

the commencement of this Act, distribute as dividend during any financial year, any sum which exceeds, or which, when taken with any sum already distributed as dividend during the same year whether before or after the commencement of this Act, will exceed—

(a) six per cent. of the paid-up capital of the company as on the last day of the period in respect of which the dividend is distributed, after deducting from such capital all amounts attributable to the capitalisation, on or after the 1st day of April, 1946, of one or more of the following namely reserves, profits and appreciation of assets, or

(b) the average annual dividend of the company, determined in the manner specified in sections 5 to 7, whichever is higher.

4. Limit of six per cent. to be exclusive of Income-tax paid by company.

—The limit of six per cent. specified in clause (a) of section 3 shall be applied to the amount of dividend distributed by the company among its shareholders, payments made by the company by way of income-tax being ignored.

5. Dividends and periods to be taken into account for determining average annual dividend.—The average annual dividend referred to in clause (b) of section 3 shall be determined with reference to—

(a) the total of the dividends distributed by such company (otherwise than by way of bonus shares) during the period of two years commencing on the 1st day of April, 1946, and ending with the 31st day of March, 1948, and

(b) the total of the periods in respect of which each such dividend has been distributed, no period however being counted more than once:

Provided that where an interim dividend for any period has been distributed before the 1st day of April, 1946, and a final dividend has been distributed in respect of the same period on or after that date but on or before the 31st day of March, 1948, such interim dividend shall be added to the total of the dividends referred to in clause (a):

Provided further that where an interim dividend for any period has been distributed on or after the 1st day of April, 1946 and on or before the 31st day of March, 1948, and a final dividend has been or is distributed in respect of the same period after the latter date, then—

(i) if the final dividend was distributed before the 5th day of October, 1948, it shall be added to the total of the dividends referred to in clause (a);

(ii) if the final dividend was or is distributed on or after the 5th day of October, 1948, the interim dividend and the period in respect of which it was distributed shall not be taken into account for the purposes of this section; but it shall be open to the company to claim that the interim dividend (but not the final dividend) shall be added to the total of the dividends referred to in clause (a), in which case the period in respect of which such interim dividend was distributed shall be taken into account for the purposes of clause (b)

6. Date of distribution of dividend.—For the purposes of this Act, a dividend shall be deemed to have been distributed by a company on the date on which the shareholders or their legal representatives have a right to receive it from the company, whether or not it has been actually paid.

7. Provision for increase or reduction in paid-up capital.—(1) (a) Where, subsequent to the distribution by a company of any dividend which has to

be taken into account for the purposes of clause (b) of section 3, its paid-up capital is increased by any amounts actually paid in cash, or

(b) where, before the distribution of any such dividend, the paid-up capital of a company is increased by any amounts actually paid in cash, but the amounts so paid are not entitled to the benefit of such dividend, such dividend, and every prior dividend which has to be taken into account for the purposes aforesaid, shall be deemed to have been augmented—

(i) *pro rata*, if the increase took place before the 29th day of October, 1948; and

(ii) by a sum equal to six per cent. per annum of all amounts paid in cash both by way of share capital and by way of premia, if the increase took place after the 29th day of October, 1948.

(2) (a) Where subsequent to the distribution by a company of any dividend which has to be taken into account for the purposes of clause (b) of section 3, its paid-up capital is reduced, or

(b) where, before the distribution of any such dividend, the paid-up capital of a company is reduced, but the whole of the capital as it stood before such reduction is entitled to the benefit of such dividend, such dividend, and every prior dividend which has to be taken into account for the purposes aforesaid, shall be deemed to have been diminished *pro rata*.

Preference shares.

8. *Special provision for preference shares.*—Nothing contained in this Act shall be deemed to limit in any way the dividend payable on preference shares issued and subscribed for before the 29th day of October, 1948.

9. *Prohibition of issue of preference shares at more than six per cent.*—No company shall, after the 29th day of October, 1948, issue preference shares carrying a right to a dividend at a rate exceeding six per cent. per annum.

Miscellaneous.

10. *Power to make rules.*—(1) The Central Government may, by notification in the official Gazette, make rules to carry out the purposes of this Act.

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

(i) the adaptation of the provisions of this Act with a view to their application to all or any of the bodies declared to be public companies under sub-clause (iii) of clause (b) of section 2;

(ii) the prevention of the evasion of the provisions of this Act, and the removal of difficulties in giving effect thereto.

11. *Power to make exemptions, etc.*—The Central Government may, by order, exempt any company or class of companies from all or any of the provisions of this Act, or make any modification in the application of the said provisions to any company or class of companies.

12. *Penalty.*—Any director, managing agent, manager or other officer or employee of a company who contravenes or attempts to contravene, or abets the contravention of or attempt to contravene, any of the provisions relating to the distribution of dividends, or the issue of preference shares, contained in this Act or in any rule, notification or order issued thereunder shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

13. *Repeal of Ordinance XXIX of 1948.*—(1) The Public Companies

(Limitation of Dividends) Ordinance, 1948 (XXIX of 1948), is hereby repealed.

(2) Notwithstanding such repeal, any rules made, action taken or thing done in exercise of any power conferred by or under the said Ordinance shall be deemed to have been made, taken or done in exercise of the powers conferred by or under this Act, as if this Act had come into force on the 29th day of October, 1948.

The Indian Wireless Telegraphy (Amendment) Act, 1949.

Received the assent of the Governor-General on the 28th April, 1949 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 30th April 1949.

Act No. XXXI of 1949.

An Act further to amend the Indian Wireless Telegraphy Act, 1933.

WHEREAS it is expedient further to amend the Indian Wireless Telegraphy Act, 1933 (XVII of 1933), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Indian Wireless Telegraphy (Amendment) Act, 1949.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf.

2. *Amendment of preamble to Act XVII of 1933.*—In the preamble to the Indian Wireless Telegraphy Act, 1933 (hereinafter referred to as the said Act), for the words “the provinces”, the word “India” shall be substituted.

3. *Amendment of section 1, Act XVII of 1933.*—For sub-section (2) of section 1 of the said Act, the following sub-section shall be substituted, namely:—

“(2) It extends to the whole of India.”

4. *Amendment of section 2, Act XVII of 1933.*—In section 2 of the said Act,—

(i) in clause (2), the word “and”, where it last occurs, shall be omitted;

(ii) after clause (2), the following clause shall be inserted, namely:—

“(2A) ‘wireless transmitter’ means any apparatus, appliance, instrument or material used or capable of use in making or transmitting telegraphic, telephonic or other communication by means of electricity or magnetism without the use of wires or other continuous electrical conductors between the transmitting and the receiving apparatus; and”

5. *Amendment of section 6, Act XVII of 1933.*—In section 6 of the said Act,—

(i) in sub-section (1), for the words “wireless telegraphy apparatus”, the words “wireless telegraphy apparatus, other than a wireless transmitter”, shall be substituted;

(ii) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) Whoever possesses any wireless transmitter in contravention of the provisions of section 3 shall be punished with imprisonment which may extend to three years, or with fine which may extend to one thousand rupees or with both”.

6. *Substitution of new section for section 7, Act XVII of 1933.*—For section 7 of the said Act, the following section shall be substituted, namely:—

"7. Power of search.—Any officer specially empowered by the Central Government in this behalf may search any building, vessel or place in which he has reason to believe that any wireless telegraphy apparatus, in respect of which an offence punishable under section 6 has been committed is kept or concealed, and take possession thereof."

The Code of Civil Procedure (Amendment) Act, 1949.

Received the assent of the Governor-General on the 28th April 1949 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 30th April 1949.

Act No. XXXII of 1949.

An Act further to amend the Code of Civil Procedure, 1908.

WHEREAS it is expedient further to amend the Code of Civil Procedure, 1908 (Act V of 1908), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Code of Civil Procedure (Amendment) Act, 1949.

2. *Amendment of section 82, Act V of 1908.*—In section 82 of the Code of Civil Procedure, 1908,—

(a) in sub-section (1), for the words "Where the decree is against the Dominion of India or a Province or against a public officer in respect of any such act as aforesaid", the following words shall be substituted, namely:—

"Where in a suit by or against the Government, or by or against a public officer in respect of any such act as aforesaid, a decree is passed against the Dominion of India or a Province or, as the case may be, the public officer"; and

(b) after sub-section (2), the following sub-section shall be added, namely:—

"(3) The provisions of sub-sections (1) and (2) shall apply in relation to an order or award as they apply in relation to a decree, if the order or award—

(a) is passed or made against the Dominion of India or a Province or a public officer in respect of any such act as aforesaid, whether by a Court or by any other authority, and

(b) is capable of being executed under the provisions of this Code or of any other law for the time being in force as if it were a decree".

The Rubber (Production and Marketing) Amendment Act, 1949

Received the assent of the Governor-General on the 28th April 1949 and is published in the *Gazette of India*, Extraordinary, dated the 30th April 1949.

Act No. XXXIII of 1949

An Act to amend the Rubber (Production and Marketing) Act, 1947.

WHEREAS it is expedient to amend the Rubber (Production and Marketing) Act, 1947 (XXIV of 1947), for the purpose hereinafter appearing;

It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Rubber (Production and Marketing) Amendment Act, 1949.

2. *Amendment of section 4, Act XXIV of 1947.*—In section 4 of the Rubber (Production and Marketing) Act, 1947, after clause (j) of sub-section (3), the following clause shall be inserted, namely:—

"(ji) three persons representing labour, to be nominated by the Central Government;"

The Coffee Market Expansion (Amendment) Act, 1949.

Received the assent of the Governor-General on the 28th April 1949 and is published in the *Gazette of India*, Extraordinary, dated the 30th April 1949.

Act No. XXXIV of 1949

An Act further to amend the Coffee Market Expansion Act, 1942.

WHEREAS it is expedient further to amend the Coffee Market Expansion Act, 1942 (VII of 1942), for the purpose hereinafter appearing;

It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Coffee Market Expansion (Amendment) Act, 1949.

2. *Insertion of new section 32A in Act VII of 1942.*—After section 32 of the Coffee Market Expansion Act, 1942, the following section shall be inserted, namely:—

"32A. *Power of the Board to make donation to the Gandhi National Memorial Fund.*—Notwithstanding anything contained in section 32, the Board may apply any part of the pool fund to the making of a donation to the Fund known as the Gandhi National Memorial Fund."

The Indian Succession (Amendment) Act, 1949.

Received the assent of the Governor-General on the 28th April 1949 and is published in the *Gazette of India*, Extraordinary, dated the 30th April 1949.

Act No. XXXV of 1949

An Act further to amend the Indian Succession Act, 1925.

WHEREAS it is expedient further to amend the Indian Succession Act, 1925 (XXXIX of 1925), for the purpose hereinafter appearing;

It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Indian Succession (Amendment) Act, 1949.

