of Part III (sections 104 to 119) shall be repealed.</p> <p>17. In section 130, the following shall be omitted, namely :— (i) in the first paragraph, the following :—“in respect of a union committee, by the district board or the local board to which the union committee may have been declared, by an order under section 119, to be, for the purposes of this section, subordinate, and ” ; (ii) the whole of the second and third paragraphs, namely :— “When a local board makes any order under this section, it shall forthwith submit to the district board a copy of the order, with a statement of its reasons for making it, and with any explanation which the union committee concerned may wish to offer.</p>

(Schedule I.—Enactments repealed or amended.)

1	2	3	4
Year.	No.	Short title.	Extent of repeal or amendment.
1885	III— <i>contd.</i>	The Bengal Local Self- Government Act of 1885 — <i>contd.</i>	<p>The district board may thereupon confirm, modify or rescind the order"; and</p> <p>(iii) in the penultimate paragraph the words "or union committee."</p> <p>18. In section 131, the words "or union committee", occurring in two places, shall be omitted.</p> <p>19. In section 132, the following shall be omitted, namely:—</p> <p>(i) in the first paragraph, the words "or union committee" in the four places where they occur.</p> <p>(ii) in the second paragraph, the words "or committee" and</p> <p>(iii) the whole of the last paragraph.</p> <p>20. Section 133 shall be repealed.</p> <p>21. In section 138,—</p> <p>(1) the following shall be omitted, namely:—</p> <p>(i) in the first paragraph, the words "or union committee";</p> <p>(ii) in clause (a) the following words namely:—</p> <p>"and the qualifications and disqualifications of such members, and the qualifications and disqualifications";</p> <p>(iii) clauses (q) and (q1) (q) and (q1) and</p> <p>(iv) the whole of the last paragraph;</p> <p>(2) at the end of the said clause (a) the following shall be added, namely.—</p>

(Schedule I.—Enactments repealed or amended.)

1	2	3	4
Year.	No.	Short title.	Extent of repeal or amendment.
1885	III— <i>concl'd.</i>	The Bengal Local Self- Government Act of 1885 — <i>concl'd.</i>	<p>"and in the case of district boards the qualifications and disqualifications of members";</p> <p>(3) in clause (t) for the words "district boards, local boards and union committee" the words "district boards or local boards" shall be substituted.</p> <p>22. In section 142, for the words "local board or union committee" the words "or local board" and for the words "union committee, local board, or district board" the words "district board or local board" shall be substituted.</p> <p>23. In section 144, for the words "local authority," wherever they occur, the words "district board or local board" shall be substituted.</p> <p>24. In section 145, for the words "Every local authority" the words "The district board" and for the words "the district or union funds respectively," the words "the district fund" shall be substituted.</p> <p>25. In section 146, in the first paragraph, the words "or union committee" and, in the two places where they occur, the words "or committee" shall be repealed, and the word "or" shall be inserted after the words "district board."</p> <p>26. The whole of the third schedule shall be repealed.</p>

(Schedule I.—Enactments repealed or amended.)

1	2	3	4
Year.	No.	Short title.	Extent of repeal or amendment.
1886	1	The Bengal Village-chaukidari (Amendment) Act, 1886.	The whole shall be repealed.
1892	1	The Bengal Village-chaukidari (Amendment) Act, 1892.	The whole shall be repealed.

Note.—The Acts amended by the above schedule are printed below viz :—

The Village Chaukidari Act, 1870, on pp

The Bengal Ferries Act, 1885, on pp

The Bengal Local Self-Government Act of 1885, on pp. . . . ,

(Schedule II.—Offences to be reported by a chaukidar.)

SCHEDULE II.

OFFENCES TO BE REPORTED BY A CHAUKIDAR.

(See section 23.)

Murder, culpable homicide, rape (when the offender is not the husband of the woman raped), dacoity, robbery, theft, mischief by fire, house-breaking, counterfeiting currency notes, coins or stamps, possessing instruments or materials for the purposes of such counterfeiting, causing grievous hurt, riot, administering stupefying drugs, kidnapping, personating public servants, manufacturing, selling or possessing arms without a license and going armed without a licence, and all attempts, preparations and conspiracies to commit, and abetments of, the said offences.

(Schedule III.—Powers and duties which may be delegated by the district magistrate.)

SCHEDULE III.

POWERS AND DUTIES WHICH MAY BE DELEGATED BY THE DISTRICT MAGISTRATE.