2. *Amendment of section 382, Act XXXIX of 1925.*—In section 382 of the Indian Succession Act, 1925, after the word "an Acceding State" the words "or the State of Hyderabad" shall be inserted.

The Indian Passport (Amendment) Act, 1949.

Received the assent of the Governor-General on the 28th April 1949 and is published in the *Gazette of India*, Extraordinary, Part IV dated the 30th April 1949.

Act No. XXXVI of 1949.

An Act to amend the Indian Passport Act, 1920.

WHEREAS it is expedient to amend the Indian Passport Act, 1920 (XXXIV of 1920), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Indian Passport (Amendment) Act, 1949.

2. *Amendment of the long title and the preamble, Act XXXIV of 1920.*—In the long title of, and the preamble to the Indian Passport Act, 1920 (hereinafter referred to as the said Act), for the words "the Provinces of India" the word "India" shall be substituted.

3. *Amendment of section 1, Act XXXIV of 1920.*— In sub-section (2) of section 1 of the said Act, for the words "all the Provinces of India" the words "the whole of India" shall be substituted.

4. *Amendment of sections 3 and 5, Act XXXIV of 1920.*— In sections 3 and 5 of the said Act, for the words "the Provinces" wherever they occur, the word "India" shall be substituted.

5. *Addition of new section 6 to Act XXXIV of 1920.*— After section 5 of the said Act, the following section shall be added, namely :—

"6. *Application of Act to Acceding States.*— In the application of this Act to any Acceding State, any reference to an enactment in force in the Provinces of India but not in force in the Acceding State shall be construed as a reference to the corresponding law, if any, of that State."

The Registration of Foreigners (Amendment) Act, 1949.

Received the assent of the Governor-General on the 28th April 1949 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 30th April 1949.

Act No. XXXVII of 1949.

An Act to amend the Registration of Foreigners Act, 1939.

WHEREAS it is expedient to amend the Registration of Foreigners Act, 1939 (XVI of 1939), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. *Short title.*— This Act may be called the Registration of Foreigners (Amendment) Act, 1949.

2. *Amendment of the long title and the preamble, Act XVI of 1939.*— In the long title of, and the preamble to, the Registration of Foreigners Act, 1939 (hereinafter referred to as the said Act), for the words "the Provinces of India" the word "India" shall be substituted.

3. *Amendment of section 1, Act XVI of 1939.*— In sub-section (2) of section 1 of the said Act, for the words "all the Provinces of India" the words "the whole of India" shall be substituted.

4. *Amendment of section 3, Act XVI of 1939.*— In section 3 of the said Act, for the words "the Provinces" wherever they occur, the word "India" shall be substituted.

5. *Amendment of section 8, Act XVI of 1939.*— In section 8 of the said Act, for the figures "1864" the figures "1946" shall be substituted.

6. *Addition of new section 9 to Act XVI of 1939.*— After section 8 of the said Act, the following section shall be added, namely :—

"9. *Application of Act to Acceding States.*— In the application of this Act to any Acceding State, any reference to an enactment in force in the Provinces of India but not in force in the Acceding State shall be construed as a reference to the corresponding law, if any, of that State."

The Chartered Accountants Act, 1949.

Received the assent of the Governor-General on the 1st May, 1949 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 3rd May 1949.

Act No. XXXVIII of 1949.

An Act to make provision for the regulation of the profession of accountants

WHEREAS it is expedient to make provision for the regulation of the profession of accountants and for that purpose to establish an Institute of Chartered Accountants ;

It is hereby enacted as follows :—

CHAPTER I

PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Chartered Accountants Act, 1949.

(2) It extends to all the Provinces of India, and also to every Acceding State to the extent to which the Dominion Legislature has power to make laws for that State with respect to the matters dealt with in this Act.

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf.

2. *Interpretation.*—(1) In this Act, unless there is anything repugnant in the subject or context,—

(a) “associate” means an associate member of the Institute ;

(b) “chartered accountant” means a person who is a member of the Institute and who is in practice ;

(c) “Council” means the Council of the Institute ;

(d) “holder of a restricted certificate” means a person holding a permanent or temporary restricted certificate granted by a Provincial Government under the Restricted Certificates Rules, 1932 ;

(e) “Institute” means the Institute of Chartered Accountants of India constituted under this Act ;

(f) “prescribed” means prescribed by regulations made under this Act ;

(g) “Register” means the Register of Members maintained under this Act ;

(h) “registered accountant” means any person who has been enrolled on the Register of Accountants maintained by the Central Government under the Auditor’s Certificates Rules, 1932 ;

(i) “year” means the period commencing on the 1st day of April of any year and ending on the 31st day of March of the succeeding year.

(2) A member of the Institute shall be deemed “to be in practice”, when individually or in partnership with chartered accountants, he, in consideration of remuneration received or to be received,—

(i) engages himself in the practice of accountancy ; or

(ii) offers to perform or performs services involving the auditing or verification of financial transactions, books, accounts or records or the preparation, verification or certification of financial accounting and related statements or holds himself out to the public as an accountant ; or

(iii) renders professional services or assistance in or about matters of principle or detail relating to accounting procedure or the recording presentation or certification of financial facts or data ; or

(iv) renders such other services as, in the opinion of the Council, are or may be rendered by a chartered accountant ; and the words “to be in practice” with their grammatical variations and cognate expressions shall be construed accordingly.

Explanation.—An associate or a fellow of the Institute who is a salaried employee of a chartered accountant or a firm of chartered accountants shall, notwithstanding such employment be deemed to be in practice for the limited purpose of the training of articled clerks.

CHAPTER II.

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA.

3. *Incorporation of the Institute.*—(1) All persons whose names are entered in the Register at the commencement of this Act and all persons who may hereafter have their names entered in the Register under the provi-

ons of this Act, so long as they continue to have their names borne on the said Register, are hereby constituted a body corporate by the name of the Institute of Chartered Accountants of India, and all such persons shall be known as members of the Institute.

(2) The Institute shall have perpetual succession and a common seal and shall have power to acquire, hold and dispose of property, both movable and immovable, and shall by its name sue or be sued.

4. *Entry of the names in the Register.*—(1) Any of the following persons shall be entitled to have his name entered in the Register, namely, —

(i) any person who is a registered accountant or a holder of a restricted certificate at the commencement of this Act ;

(ii) any person who has passed such examination and completed such training as may be prescribed for members of the Institute ;

(iii) any person who has passed the examination for the Government Diploma in Accountancy or an examination recognised as equivalent thereto by the rules for the award of the Government Diploma in Accountancy before the commencement of this Act, and who, although not duly qualified to be registered as an accountant under the Auditor's Certificates Rules, 1932, fulfils such conditions as the Central Government may specify in this behalf ;

(iv) any person who, at the commencement of this Act, is engaged in the practice of accountancy in any Acceding State and who, although not possessing the requisite qualifications to be registered as an accountant under the Auditor's Certificates Rules, 1932, fulfils such conditions as the Central Government may specify in this behalf ;

(v) any person who has passed such other examination and completed such other training without India as is recognised by the Council as equivalent to the examination and training prescribed for members of the Institute :

Provided that in the case of any person who is not permanently residing in India, the Council may prescribe such further conditions as it may think fit ;

(vi) any person domiciled in India, who at the commencement of this Act is studying for any foreign examination and is at the same time undergoing training, whether within or without India, or, who, having passed such foreign examination, is at the commencement of this Act undergoing training, whether within or without India :

Provided that any such examination or training was recognised before the commencement of this Act for the purpose of conferring the right to be registered as an accountant under the Auditor's Certificates Rules, 1932, and provided further that such person passes the examination or completes the training within five years after the commencement of this Act.

(2) Every person belonging to the class mentioned in clause (i), of sub-section (1) shall have his name entered in the Register without the payment of any entrance fee.

(3) Every person belonging to any of the classes mentioned in clauses (ii), (iii), (iv), (v) and (vi) of sub-section (1) shall have his name entered in the Register on application being made and granted in the prescribed manner and on payment of the prescribed fee, which shall not exceed rupees three hundred in any case.

(4) The Central Government shall take such steps as may be necessary for the purpose of having the names of all persons belonging to the class mentioned in clause (i) of sub-section (1) entered in the Register.

5. *Fellows and Associates.*—(1) The members of the Institute shall be divided into two classes designated respectively as associates and fellows.

(2) Any person shall, on his name being entered in the Register, be deemed to have become an associate member of the Institute and be entitled to use the letters A C A. after his name to indicate that he is an associate member of the Institute of Chartered Accountants.

(3) An associate who has been in continuous practice in India for at least five years, whether before or after the commencement of this Act, or whether partly before and partly after the commencement of this Act, shall, on payment of the prescribed entrance fee, which shall not exceed rupees two hundred in any case, and on application made and granted in the prescribed manner, be entered in the Register as a fellow of the Institute and shall be entitled to use the letters F. C. A. after his name to indicate that he is a fellow of the Institute of Chartered Accountants.

6. *Certificate of practice.*—(1) No member of the Institute shall be entitled to practice unless he has obtained from the Council a certificate of practice.

(2) Every such member shall pay such annual fee, differing in amount according as he is an associate or a fellow of the Institute, for his certificate as may be prescribed, and such fee shall be due on the 1st day of April in each year.

7. *Members to be known as Chartered Accountants.*—Every member of the Institute in practice shall be designated as a Chartered Accountant and no person practising the profession of accountancy in India shall use any other designation, whether in addition thereto or in substitution therefor :

Provided that nothing contained in this section shall be deemed to prohibit any such person from adding any other description or letters to his name, if entitled thereto, to indicate membership of such other Institute of accountancy, whether in India or elsewhere, as may be recognised in this behalf by the Council, or any other qualification that he may possess, or to prohibit a firm, all the partners of which are members of the Institute and in practice, from being known by its firm name as Chartered Accountants.

8. *Disabilities.*—Notwithstanding anything contained in section 4, a person shall not be entitled to have his name entered in or borne on the Register if he—

(i) has not attained the age of twenty-one years at the time of his application for the entry of his name in the Register ; or

(ii) has been adjudged by a competent Court to be of unsound mind ; or

(i i) is an undischarged insolvent ; or

(iv) being a discharged insolvent, has not obtained from the Court a certificate stating that his insolvency was caused by misfortune without any misconduct on his part ; or

(v) has been convicted by a competent Court whether within or without India, of an offence involving moral turpitude and punishable with transportation or imprisonment or of an offence, not of a technical nature committed by him in his professional capacity unless in respect of the offence committed he has either been granted a pardon or, on an application made by him in this behalf, the Central Government has, by an order in writing, removed the disability ; or

(vi) has been found on inquiry to have been guilty of conduct which renders him unfit to be a member of the Institute.

CHAPTER III COUNCIL OF THE INSTITUTE

9. *Constitution of the Council of the Institute.*—(1) There shall be a Council of the Institute for the management of the affairs of the Institute and for discharging the functions assigned to it under this Act.

(2) The Council shall be composed of the following persons, namely,—

(a) persons elected by members of the Institute from amongst the fellows of the Institute chosen in such manner and from such regional constituencies as may be specified in this behalf by the Central Government by notification in the official Gazette; and

(b) five persons nominated by the Central Government.

10. *Mode of election to Council.*— Elections under clause (a) of sub-section (2) of section 9 shall be conducted in the prescribed manner:

Provided that the first election under the said clause shall be held in such manner as the Central Government may prescribe.

(2) Where any dispute arises regarding any such election, the matter shall be referred to a Tribunal appointed by the Central Government in this behalf and the decision of such Tribunal shall be final.

11. *Nomination in default of election or nomination.*—If any body of persons referred to in section 9 fails to elect any of the members of the Council which it is empowered under that section to elect, the Central Government may nominate a person duly qualified to fill the vacancy, and any person so nominated shall be deemed to be a member of the Council as if he had been duly elected.

12. *President and Vice-President.*—(1) The Council at its first meeting shall elect two of its members to be respectively the President and the Vice-President thereof, and so often as the office of the President or the Vice-President becomes vacant the Council shall choose another person to be the President or the Vice-President, as the case may be:

Provided that on the first constitution of the Council a member of the Council nominated in this behalf by the Central Government shall discharge the functions of the President, until such time as a President is elected under the provisions of this sub-section.

(2) The President shall be the Chief Executive Authority of the Council.

(3) The President or the Vice-President shall hold office for a period of one year from the date on which he is chosen but so as not to extend beyond his term of office as a member of the Council, and, subject to his being a member of the Council at the relevant time, he shall be eligible for re-election.

(4) On the dissolution of the Council, the President of the Council at the time of such dissolution shall continue to hold office and discharge such administrative and other duties as may be prescribed until such time as a new President shall have been elected and shall have taken over charge of his duties.

13. *Resignation of membership and casual vacancies.*—(1) Any member of the Council may at any time resign his membership by writing under his hand addressed to the President, and the seat of such member shall become vacant when such resignation is notified in the Official Gazette.

(2) A member of the Council shall be deemed to have vacated his seat if he is declared by the Council to have been absent without sufficient excuse from three consecutive meetings of the Council, or if his name

is, for any cause, removed from the Register under the provisions of section 20.

(3) A casual vacancy in the Council shall be filled by fresh election from the constituency concerned or by nomination by the Central Government, as the case may be, and the person elected or nominated to fill the vacancy shall hold office until the dissolution of the Council.

(4) No act done by the Council shall be called in question on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Council.

14. *Duration and dissolution of Council.*—The duration of any Council constituted under this Act shall be three years from the date of its first meeting, on the expiry of which it shall stand dissolved and a new Council constituted in accordance with the provisions of this Act.

15. *Functions of the Council.*—(1) The duty of carrying out the provisions of this Act shall be vested in the Council.

(2) In particular, and without prejudice to the generality of the foregoing power, the duties of the Council shall include—

(a) the examination of candidates for enrolment and the prescribing of fees therefor ;

(b) the regulation of the engagement and training of articled clerks ;

(c) the prescribing of qualifications for entry in the Register ;

(d) the recognition of foreign qualifications and training for purpose of enrolment ;

(e) the granting or refusal of certificates of practice under this Act ;

(f) the maintenance and publication of a Register of persons qualified to practise as chartered accountants ;

(g) the levy and collection of fees from chartered accountants, associates, members, examinees and other persons ;

(h) the removal of names from the Register and the restoration to the Register of names which have been removed ;

(i) the regulation and maintenance of the status and standard of professional qualifications of chartered accountants ;

(j) the carrying out, by financial assistance to persons other than members of the Council or in any other manner, of research in accountancy ;

(k) the maintenance of a library and publication of books and periodicals relating to accountancy ; and

(l) the exercise of disciplinary powers conferred by this Act.

16. *Staff, remuneration and allowances.*—(1) For the efficient performance of its duties, the Council may—

(a) appoint a Secretary who may also, if so decided by the Council, act as Treasurer ;

(b) appoint such other officers and servants as it deems necessary ;

(c) require and take from the Secretary or from any other officer or servant of the Council such security for the due performance of his duties as the Council considers necessary ;

(d) fix the salaries, fees, allowances and other conditions of service of the officers and servants of the Council ;

(e) with the previous sanction of the Central Government, fix the allowances of the President, Vice-President and other members of the Council.

(2) Notwithstanding anything contained in sub-section (1), on the first constitution of the Council the Secretary shall be a person appointed by

the Central Government in consultation with the Council, and he shall hold office during the pleasure of the Central Government, but so as not to exceed a period of three years from the date of his appointment.

17. Committees of the Council.—(1) The Council shall constitute from amongst its members the following Standing Committees, namely :—

- (i) an Executive Committee,
- (ii) an Examination Committee, and
- (iii) a Disciplinary Committee.

(2) The Council may also form such other Committees from amongst its members as it deems necessary for the purpose of carrying out the provisions of this Act.

(3) Each of the Standing Committees shall consist of the President and the Vice-President, *ex-officio*, and three other members of the Council elected by the Council :

Provided that in the case of the Disciplinary Committee, out of the members to be elected, two shall be elected by the Council, and the third nominated by the Central Government from amongst the persons nominated to the Council by the Central Government.

(4) The President and the Vice-President of the Council shall be the Chairman and Vice-Chairman respectively of each of the Standing Committees.

(5) Every member of the Standing Committee other than the Chairman and the Vice-Chairman shall hold office for one year from the date of his election, but subject to being a member of the Council, he shall be eligible for re-election.

(6) The Standing Committees shall exercise such functions and be subject to such conditions in the exercise thereof as may be prescribed.

18. Finances of the Council —(1) There shall be established a fund under the management and control of the Council into which shall be paid all monies received by the Council and out of which shall be met all expenses and liabilities properly incurred by the Council.

(2) The Council may invest any money for the time being standing to the credit of the fund in any Government security or in any other security approved by the Central Government.

(3) The Council shall keep proper accounts of the fund distinguishing capital from revenue.

(4) The annual accounts of the Council shall be subject to audit by a chartered accountant to be appointed annually by the Council :

Provided that no member of the Council or a person who is in partnership with such member shall be eligible for appointment as an auditor under this sub-section.

(5) As soon as may be practicable at the end of each year, but not later than the 30th day of September of the year next following, the Council shall cause to be published in the *Gazette of India* a copy of the audited accounts and the Report of the Council for that year, and copies of the said accounts and Report shall be forwarded to the Central Government and to all the members of the Institute.

(6) The Council may borrow from a scheduled bank, as defined in the Reserve Bank of India Act, 1934 (II of 1934), or from the Central Government—

(a) any money required for meeting its liabilities on capital account on the security of the fund or on the security of any other assets for the time being belonging to it, or

(b) for the purpose of meeting current liabilities pending the receipt of income, by way of temporary loan or overdraft.

CHAPTER IV.

REGISTER OF MEMBERS.

19. *Register.*—(1) The Council shall maintain in the prescribed manner a Register of the Members of the Institute.

(2) The Register shall include the following particulars about every member of the Institute, namely :—

(a) his full name, date of birth, domicile, residential and professional address ;

(b) the date on which his name is entered in the Register ;

(c) his qualifications ;

(d) whether he holds a certificate of practice ; and

(e) any other particulars which may be prescribed.

(3) The Council shall cause to be published in the *Gazette of India* a list of members of the Institute as on the first day of April of each year, and a copy of such list shall be sent to each member of the Institute.

(4) Every member of the Institute shall, on his name being entered in the Register, pay such annual membership fee as may be prescribed.

20. *Removal from the Register.*—(1) The Council may remove from the Register, the name of any member of the Institute—

(a) from whom a request has been received to that effect ; or

(b) who has not paid any prescribed fee required to be paid by him ; or

(c) who is found to have been subject at the time when his name was entered in the Register, or who at any time thereafter has become subject to any of the disabilities mentioned in section 8, or who for any other reason has ceased to be entitled to have his name borne on the Register.

(2) The Council shall remove from the Register the name of any member who has been found by the High Court to have been guilty of conduct which renders him unfit to be a member of the Institute.

CHAPTER V

MISCONDUCT

21. *Procedure in inquiries relating to misconduct of members of Institute.*—(1) Where on receipt of information or on receipt of a complaint made to it, the Council is of opinion that any member of the Institute has been guilty of conduct which, if proved, will render him unfit to be a member of the Institute, or where a complaint against a member of the Institute has been made by or on behalf of the Central Government, the Council shall cause an inquiry to be held in such manner as may be prescribed, and the finding of the Council shall be forwarded to the High Court.

(2) On receipt of the finding, the High Court shall fix a date for the hearing of the case and shall cause notice of the day so fixed to be given to the member of the Institute concerned, the Council and to the Central Government, and shall afford such member, the Council and the Central Government an opportunity of being heard before orders are passed on the case.

(3) The High Court may, thereafter, either pass such final orders on the case as it thinks fit or refer it back for further inquiry by the Council and, upon receipt of the finding after such inquiry, deal with the case in the manner provided in sub-section (2) and pass final orders thereon.

(4) Where it appears to the High Court that the transfer of any case pending before it to another High Court will promote the ends of justice, or tend to the general convenience of the parties, it may so transfer the case, subject to such conditions, if any, as it thinks fit to impose, and the High Court, to which such case is transferred, shall deal with it as if the finding of the Council relating to the case had been forwarded to it.

Explanation.—In this section ‘High Court’ means the highest civil court of appeal, not including the Federal Court, to which the Council forwards its finding, exercising jurisdiction in the area in which the person whose conduct is being inquired into carries on business, or has his principal place of business at the commencement of the inquiry :

Provided that where the findings of the Council relating to two or more members of the Institute have to be forwarded by the Council to different High Courts, the Central Government shall, having regard to the ends of justice and the general convenience of the parties, determine which of the High Courts, to the exclusion of the others, shall hear the cases against all the members.

22. Misconduct defined.—For the purposes of this Act, the expression “conduct which, if proved, will render a person unfit to be a member of the Institute” shall be deemed to include any act or omission specified in the Schedule, but nothing in this section shall be construed to limit or abridge in any way the power conferred on the Council under sub-section (1) of section 21 to inquire into the conduct of any member of the Institute under any other circumstances.

CHAPTER VI.

REGIONAL COUNCILS.

23. Constitution and functions of Regional Councils.—(1) The Council may constitute such Regional Councils as and when it deems fit for one or more of the regional constituencies that may be specified by the Central Government under clause (a) of sub-section (2) of section 9.

(2) The Regional Councils shall be constituted in such manner and exercise such functions as may be prescribed.

CHAPTER VII.

PENALTIES.