(See section 47.)

Powers or duties.	The whom may be delegated.
1	2
1. Appointment and dismissal of dafadars and chaukidars under section 20 ...	Subdivisional magistrate, superintendent of police or circle officer.
2. Fining of dafadars and chaukidars under section 22 ...	Ditto ditto.
3. Requiring chaukidar to supply local information under section 23 (viii)	Subdivisional magistrate.
4. Calling for assessment papers and passing of orders thereon, under section 40 ...	Ditto ditto.
5. Issue of warrant section 43 for distraint and sale of property of absentees for satisfaction of union rate ...	Ditto ditto.

(Schedule IV.—Offences triable by a union bench).

SCHEDULE IV.

OFFENCES TRIABLE BY A UNION BENCH.

(See sections 65 and 66.)

PART A.

- | | |
|---------------------|--|
| I of 1871. | 1. Offences under sections 24, 26, and 27 of the Cattle-trespass Act, 1871. |
| Act XLV of 1860. | 2. Offences under enactments (other than the Indian Penal Code) or any rules or by-laws made thereunder which are punishable with fine only up to a limit of twenty-five rupees. |
| V of 1861. | 3. Offences under section 34 of the Police Act, 1861. |
| Ben. Act I of 1885. | 4. Offences under the Bengal Ferries Act, 1885 except those under sections 28 and 30. |
| Act XLV of 1860. | 5. Offences under the following sections of the Indian Penal Code, namely:—sections 160, 178, 179, 269, 277, 289, 290, 294, 323, 334, 341, 352, 358, 426, 447, 448, 504 and 510; and when the value of the property in the opinion of the union bench is not over twenty rupees, sections 379 and 411. |

PART B.

Offences under the following sections of the Indian Penal Code namely:—sections 283, 428, 430, 506 and 509; and when the value of the property in the opinion of the magistrate is not over twenty rupees, section 403.

Notes. The Cattle Trespass Act, 1871, the Bangal Ferries Act, 1885 and Sec. 34 of the Police Act, 1861, will be found further on . .

2. The Sections of the Indian Penal Code referred to in this schedule are printed hereafter . . .
3. Offences which a union bench may have to try, under paragraph 2 of Part I of this schedule fall mainly under the following heads, viz :—
offences under sections 30 (4) and 96 (4) of this Act

Breaches of such district board by-laws as are punishable with fine not exceeding Rs. 25/-

Offences under sections 10 and 12 of the Bengal Primary Education Act if extended to the union.

The Village Chaukidari Act 1870.

(BENGAL ACT VI OF 1870).

(As Modified up to the 31st December 1919 in areas to which the Bengal Village Self Government Act is extended).

An Act to provide for the appointment, dismissal and maintenance of village-chaukidars.

WHEREAS it is expedient to make provision for the appointment, dismissal and maintenance of village-chaukidars in the provinces subject to Lieutenant Governor of Bengal. It is enacted as follows :—

1. The following words and expressions shall, in the construction of this Act, have the several meanings hereby as signed to them respectively, except where a different intention shall appear from the context (that is to say) :—

The words " District Magistrate " shall mean the chief officer charged with executive administration of a district in criminal matters, by whatsoever designation such officer is called :

* * * * *

The word " chaukidari chakran lands " shall mean lands which may have been assigned, otherwise than under a temporary settlement, for the maintenance of the officer who may have been bound to keep watch in any village and report crime to the police, and in respect to which such officer may be at the time of the passing of this Act liable to render service to a zamindar :

The word " zamindar " shall mean the person whose name is registered in the general register of

estates paying revenue directly to Government as the proprietor of an estate so paying revenue, or the person whose name is registered in the general register of rent-free tenures as proprietor of a rent-free tenure.

* * * * *

Note.—Sections 2 to 47 have been repealed. (of schedule 1, Bengal Village Self-Government Act.)

Part II

CHAUKIDARI CHAKARAN LANDS.

48. All chaukidari chakaran lands before the passing of this Act assigned for the benefit of any village in which a panchayat shall be appointed shall be transferred in manner and subject as hereinafter mentioned to the zamindar of the estate or tenure within which may be situate such lands.

49. All lands so transferred shall be subject to an assessment which shall be fixed at one-half of the annual value of such land according to the average rates of letting land similar in quality in the neighbourhood of such land, and such assessment shall be made by the panchayat of the village.