24. Penalty for falsely claiming to be a member, etc.—Any person who, —

(i) not being a member of the Institute, —

(a) represents that he is a member of the Institute ; or

(b) uses the designation Chartered Accountant, or

(ii) being a member of the Institute, but not having a certificate of practice, represents that he is in practice or practises as a chartered accountant,

shall be punishable on first conviction with fine which may extend to one thousand rupees, and on any subsequent conviction with imprisonment which may extend to six months or with fine which may extend to five thousand rupees, or with both.

25. Companies not to engage in accountancy.—(1) No company, whether incorporated in India or elsewhere, shall practice as chartered accountants.

(2) If any company contravenes the provisions of sub-section (1), then, without prejudice to any other proceedings which may be taken against the company, every director, manager, secretary and any other officer there-

of who is knowingly a party to such contravention shall be punishable with fine which may extend on first conviction to one thousand rupees, and on any subsequent conviction to five thousand rupees.

26. Unqualified persons not to sign documents.—(1) No person other than a member of the Institute shall sign any document on behalf of a chartered accountant or a firm of chartered accountants in his or its professional capacity.

(2) Any person contravening the provisions of sub-section (1) shall, without prejudice to any other proceedings which may be taken against him, be punishable with fine which may extend on first conviction to one thousand rupees and on any subsequent conviction with imprisonment which may extend to six months or with fine which may extend to five thousand rupees or with both.

27. Maintenance of branch offices—(1) Where a chartered accountant or a firm of chartered accountants has more than one office in India, each one of such offices shall be in the separate charge of a member of the Institute :

Provided that the Council may in suitable cases exempt any chartered accountant or a firm of chartered accountants from the operation of this sub-section.

(2) Every chartered accountant or a firm of chartered accountants maintaining more than one office shall send to the Council a list of offices and the persons in charge thereof and shall keep the Council informed of any changes in relation thereto.

18. Sanction to prosecute.—No person shall be prosecuted under this Act except on a complaint made by or under the order of the Council or of the Central Government.

CHAPTER VIII

MISCELLANEOUS

29. Reciprocity.—(1) Where any country, specified by the Central Government in this behalf by notification in the Official Gazette, prevents persons of Indian domicile from becoming members of any institution similar to the Institute of Chartered Accountants of India or from practising the profession of accountancy or subjects them to unfair discrimination in that country, no subject of any such country shall be entitled to become a member of the Institute or practise the profession of accountancy in India.

(2) Subject to the provisions of sub-section (1), the Council may prescribe the conditions, if any, subject to which foreign qualifications relating to accountancy shall be recognised for the purposes of entry in the Register.

30. Power to make regulations—(1) The Council may, by notification in the *Gazette of India*, make regulations for the purpose of carrying out the objects of this Act, and a copy of such regulations shall be sent to each member of the Institute.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters :—

(a) the standard and conduct of examinations under this Act ;

(b) the qualifications for the entry of the name of any person in the Register as a member of the Institute ;

(c) the conditions under which any examination or training may be treated as equivalent to the examination and training prescribed for members of the Institute ;

(d) the conditions under which any foreign qualifications may be recognised ;

(e) the manner in which and the conditions subject to which applications for entry in the Register may be made ;

(f) the fees payable for membership of the Institute and the annual fees payable by associates and fellows of the Institute in respect of their certificates ;

(g) the manner in which elections to the Council and the Regional Councils may be held ;

(h) the particulars to be entered in the Register ;

(i) the functions of Regional Councils ;

(j) the training of articled clerks and the fixation of limits within which premia may be charged from such clerks and the cancellation of articles for misconduct or for any other sufficient cause ;

(k) the regulation and maintenance of the status and standard of professional qualifications of members of the Institute ;

(l) the carrying out of research in accountancy ;

(m) the maintenance of a library and publication of books and periodicals on accountancy ;

(n) the management of the property of the Council and the maintenance and audit of its accounts ;

(o) the summoning and holding of meetings of the Council, the times and places of such meetings, the conduct of business thereat and the number of members necessary to form a quorum ;

(p) the powers, duties and functions of the President and the Vice-President of the Council ;

(q) the functions of the Standing and other committees and the conditions subject to which such functions shall be discharged ;

(r) the terms of office, and the powers, duties and functions of the Secretary and other officers and servants of the Council ;

(s) the exercise of disciplinary powers conferred by this Act ; and

(t) any other matter which is required to be or may be prescribed under this Act.

(3) All regulations made by the Council under this Act shall be subject to the condition of previous publication and to the approval of the Central Government.

(4) Notwithstanding anything contained in sub-sections (1) and (2) the Central Government may frame the first regulations for the purposes mentioned in this section, and such regulations shall be deemed to have been made by the Council, and shall remain in force from the date of the coming into force of this Act, until they are amended, altered or revoked by the Council.

31. References to registered accountants, etc. to be construed as references to chartered accountants.—Any reference to a registered accountant or a certified or qualified auditor in any other law for the time being in force or in any document whatsoever shall be construed as a reference to a chartered accountant as defined in this Act.

32. Act not to affect right of accountants to practice as such in Acceding States.—Nothing contained in this Act shall affect the right of any person who, at the commencement of this Act, is entitled to engage himself in the practice of accountancy in any Acceding State under any law in force in that State, to continue to engage himself in the practice of accountancy in that State after the commencement of this Act.

33. *Amendment of section 144, Indian Companies Act, 1913.*—In section 144 of the Indian Companies Act, 1913 (VII of 1913), for sub-sections (1), (2), (2A) and (2B) the following sub-section shall be substituted, namely:—

“(1) No person shall be appointed to act as an auditor of any company other than a private company, not being the subsidiary company of a public company, unless he is a chartered accountant within the meaning of the Chartered Accountants Act, 1949 :

Provided that a firm whereof all the partners practising in India are chartered, accountants may be appointed by its firm name to be auditor of a company and may act in its firm name.”

SCHEDULE.

(See section 22)

A chartered accountant shall be deemed to be guilty of conduct rendering him unfit to be a member of the Institute, if he—

(a) allows any person to practise in his name as a chartered accountant unless such person is also a chartered accountant and is in partnership with or employed by himself ;

(b) pays or allows or agrees to pay or allow, directly or indirectly, to any person other than a member of the Institute or a retired partner or a nominee or the legal representative of such partner, any share, commission or brokerage in the fees or profits of his professional services ;

(c) accepts or agrees to accept any part of the profits of the professional work of a lawyer, auctioneer, broker or other agent who is not a member of the Institute ;

(d) enters into partnership with any person other than a chartered accountant or secures, either through the services of a person not qualified to be a chartered accountant or by means which are not open to a chartered accountant, any professional business ;

(e) solicits clients or professional work either directly or indirectly, by circular, advertisement, personal communication or interview or by any other means ;

(f) advertises his professional attainments or services, or uses any designation or expression other than chartered accountant on professional documents, visiting cards, letter-heads or sign-boards, unless it be a degree of a University established by law in India or recognised by the Central Government or a title indicating membership of the Institute of Chartered Accountants of India or of any other institution that has been recognised by the Central Government or may be recognised by the Council ;

(g) discloses information acquired in the course of his professional engagement to any person other than his client, without the consent of his client, or otherwise than as required by any law for the time being in force ;

(h) accepts a position as auditor previously held by another chartered accountant without first communicating with him in writing ;

(i) accepts an appointment as auditor of a company without first ascertaining from it whether the requirements of section 144 of the Indian Companies Act, 1913 (VII of 1913) as respects the appointment of auditors or, if the company is registered in an Acceding State, the provisions of any similar law for the time being in force in that State, have been duly complied with ;

(j) certifies or submits in his name or in the name of his firm a report of an examination of financial statements unless the examination of such

statements and the related records has been made by him or by a partner or an employee in his firm or by another chartered accountant ;

(k) permits his name or the name of his firm to be used in connection with an estimate of earnings contingent upon future transactions in a manner which may lead to the belief that he vouches for the accuracy of the forecast ;

(l) expresses his opinion on financial statements of any business or any enterprise in which he, his firm or a partner in his firm has a substantial interest, unless he discloses the interest also in his report ;

(m) charges in respect of any professional employment fees which are based on a percentage of profits or which are contingent on results ;

(n) engages in any business or occupation other than the profession of chartered accountants unless permitted by the Council so to engage ;

Provided that nothing contained herein shall disentitle a chartered accountant from being a director of a company, unless he or any of his partners is interested in such company as an auditor ;

(o) fails to disclose a material fact known to him which is not disclosed in a financial statement, but disclosure of which is necessary to make the financial statement not misleading ;

(p) fails to disclose a material misstatement known to him to appear in a financial statement with which he is concerned in a professional capacity ;

(q) is grossly negligent in the conduct of his professional duties ;

(r) fails to obtain sufficient information to warrant the expression of an opinion or his exceptions are sufficiently material to negate the expression of an opinion ;

(s) fails to invite attention to any material departure from the generally accepted procedure of audit applicable to the circumstances ;

(t) fails to keep monies of his client in a separate banking account or to use such monies for purposes for which they are intended ;

(u) includes in any statement, return or form to be submitted to the Council any particulars knowing them to be false ;

(v) is guilty of such other act or omission in his professional capacity as may be specified by the Council in this behalf, by notification in the Gazette of India.

The Cinematograph (Amendment) Act, 1949.

Received the assent of the Governor-General on the 1st May 1949 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 3rd May 1949.

Act No XXXIX of 1949.

An Act further to amend the Cinematograph Act, 1918.

WHEREAS it is expedient further to amend the Cinematograph Act, 1918 (II of 1918), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Cinematograph (Amendment) Act, 1949.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

2. *Amendment of section 2, Act II of 1918.*—In section 2 of the Cinematograph Act, 1918 (II of 1918) (hereinafter referred to as the said Act), before the definition of "Cinematograph", the following definition shall be inserted, namely,—

"adult" means a person who has completed his eighteenth year ;

3. *Amendment of section 5, Act II of 1918.*—After sub-section (2) of

section 5 of the said Act, the following sub-section shall be inserted, namely,—

“(2A) A condition shall also be inserted in every licence that the licensee will not exhibit, or permit to be exhibited, in such place to any person who is not an adult any film which has been certified by an authority constituted under section 7 as suitable for public exhibition restricted to adults.

4. *Amendment of section 7, Act II of 1918.*—In section 7 of the said Act,—

(i) in sub-section (1), for the words “suitable for public exhibition” the words “suitable for unrestricted public exhibition or for public exhibition restricted to adults and children in arms, below the age of three” shall be substituted ;

(ii) in sub-section (2), for the first sentence, the following sentence shall be substituted, namely :—

‘If any such authority after examination considers that a film is suitable for unrestricted public exhibition, or that although not suitable for such exhibition, it is suitable for public exhibition restricted to adults and children in arms below the age of three, it shall grant to the person applying for a certificate in respect of the film, a “U” certificate in the former case and an “A” certificate in the latter case, and shall in either case cause the film to be marked in the prescribed manner.’ ;

(iii) after sub-section (2), the following sub-section shall be inserted, namely :—

“(2A) If the person applying for a certificate in respect of the film is aggrieved by the decision of the authority to grant an “A” certificate for it, he may, within thirty days from the date of such decision, appeal to the Provincial Government constituting the authority for a reconsideration of the matter, and the Provincial Government may either reject the appeal or direct the grant of a “U” certificate instead of an “A” certificate for the film.

The Repealing and Amending Act, 1949.

Received the assent of the Governor-General on the 1st May 1949 and is published in the *Gazette of India*, Extraordinary, Part IV, dated the 3rd May 1949.

Act No. XL of 1949.

An Act to repeal certain enactments and to amend certain other enactments.

WHEREAS it is expedient that certain enactments which are spent or have otherwise become unnecessary, or have ceased to be in force otherwise than by expressed specific repeal, should be expressly and specially repealed ;

AND WHEREAS it is expedient that certain amendments should be made in certain other enactments ;

It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Repealing and Amending Act, 1949.

2. *Repeal of certain enactments.*—The enactments specified in the First Schedule are hereby repealed.

3. *Amendment of certain enactments.*—The enactments specified in the Second Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

4. *Savings.*— The repeal by this Act of any enactment shall not affect any other enactment in which the repealed enactment has been applied, incorporated or referred to ;

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing ;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognised or derived by, in or from any enactment hereby repealed ;

nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

THE FIRST SCHEDULE

Repeals

(See section 2)

Year 1	No. 2	Short title 3
<i>Acts of the Central Legislature.</i>		
1923	XXV	The Moorshedabad (Amendment) Act, 1923.
1929	VIII	The Indian Soft Coke Cess Act, 1929.
1942	X	The Indian Patents and Designs (Extension of Time) Act, 1942.
1946	XXIII	The Reserve Bank of India (Amendment) Act, 1946.
1947	XI	The Reserve Bank of India (Amendment) Act, 1947.
1947	XXIII	The Reserve Bank of India (Second Amendment) Act, 1947.
1947	XXXVII	The Indian Patents and Designs (Extension of Time) Amendment Act, 1947.
<i>Ordinances made by the Governor-General</i>		
1942	V	The Motor Vehicles (Drivers) Ordinance, 1942.
1943	XX	The Reserve Bank of India (Limitation of Dividend) Ordinance, 1943.
1943	XLIII	The Penal Deductions Ordinance, 1943.
1945	XXXII	The Bengal Textiles Association Ordinance, 1945.
1947	XXVIII	The Cotton Textiles Equalisation Fund Ordinance, 1947.

THE SECOND SCHEDULE

Amendments

(See section 3)

Year 1	No. 2	Short title 3	Amendments 4
<i>Acts of the Central Legislature</i>			
1869	IV	The Indian Divorce Act, 1869.	In sub-section (1) of section 3, for clauses (a) to (h), the following clauses shall be substituted:—

THE SECOND SCHEDULE—Contd.

Year	No.	Short title	Amendments
1	2	3	4
			“(a) in a Governor's Province, the High Court of that Province; (b) in Delhi, the High Court of East Punjab; (c) in Aimer-Merwara, the High Court at Allahabad; (d) in Coorg, the High Court at Madras; (e) in the Andaman and Nicobar Islands, the High Court at Calcutta; (f) in Panth Piploda, the High Court at Bombay; and” and clause (i) shall be relettered as clause (g).
1872	I	The Indian Evidence Act, 1872.	In section 83, for the words “any Government in the Provinces”, the words “the Central Government or any Provincial Government” shall be substituted.
1878	VIII	The Sea Customs Act, 1878.	In sub-section (3) of section 19A, for the words “British Burma”, the word “Burma” shall be substituted.
1890	VIII	The Guardians and Wards Act, 1890.	In sub-section (2) of section 1, the word “and” at the end shall be omitted.
1923	XXI	The Indian Merchant Shipping Act, 1923.	(a) For clause (ii) of sub-section (1) of section 224, the following clause shall be substituted:— “(ii) in the case of any other ship, a certificate to be called “an Indian load-line certificate”.
			(b) In clause (ii) of section 224G, for the words “British India load-line certificate” the words “Indian load-line certificate” shall be substituted.
			(c) In sub-section (1) of section 224K, for the words “British India load-line certificates”, the words “Indian load-line certificates” shall be substituted.
			(d) In sub-section 224L, for the words “a British India load-line certificate”, the words “an Indian load-line certificate” shall be substituted.
1934	II	The Reserve Bank of India Act, 1934.	In sub-section (8) of section 17, for the words “share capital”, the

THE SECOND SCHEDULE—*Contd.*

Year	No.	Short title	Amendment
1	2	3	4
			ever they occur, the word "capital" shall be substituted.
1938	XXVI	The Employment of Children Act, 1938.	In section 3C, for the words "as to whether any child has or has not completed his twelfth or fifteenth year, as the case may be", the words "as to the age of any child who is employed or is permitted to work by the employer" shall be substituted.
1940	V	The Trade Marks Act, 1940.	(a) In section 19, sub-section (3) of section 22, the Explanation to sub-section (2) of section 46 and sub-section (3) of section 58, for the words "Indian State", wherever they occur, the words "Acceding State or other Indian State" shall be substituted. (b) In clause (a) of sub-section (3) of section 6, for the words "a country outside the Provinces", the words "an Acceding State or of a country outside India" shall be substituted.
1940	XXIII	The Drugs Act, 1940	(a) In clause (d) of section 3 and in the Schedule, for the words "League of Nations" the words "World Health Organisation" shall be substituted. (b) In clause (i) of sub-section (2) of section 5, for the words "Director General, Indian Medical Service" the words "Director General of Health Services" shall be substituted.
1946	IX	The Indian Oilseeds Committee Act, 1946.	For the words "Indian Oilseeds Committee", wherever they occur, the words "Indian Central Oilseeds Committee" shall be substituted.
1947	II	The Prevention of Corruption Act, 1947.	(a) In clause (a) of section 6, before the words "Central Government", where they occur at the end, the words "of the" shall be inserted. (b) In clause (b) of the same section, before the words "Provincial Government", where they occur at the end, the words "of the" shall be inserted.

THE SECOND SCHEDULE—*Contd.*

Year 1	No. 2	Short title 3	Amendments. 4
1947	XXXIV	The Indian Boilers (Amendment) Act, 1947.	In clause (ccc) of section (2), before the words "does not form", the word "which" shall be inserted.
1948	X	The Insurance (Amendment) Act, 1948.	In section 2, after the words, figures and brackets "In sub-section (1) of section 4" the words and figures "of the Insurance Act, 1938" shall be inserted.
1948	XV	The Industrial Finance Corporation Act, 1948.	For sub-section (2) of section 1, the following sub-section shall be substituted, namely:— “(2) It extends to all the Provinces, of India, and also to every Acceding State to the extent to which the Dominion Legislature has power to make laws for that State with respect to the matters dealt with in this Act.”
1948	XXXVII	The Census Act, 1948	Dit o.
1948	XLVI	The Coal Mines Provident Fund and Bonus Schemes Act, 1948.	Ditto
1948	LIII	The Mines and Minerals (Regulation and Development) Act, 1948.	Ditto
1948	LXI	The Central Silk Board Act, 1948.	Ditto.
1948	LXXIII	The Factories Act, 1948.	(a) For sub section (2) of section 1, the following sub-section shall be substituted namely:— “(2) It extends to all the Provinces of India, and also to every Acceding State to the extent to which the Dominion Legislature has power to make laws for that State with respect to the matters dealt with in this Act”. (b) In sub-section (3) of section 7, for the words “within thirty days”, the words “at least thirty days” shall be substituted. (c) In section 55, for the words “The period”, the words “The periods of work” shall be substituted. (d) In sub-section (4) of section 79, for the words “If, for the purpo-

THE SECOND SCHEDULE—*Contd.*

Year 1	No. 2	Short title 3
		se", the words "For the purpose" shall be substituted.
		(e) In section 82, for the word "workers", the word "worker" shall be substituted.
		<i>Act of the Bombay Legislature</i>
1879	VI	The Bombay Port Trust Act, 1879. In sub-section (1) of section 6, for the word "thirteen", the word "fourteen" shall be substituted.

The Government of India (Second Amendment) Act, 1949.

The following Act of the Constituent Assembly has been authenticated by the President of the Constituent Assembly by his signature on the 20th May 1949, and is published in the *Gazette of India*, Extraordinary, dated the 23rd May 1949.

Constituent Assembly Act No. II of 1949.

An Act further to amend the Government of India Act, 1935.

WHEREAS it is expedient further to amend the Government of India Act, 1935 (26 Geo. 5, c. 2), for the purposes hereinafter appearing ;
It is hereby enacted as follows :—

1. *Short title and commencement.*— (1) This Act may be called the Government of India (Second Amendment) Act, 1949.

(2) It shall come into force on the 25th day of May, 1949.

2. *Interpretation.*— The Interpretation Act, 1889 (52 & 53 Vict., c. 63), applies for the interpretation of this Act as it applies for the interpretation of an Act of Parliament.

3. *Amendment of section 97 of the Government of India Act, 1935* — In section 97 of the Government of India Act, 1935, (hereinafter referred to as the said Act), for the words, brackets and figures "by or in accordance with a law made by the Constituent Assembly under sub-section (1) of section 8 of the Indian Independence Act, 1947" the words "by Order of the Governor-General" shall be substituted.

4. *Amendment of the Seventh Schedule.*— In the Seventh Schedule to the said Act,—

(a) in paragraph 1 of the Federal Legislative List, after the words "Acceding States" a semi-colon and the words "persons subjected to such detention" shall be added ;

(b) for paragraph 3 of the Concurrent Legislative List, the following paragraph shall be substituted, namely :—

"3. Removal from one unit to another unit of prisoners, accused persons and persons subjected to preventive detention for reasons connected with the maintenance of public order.";

(c) paragraph 34 of the Concurrent Legislative List shall be omitted.

The India (Central Government and Legislature) Amendment Act, 1949.

The following Act of the Constituent Assembly has been authenticated by the President of the Constituent Assembly by his signature on the 31st May, 1949, and is published in the *Gazette of India*, Extraordinary, dated the 4th June 1949.

Constituent Assembly Act No. III of 1949.

An Act to amend the India (Central Government and Legislature) Act, 1946.

WHEREAS it is expedient to amend the India (Central Government and Legislature) Act, 1946 (9 & 10 Geo. 6, c. 39), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. *Short title and commencement.*—(1) This Act may be called the India (Central Government and Legislature) Amendment Act, 1949.