50. Such assessment when made by the panchayat shall be submitted to the collector of the district, and he or any other officer exercising the powers of a collector by him thereunto appointed may approve, or revise and approve, the same (provided that it shall be lawful for the zamindar contest the assessment before it is so approved), and after such approval the collector of the district shall, by an order under his hand in the form in Schedule C, transfer to such zamindar such land subject to the assessment so approved.

51. Such order shall operate to transfer to such zamindar the land therein mentioned subject to the

amount of assessment therein mentioned, and subject to all contracts theretofore made, in respect of, under, or by virtue of, which any person other than the zamindar may have any right to any land, portion of his estate, or tenure, in the place in which such land may be situate.

52. The amount of the assessment mentioned in such order shall be a permanent yearly charge on such land, and shall be payable to the collecting member of the panchayat yearly in advance on the first day of the year current in the village by the person for the time being entitled to recover the rents of such land from the occupier thereof.

53. Every such assessment shall be deemed to be a demand to be realized in the manner hereinafter provided.

54. Whenever such assessment shall be in arrear for the space of fifteen days after it shall have become payable, the collecting member of the panchayat shall forward to the Collector of the district in which the land so assessed is situate, notice of the amount of such arrear and the name of the person liable to pay such assessment, in the form in Schedule D annexed to this Act.

55. Immediately after the receipt of the said notice the Collector or other officer authorized to hold sales under the law for the time being in force for regulating sales of land for arrears of revenue shall proceed, without any preliminary notice for payment, to issue a notification for sale under section 6 of Act XI of 1859, passed by the Legislative Council of India ;

and, unless the arrears be paid within the time mentioned in such notification, shall sell such land according to the provisions of such law as if such land were an estate within the meaning of Act VII of 1868 passed by the Lieutenant-Governor of Bengal in Council

and all provisions of the law for the time being in force with respect to the sale of such estates shall apply to the sale of such land, and every such sale shall have such and the same force and effect as if the same were a sale of an estate for arrears of its own revenue, and such land shall be held by the purchaser thereof subject to such assessment, but freed from all other charges and incumbrances save those to which he would have been liable if the said land had been an estate sold for arrears of its own revenue.

56. Such Collector shall, out of the proceeds of such sale, after defraying the costs of and attending such sale, pay to the collecting member of the panchayat, within one week after such sale shall have become final, the amount due for arrears of such assessment and pay the balance of such proceeds to the person named in the notice from the collecting member of the panchayat as the person liable to pay the assessment of such land.

57. When any land shall have been transferred to any zemindar under the provisions hereinbefore contained, the right to the performance of any services to any person by the occupier of such lands in respect of his occupation thereof shall wholly cease and determine.

58. In any district or part of a district in which may be situated lands before the passing of this Act assigned for the maintenance of an officer to keep watch in any village and to report crime to the police, it shall be lawful for the Lieutenant-Governor of Bengal, by an order to be published in the Calcutta Gazette, to appoint a commission consisting of one or more persons, to ascertain and determine the chaukidari chakaran lands and other lands before the passing of this Act assigned for the maintenance of an officer to keep watch in any village and to report crime to the police in such district.

59. Whenever in any district in which such commission shall have been appointed, any question shall arise whether any or what lands are chaukidari chakaran lands or other lands before the passing of this Act assigned for the maintenance of an officer to keep watch in any village and to report crime to the police, it shall be lawful for such commission to enquire into such question.

60. In inquiring into such question the commission shall, as far may be necessary, for the purposes of this Act, exercise all such and the same powers as are conferred by Regulation VII of 1822 and the Regulations and Acts amending the same upon a collector making a settlement of land-revenue.

61. Such commission shall demarcate the boundaries of any lands which they may determine to be chaukidari chakaran lands or other lands before the passing of this Act assigned for the maintenance of an officer to keep watch in any village and to report crime to the police, and shall make orders under their hand setting forth the land which they shall have determined to be chaukidari chakaran lands or other lands as aforesaid, and the boundaries thereof, and the name of the village for the benefit of which such lands are assigned, and distinguishing whether such land be or be not chaukidari chakaran lands or other lands as aforesaid.

Every such order shall be final and conclusive respecting all matters hereinbefore required to be set forth in such order so far as the same shall be therein set forth.

Note. Sections 62 to 65 have been repealed (cf. Schedule I, B. V. S. G. Act, 1919).

* * * * *

66. Nothing in this Act contained shall diminish or in any way affect any liability, duty or obligation of any zamindar, under any law in force at the time of the