(2) It shall come into force on the 10th day of June, 1949.

2. *Interpretation.*—The Interpretation Act, 1889 (52 & 53 Vict. c. 63), applies for the interpretation of this Act as it applies for the interpretation of an Act of Parliament.

3. *Amendment of section 2 of the India (Central Government and Legislature) Act, 1946.*—In paragraph (a) of sub-section (1) of section 2 of the India (Central Government and Legislature) Act, 1946,—

(a) after the words “woollen textiles”, the words and brackets “raw cotton (including ginned cotton and unginned cotton or *kapas*) and cotton seed” shall be inserted ;

(b) after the word “coal”, the brackets and words “(including coke and other derivatives of coal)” shall be inserted, and shall be deemed always to have been inserted.

4. *Validity of certain laws made under section 2 of the India (Central Government and Legislature) Act, 1946.*—For the removal of doubts it is hereby enacted—

(a) that all laws heretofore made under section 2 of the India (Central Government and Legislature) Act, 1946, with respect to trade and commerce (whether or not within a Province) in, and the production, supply and distribution of, coal shall be deemed to have been made under the said section as amended by this Act ;

(b) that no order made under, and no action taken in exercise of any power conferred by or under, any such law shall be deemed to be invalid or called in question on the ground merely that such law conferred or purported to confer powers in excess of the powers that might, at the time such law was made, be lawfully conferred by a law made or deemed to have been made under the said section 2.

The Child Marriage Restraint (Amendment) Act, 1949.

Received the assent of the Governor General on the 15th July 1949 and is published in the *Gazette of India*, Extraordinary, dated the 15th July 1949.

Act No. XLI of 1949.

An Act further to amend the Child Marriage Restraint Act, 1929.

WHEREAS it is expedient further to amend the Child Marriage Restraint Act, 1929 (XIX of 1929), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Child Marriage Restraint (Amendment) Act, 1949.

2. *Amendment of section 2, Act XIX of 1929.*—In clause (a) of section 2 of the Child Marriage Restraint Act, 1929 (hereinafter referred to as the said Act), for the word “fourteen” the word “fifteen” shall be substituted.

3. *Amendment of section 3, Act XIX of 1929.*—In section 3 of the said Act, for the words “shall be punishable with fine which may extend to one thousand rupees” the words “shall be punishable with simple imprisonment which may extend to fifteen days, or with fine which may extend to one thousand rupees, or with both” shall be substituted.

4. *Amendment of sections 4, 5 and 6, Act XIX of 1929.*—In sections 4, 5 and 6 of the said Act, for the words “simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both”, the words “simple imprisonment which may extend to three months and shall also be liable to fine” shall be substituted.

5. *Omission of section 7, Act XIX of 1929.*—Section 7 of the said Act shall be omitted.

6. *Substitution of new section for section 10, Act XIX of 1929.*—For section 10 of the said Act, the following section shall be substituted, namely :—

“10. *Preliminary inquiries into offences.*—Any Court, on receipt of a complaint of an offence of which it is authorised to take cognizance, shall, unless it dismisses the complaint under section 203 of the Code of Criminal Procedure, 1898 (V of 1898), either itself make an inquiry under section 202 of that Code or direct a Magistrate subordinate to it to make such inquiry.”

7. *Omission of section 11, Act XIX of 1929.*—Section 11 of the said Act shall be omitted.

The Indian Penal Code and the Code of Criminal Procedure (Amendment) Act, 1949.

Received the assent of the Governor General on the 15th July 1949 and is published in the *Gazette of India*, Extraordinary, dated the 15th July 1949.

Act No. XLII of 1949.

An Act further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898.

WHEREAS it is expedient further to amend the Indian Penal Code (XLV of 1860) and the Code of Criminal Procedure, 1898 (V of 1898) for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Indian Penal Code and the Code of Criminal Procedure (Amendment) Act, 1949.

2. *Amendment of section 361, Act XLV of 1860.*—In section 361 of the Indian Penal Code (hereinafter referred to as the Penal Code), for the words “fourteen” and “sixteen” the words “sixteen” and “eighteen” shall respectively be substituted.

3. *Amendment of section 375, Act XLV of 1860.*—In section 375 of the Penal Code.—

(i) in clause *Fifthly*, for the word “fourteen” the word, “sixteen” shall be substituted ; and

(ii) in the *Exception*, for the word “thirteen” the word “fifteen” shall be substituted.

4. *Insertion of new section 198A in Act V of 1898.*—After section 198 of the Code of Criminal Procedure, 1898 (hereinafter referred to as the said Code), the following new section shall be inserted, namely :—

"198A. *Prosecution for offence of marital misbehaviour.*—No Court shall take cognizance of an offence under section 376 of the Indian Penal Code, where such offence consists of sexual intercourse by a man with his own wife the wife being under fifteen years of age,—

(i) if more than one year has elapsed from the date of the commission of the offence,

(ii) in the case of any marriage which has taken place before the Indian Penal Code and the Code of Criminal Procedure (Amendment) Act, 194 , came into force, if the wife was not under thirteen years of age on the date of the marriage."

5. *Amendment of section 552, Act V of 1898.*—In section 552 of the said Code, for the word "sixteen" the word "eighteen" shall be substituted.

The Government of India (Third Amendment) Act, 1949.

The following Act of the Constituent Assembly has been authenticated by the President of the Constituent Assembly by his signature on the 21st August 1949, and is published in the *Gazette of India, Extraordinary*, dated the 24th August 1949.

Constituent Assembly Act No. IV of 1949.

An Act further to amend the Government of India Act, 1935.

WHEREAS it is expedient further to amend the Government of India Act, 1935 (26 Geo. 5, 2), for the purposes hereinafter appearing;

It is hereby enacted as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Government of India (Third Amendment) Act, 1949.

(2) It shall come into force on the 25th day of August 1949.

2. *Interpretation.*—The Interpretation Act, 1889, applies for the interpretation of this Act as it applies for the interpretation of an Act of Parliament.

3. *Amendment of section 8 of the Government of India Act, 1935.*—In sub-section (1A) of section 8 of the Government of India Act, 1935 (hereinafter referred to as the said Act), after clause (b) the following clauses shall be inserted, namely :—

"(bb) custody, management and disposal of property (including agricultural land) declared by law to be evacuee property ;

(bbb) relief and rehabilitation of persons displaced from their original place of residence by reason of the setting up of the Dominions of India and Pakistan;"

4. *Substitution of new section for section 291.*—For section 291 of the said Act, the following section shall be substituted, namely :—

"291. *Power of the Governor-General to amend certain provisions of the Act and orders made thereunder :*—

(1) The Governor-General may at any time by Order make such amendments as he considers necessary whether by way of addition, modification, or repeal, in the provisions of this Act or of any Order made thereunder in relation to any Provincial Legislature with respect to any of the following matters, that is to say—

(a) the composition of the Chamber or Chambers of the Legislature;

(b) the delimitation of territorial constituencies for the purposes of elections under this Act ;

(c) the qualifications entitling persons to vote in territorial or other constituencies at such elections and the preparation of electoral rolls ;

(d) the qualifications for being elected at such elections as a member of a legislative body ;

(e) the filling of casual vacancies in any such body ;

(f) the conduct of elections under this Act and the method of voting thereat ;

(g) the expenses of candidates at such elections ;

(h) corrupt practices and other offences at or in connection with such elections ;

(i) the decision of doubts and disputes arising out of or in connection with, such elections ;

(j) matters ancillary to any such matter as aforesaid.

(2) Every Order made under sub-section (1) of this section shall as soon as may be after it is made be laid before the Dominion Legislature."

5. *Amendment of the Seventh Schedule.*—In the Seventh Schedule to the said Act,—

(a) for paragraph 21 of the Provincial Legislative List the following paragraph shall be substituted, namely :—

"11. Elections to the Provincial Legislature, subject to the provisions of this Act and of any Order made thereunder" ;

(b) after paragraph 31A of the Concurrent Legislative List, the following paragraph shall be inserted, namely :—

"31B. Custody, management and disposal of property (including agricultural land) declared by law to be evacuee property.

31C. Relief and rehabilitation of persons displaced from their original place of residence by reason of the setting up of the Dominions of India and Pakistan."

The Abolition of Privy Council Jurisdiction Act, 1949.

The following Act of the Constituent Assembly has been authenticated by the President of the Constituent Assembly by his signature on the 24th September, 1949, and is published in the *Gazette of India*, Extraordinary, dated the 28th September 1949.

Constituent Assembly Act No. V of 1949.

An Act to abolish the jurisdiction of His Majesty in Council in respect of Indian appeals and petitions.

WHEREAS it is expedient to abolish the jurisdiction of His Majesty in Council in respect of Indian appeals and petitions, and to confer a corresponding jurisdiction on the Federal Court of India ;

It is hereby enacted as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Abolition of Privy Council Jurisdiction Act, 1949.

(2) It shall come into force on the tenth day of October, 1949, which day is hereinafter referred to as "the appointed day".

Notes.

Object—There are at present pending before the Judicial Committee of the Privy Council about 70 civil appeals and 10 criminal appeals from the judgments, decrees and final orders of the various High Courts in India. Between now and the date on which the new Constitution of India will come into force early next year, the Privy Council is not likely to dispose of more than 20 appeals. While the flow of civil appeals from all the Indian High Courts except the High Court of the Judicial Commissioner of Ajmer-Merwara, was stopped on the 1st February, 1948, by the provisions of the Federal Court (Enlargement of Jurisdiction) Act, 1947 (I of 1948), a small number of criminal appeals are admitted from time to time by special leave of His Majesty in Council.

2. In article 208 (3) of the Draft Constitution it is proposed that "on and from the date of commencement of the Constitution the jurisdiction of His Majesty in Council to entertain and dispose of appeals and petitions from or in respect of any decree or order of any court within the territory of India, including the jurisdiction in respect of criminal matters exercisable by virtue of His Majesty's prerogative shall cease, and all appeals and other proceedings pending before His Majesty in Council on the said date shall be transferred to, and disposed of by, the Supreme Court". If the position is left to the operation of this Article, as many as 60 appeals will be kept pending before the Privy Council for 5 or 6 months, only to be transferred to the Supreme Court on the date of commencement of the new Constitution, and a small number of appeals, mainly criminal, will be instituted before the Privy Council during the same period with little chance of being finally disposed of by that date.

3. This Bill accordingly proposes that with effect from the 10th October, 1949, the Federal Court should, as an interim measure, be invested with the same jurisdiction to entertain and dispose of appeals and petitions from the judgments, decrees and orders of all High Courts in India as His Majesty in Council has at present, and that the jurisdiction of His Majesty in Council to entertain any new appeals and petitions and to dispose of any pending appeals except those set down for hearing during the next sittings of the Judicial Committee (due to commence on the 12th October, 1949) should cease. All other pending appeals are proposed to be transferred to the Federal Court on the 10th October next."

[Vide Statement of Objects and Reasons, published in the *Gazette of India* Extraordinary, dated the 14th September 1949].

2. Abolition of Privy Council Jurisdiction.—(1) As from the appointed day, the jurisdiction of His Majesty in Council to entertain, and save as hereinafter provided to dispose of, appeals and petitions from, or in respect of, any judgment, decree or order of any court or tribunal (other than the Federal Court) within the territory of India, including appeals and petitions in respect of criminal matters whether such jurisdiction is exercisable by virtue of His Majesty's prerogative or otherwise, shall cease.

(2) The appeals and petitions aforesaid are hereinafter referred to as "Indian appeals" and "Indian petitions", respectively.

3. Repeal.—(1) Sections 208 and 218 of the Government of India Act, 1935 (26 Geo. 5, c. 2), are hereby repealed.

(2) Any legal proceedings pending by virtue of the said section 208 immediately before the appointed day, whether before His Majesty in Council or the Federal Court, shall by virtue of this Act abate on the appointed day.

4. Continuance of Privy Council jurisdiction in certain pending cases.—Nothing contained in section 2 shall affect the jurisdiction of His Majesty in Council to dispose of—

(a) any Indian appeal or petition on which the Judicial Committee of the Privy Council has before the appointed day delivered judgment or, as the case may be, reported to His Majesty, but which has not been determined by an Order in Council of His Majesty; or

(b) any Indian appeal or petition on which the Judicial Committee has, after hearing the parties, reserved judgment or order; or

(c) any Indian appeal which has been entered before the appointed day in the list of business of the Judicial Committee for the Michaelmas sittings of the year 1949 and which after that day is not directed to be removed therefrom by or under the authority of the Judicial Committee; or

(d) any Indian petition which has been lodged before the appointed day in the Registry of the Privy Council.

5. Conferment of corresponding jurisdiction on Federal Court.—(1) As from the appointed day, the Federal Court shall, in addition to the jurisdiction conferred on it by the Government of India Act, 1935 (26 Geo. 5, c. 2), and the Federal Court (Enlargement of Jurisdiction) Act, 1947 (1 of 1948), but subject to the provisions of this section, have the same jurisdiction to entertain and dispose of Indian appeals and petitions as His Majesty in Council has, whether by virtue of His Majesty's prerogative or otherwise, immediately before the appointed day.

(2) Notwithstanding anything contained in sub-section (1) of this section, the Federal Court shall have no jurisdiction in respect of any such appeal or petition as is referred to in section 4:

Provided that where, upon any such petition as aforesaid, special leave to appeal to His Majesty in Council is granted after the appointed day, all further steps to be taken in the appeal shall be taken in, and the appeal shall be disposed of by, the Federal Court as if the special leave to appeal had been granted on a petition made to that Court.

(3) If any question arises whether an appeal or petition is an appeal or petition of the nature referred to in clause (a), (b), (c) or (d) of section 4, a certificate of the Registrar of the Privy Council shall be conclusive evidence on the question.

6. *Transfer of pending appeals to the Federal Court.*—All proceedings in respect of any Indian appeals pending before His Majesty in Council immediately before the appointed day, except those referred to in section 4, shall by virtue of this Act stand transferred to the Federal Court, and shall be disposed of by it in the exercise of the jurisdiction conferred on it by this Act.

7. *Continuance of certain proceeding in High Courts.*—All proceedings and steps taken in, and orders made and certificates granted by, a High Court in connection with an Indian appeal or petition shall, except in the case of any such appeal or petition as is referred to in section 4, be deemed to be in connection with an appeal or petition to the Federal Court from, or in respect of, the same judgment, decree or order under the provisions of this Act, and shall be concluded, or as the case may be, have effect accordingly.

8. *Effect of orders of His Majesty in Council.*—Any order of His Majesty in Council made on an Indian appeal or petition, whether before, on or after the appointed day, shall for all purposes have effect, not only as an order of His Majesty in Council, but also as if it were an order or decree made by the Federal Court in the exercise of the jurisdiction conferred by this Act.

9. *Amendments of the Government of India Act, 1935.*—(1) In section 205 of the Government of India Act, 1935 (26 Geo 5, c. 2) (hereinafter referred to as the said Act), for sub-section (2) the following sub-section shall be substituted, namely :—

“(2) Where such certificate is given, any party in a case may appeal to the Federal Court on the ground that any question as aforesaid has been wrongly decided and, with the leave of the Federal Court, on any other ground.”

(2) In section 209 of the said Act, for sub-sections (1) and (2) the following sub-section shall be substituted, namely :—

“(1) The Federal Court in the exercise of its appellate jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it, including an order for the payment of costs, and any decree so passed or order so made shall be enforceable throughout the territory of India in the manner provided in that behalf in the Code of Civil Procedure, 1908 (Act V of 1908), or in such other manner as may be prescribed by or under a law of the Dominion Legislature, or subject to the provisions of any such law, in the manner prescribed by rules made by the Federal Court.”

(3) In clause (a) of sub-section (1) of section 210 of the said Act, for the word, brackets and figure “sub-section (2)”, the word, brackets and figure “sub-section (1)” shall be substituted.

(4) In section 214 of the said Act, after sub-section (1) the following sub-section shall be inserted, namely :—

“(1A) Subject to the provisions of the Code of Civil Procedure, 1908 (Act V of 1908), or any law made by the Dominion Legislature, the Federal Court may also from time to time, with the approval of the Governor-General, make rules of court for regulating the manner in which any decree passed or order made by it in the exercise of its appellate jurisdiction may be enforced.”

10. *Modification of existing laws.*—The provisions of the Code of Civil Procedure, 1908 (Act V of 1908), and of any other law in force on the appointed day relating to Indian appeals and petitions shall as from that day

have effect, except in relation to the appeals and petitions referred to in section 4, as if in the said provisions, for all references to His Majesty in Council, there had been substituted references to the Federal Court.

PART IV

ORDINANCES

Published in the *Gazette of India*, Extraordinary, dated the 6th August 1948.

The Payment of Taxes (Transfer of Property) Ordinance, 1948.

Ordinance No. XXI of 1948.

An Ordinance to make provision for the payment of taxes before transfers of property are recognised in certain cases.

WHEREAS an emergency has arisen which makes it necessary to make provision for the payment of taxes before transfers of property are recognised in certain cases ;

NOW, THEREFORE, in exercise of the powers conferred by section 42 of the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Payment of Taxes (Transfer of Property) Ordinance, 1948.

(2) It extends to all the Provinces of India.

(3) It shall come into force at once in the Provinces of Bombay, West Bengal, East Punjab, Bihar, Delhi and Ajmer-Merwara, and in any other Province on such date as the Central Government may, by notification in the official Gazette, appoint.

2. *Payment of taxes before registration of documents.*—No registering officer, revenue officer, custodian or other officer appointed to deal with the registration or custody of, or title to, any property shall register, recognise or give effect to any document relating to property, other than agricultural land, which is required to be registered under the provisions of clause (a), clause (b), clause (c) or clause (e) of sub-section (1) of section 17 of the Indian Registration Act, 1908 (XVI of 1908), unless it is certified by the Inspecting Assistant Commissioner of Income-tax of the area in which the property is situate in respect of every person whose right, title or interest in the property is or is to be transferred, assigned, limited or extinguished under the terms of the document that—

(a) such person is not liable to assessment or taxation under the Indian Income-tax Act, 1922 (XI of 1922), the Excess Profits Tax Act, 1940 (XV of 1940), or the Business Profits Tax Act, 1947 (XXI of 1947), or

(b) he has either paid or made satisfactory provision for the payment of all existing or anticipated liabilities under any of the Acts specified in clause (a) of this section, or

(c) the Inspecting Assistant Commissioner of Income-tax is otherwise satisfied that the document may be registered, recognised or given effect to.

3. *Recovery of taxes where no certificate produced.*—(1) Where any right, title or interest in any immovable property, other than agricultural land, or in any movable property, other than stocks, shares and securities, is or has been transferred, assigned, limited or extinguished after the 14th

day of August, 1947, the Income-tax Officer of the area in which such property is situate may at any time issue a notice to all or any of the parties to the transaction requiring them or him to produce within one month from the date of service of the notice a certificate by the Inspecting Assistant Commissioner of Income-tax of the said area in the terms mentioned in section 2.

(2) If no such certificate is produced before the Income-tax Officer, he may forward a statement to the Collector showing the existing and anticipated liabilities by way of taxes in respect of all or any of the said parties. The Collector shall thereupon proceed to recover the total amount shown in the statement as if it were an arrear of land revenue, and for the purpose of such recovery proceedings he may treat the said property as if it belonged to all or any of the persons named in the statement.

4. *Effect of Ordinance over other laws.*—The provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

5. *Bar of suits.*—No suit, prosecution or other legal proceeding shall lie against the Central Government, the Provincial Government or against any Income-tax Officer or any person or authority acting under his directions or in pursuance of any claim shown in the statement forwarded to the Collector under section 3 in respect of anything which is in good faith done or intended to be done under this Act.

6. *Validation of action taken under Ordinance III, 1948.*—Any order made, thing done or action taken under the Transfer of Property (India) Ordinance, 1948 (III of 1948), shall for all purposes be deemed to have been made, done or taken under this Ordinance as if this Ordinance had commenced on the day such order was made, or such action was taken or such thing was done.

C. RAJAGOPALACHARI,
Governor-General.

Published in the *Gazette India*, Extraordinary, dated 8th November, 1948.
The Essential Supplies (Temporary Powers) (Amendment) Ordinance, 1948.

Ordinance No. XXXI of 1948.

An Ordinance further to amend the Essential Supplies (Temporary Powers) Act, 1946.

WHEREAS an emergency has arisen which makes it necessary further to amend the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), for the purpose hereinafter appearing;

NOW, THEREFORE, in exercise of the powers conferred by section 42 of the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor-General is pleased to make and promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Essential Supplies (Temporary Powers) (Amendment) Ordinance, 1948.

(2) It shall come into force at once.

2. *Amendment of section 7, Act XXIV of 1946.*—For clause (b) of the proviso to sub-section (1) of section 7 of the Essential Supplies (Temporary Powers) Act, 1946, the following shall be substituted, namely:—

“(b) where the contravention is of an order relating to foodstuffs, the Court shall—

(i) sentence any person convicted of such contravention to imprisonment for a term which may extend to three years and may, in addition,

impose a sentence of fine, unless for reasons to be recorded in writing it is of opinion that in the circumstances of the case a sentence of fine is adequate and that imprisonment is not called for, and

(ii) direct that any property in respect of which the order has been contravened shall be forfeited to His Majesty, unless for reasons to be recorded in writing it is of opinion that in the circumstances of the case the direction should not be made in respect of the whole, or, as the case may be, a part of the property."

C. RAJAGOPALACHARI,
Governor-General.

Published in the *Gazette of India*, Extraordinary, dated 9th November 1948.

The Code of Criminal Procedure (Amendment) Ordinance, 1948.

Ordinance No. XXXII of 1948.

An Ordinance further to amend the Code of Criminal Procedure, 1898.

WHEREAS an emergency has arisen which makes it necessary further to amend the Code of Criminal Procedure, 1898 (V of 1898), for the purposes hereinafter appearing ;

NOW, THEREFORE, in exercise of the powers conferred by section 42 of the Government of India Act, 1935 (26 Geo. 5. c. 2), the Governor-General is pleased to make and promulgate the following Ordinance :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Code of Criminal Procedure (Amendment) Ordinance, 1948.

(2) It shall come into force at once.

2. *Amendment of section 503, Act V of 1898.*—In section 503 of the Code of Criminal Procedure, 1898 (hereinafter referred to as the said Code),—

(i) for sub sections (2) and (2A), the following sub-section shall be substituted, namely :—

"2) When the witness resides in a tribal area, the commission may be issued to the officer exercising the powers of a District Magistrate in, or in relation to, such area.

(2A) When the witness resides in an Acceding State or in any area in or in relation to, which the Central Government has extra-provincial jurisdiction within the meaning of the Extra-Provincial Jurisdiction Act, 1947 (XLVII of 1947), the commission may be issued to such Court in the State or area as may be recognised by the Central Government by notification in the official Gazette as a Court to which commissions may be issued under this sub-section, within the local limits of whose jurisdiction the witness resides.

(2B) When the witness resides in the United Kingdom or in any British possession other than India or in the Union of Burma, the commission may be issued to such Court or Judge having authority in this behalf in that country as may be specified by the Central Government by notification in the official Gazette."

(ii) for sub-section (4), the following sub-section shall be substituted, namely :—

"(4) Where the commission is issued to an officer exercising the powers of a District Magistrate in a tribal area under sub-section (2), he may, in lieu of proceeding in the manner laid down in sub-section (3), delegate his powers and duties under the commission to any officer subordinate to him whose powers are not less than those of a Magistrate of the first class in the Provinces of India."

3. *Amendment of section 505, Act V of 1898.*—In section 505 of the said Code,—

(i) in sub-section (1), for the words, brackets, letter and figures “and, except in a case to which clause (b) of sub-section (4) of section 503 applies, the Magistrate” the words “and the Magistrate” shall be substituted ; and the sentence beginning with the words “In a case to which” and ending with the words “forwards the commission for execution” shall be omitted ;

(ii) in sub-section (2), for the words, brackets, letter and figures “except in a case to which clause (b) of sub section (4) of section 503 applies, before such officer” the word “officer” shall be substituted.

4. *Amendment of section 507, Act V of 1898.*—In sub-section (1) of section 507 of the said Code, the words, brackets, letter and figures “or, in a case to which clause (b) of sub section (4) of section 503 applies, has been again received by the officer by whom it was forwarded to the State Court” shall be omitted

5. *Amendment of section 508 A, Act V of 1898.*— In section 508A of the said Code, for the words “by a Magistrate or Court in Burma under the law in force in Burma” the words “by any Court or Judge having authority in this behalf in the United Kingdom or in any British possession other than India or in the Union of Burma under the law in force in that country” shall be substituted.

C. RAJAGOPALACHARI,
Governor-General.

Published in the *Gazette of India, Extraordinary*, dated 14th September 1948.

The Public Safety Ordinance, 1948

Ordinance No XXIV of 1948.

An Ordinance to provide for special measures to ensure the public safety and interest and to prevent any grave menace to the security of India.

WHEREAS an emergency has arisen which renders it necessary to provide for special measures to ensure the public safety and interest and prevent any grave menace to the security of India ;

AND WHEREAS the Governor-General has declared by Proclamation under section 102 of the Government of India Act, 1935 (26 Geo. 5, c. 2) that a grave emergency exists whereby the security of India is threatened by internal disturbance ;

NOW, THEREFORE, in exercise of the powers conferred by-section 42 of the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor-General is pleased to make and promulgate the following Ordinance :—

CHAPTER I

Preliminary

1. *Short title, extent and commencement* —(1) This Ordinance may, be called the Public Safety Ordinance, 1948.

(2) It extends to all the Provinces of India and also to every Acceding State to the extent to which the Dominion Legislature has power to make laws for that State a respects the matters dealt with in this Ordinance, and it applies also—

(a) to servants of the Crown in any part of India ;

(b) to British subjects who are domiciled in any part of India, wherever they may be ;

(c) in respect of the regulation and discipline of any military, naval or air force raised in India, to members of, and persons attached to, employed with, or following, that force, wherever they may be ;

(d) to, and to persons on, ships and aircraft registered in India, where ever they may be.

(3) It shall come into force at once.

2. *Definition.*—In this Ordinance, unless there is anything repugnant in the subject or context, “appropriate Government”—

(a) in a Governor’s Province, means the Provincial Government in relation to any of the matters enumerated in the Provincial and Concurrent Legislative Lists in the Seventh Schedule to the Government of India Act, 1935, and the Central Government in relation to any other matter ;

(b) elsewhere in India, means the Central Government in relation to all matters.

CHAPTER II.

Emergency powers.

3. *Power to make rules.*—(1) The appropriate Government may, by notification in the official Gazette, make such rules as appear to it to be necessary or expedient for securing the public safety, the maintenance of public order, the maintenance of supplies and services essential to the life of the community, or for preventing any grave menace to the security of India

(2) Without prejudice to the generality of the powers conferred by sub-section (1), the rules may provide for, or may empower any authority to make orders providing for, all or any of the following matters, namely :—

(i) prohibiting anything likely to prejudice the training, discipline or health of His Majesty’s Indian forces ;

(ii) preventing any attempt to tamper with the loyalty of persons in, or to dissuade (otherwise than with advice given in good faith to the person dissuaded for his benefit or that of any member of his family or any of his dependents) persons from entering, the service of His Majesty ;

iii) ensuring the safety and welfare of His Majesty’s Indian forces, ships and aircraft ;

(iv) preventing the spreading, without lawful authority or excuse, of false reports, or the prosecution of any purpose likely to cause disaffection or alarm, or to prejudice His Majesty’s relations with foreign powers or to prejudice the maintenance of peaceful conditions in any tribal area or to promote feelings of enmity and hatred between different classes of His Majesty’s subjects ;

Explanation.—To point out, without malicious intention and with an honest view to their removal, matters which are producing, or have a tendency to produce, feelings of enmity or hatred between different classes of His Majesty’s subjects does not amount to promoting such feelings within the meaning of this clause ;

(v) preventing anything likely to prejudice in any way the successful conduct of any operations in which His Majesty’s Indian forces may be engaged ;

(vi) requiring the publication of news and information ;

(vii) regulating the conduct of persons in respect of areas the control of which is considered necessary or expedient, and the removal of persons from such areas ;

(viii) requiring any person or class of persons to comply with any scheme for securing the public safety or interest or preventing any grave menace to the security of India ;

(ix) ensuring the safety of—

(a) ports, dockyards, lighthouses, light-ships and aerodromes,

(b) railways, tramways, roads, canals and all other means of transport by land or water,

(c) telegraphs, post offices, signalling apparatus and all other means of communication,

(d) sources of water-supply, works for the supply of water, gas or electricity, and all other works for purposes of a public character,

(e) vessels, aircraft, transport vehicles as defined in the Motor Vehicles Act, 1939 (IV of 1939), and rolling stock of railways and tramways,

(f) warehouses and all other places used or intended to be used for storage purposes,

(g) mines and factories,

(h) all works and structures being part of, or connected with, anything hereinbefore mentioned in this clause, and

(i) any other place or thing used or intended to be used for the purposes of Government or a local authority, or the protection of which it is considered necessary or expedient for securing the public safety or the maintenance of public order or for maintaining supplies and services essential to the life of the community or for preventing any grave menace to the security of India ;

(x) the apprehension and detention in custody of any person whom the authority empowered by the rules to apprehend or detain, as the case may be, suspects, on grounds appearing to such authority to be reasonable, of having acted, acting, being about to act, or being likely to act in a manner prejudicial to the public safety or interest, the maintenance of public order, His Majesty's relations with foreign powers, or the maintenance of peaceful conditions in any tribal area, or with respect to whom such authority is satisfied that his apprehension and detention are necessary for the purpose of preventing him from acting in any such prejudicial manner. the prohibition of such person from entering or residing or remaining in any area, and the compelling of such person to reside and remain in any area, or to do or abstain from doing anything ;

(xi) the control of persons entering, departing from, or travelling in, India, and of foreigners residing or being in India ;

(xii) prohibiting or regulating traffic, and the use of vessels, buoys, lights and signals, in ports and territorial, tidal and inland waters ;

(xiii) restricting the charter of foreign vessels ;

(xiv) regulating the structure and equipment of vessels for the purpose of ensuring the safety thereof and of persons therein ;

(xv) regulating work in dockyards and shipyards in respect of the construction and repairs of vessels ;

(xvi) prohibiting or regulating the sailings of vessels from ports, traffic at aerodromes and the movement of aircraft, and traffic on railways, tramways and roads, and reserving, and requiring to be adapted, for the use of the appropriate Government, all or any accommodation in vessels, aircraft, railways, tramways or road vehicles for the carriage of persons, animals or goods ;

(xvii) impressment of vessels, aircraft, vehicles and animals for transport ;

(xviii) prohibiting or regulating the use of postal, telegraph or telephonic services, including the taking possession of such services and the delaying, seizing, intercepting or interrupting of postal articles or telegraphic or telephonic messages ;

(xix) regulating the delivery, otherwise than by postal or telegraphic service, of postal articles and telegrams ;

(xx) the control of agriculture, trade or industry for the purpose of regulating or increasing the supply of, and the obtaining of information with regard to, articles or things of any description whatsoever which can be used in connection with any operations in which His Majesty's Indian forces may be engaged, or for maintaining supplies and services essential to the life of the community ;

(xxi) ensuring the ownership and control of mines by British subjects domiciled in India ;

(xxii) controlling the possession, use or disposal of, or dealing in, coin, bullion, bank notes, currency notes, securities or foreign exchange ;

(xxiii) the control of any road or pathway ; of any waterway, ferry or bridge ; or of any river, canal or other source of water-supply ;

(xxiv) the requisitioning of any property, movable or immovable, including the taking possession thereof and the issue of any orders in respect thereof ;

(xv) prohibiting or regulating the possession, use or disposal of—

(a) explosives, inflammable substances, arms and ammunitions of war,

(b) vessels,

(c) wireless telegraphic apparatus,

(d) aircraft, and

(e) photographic and signalling apparatus and any means of recording information ;

(xxvi) prohibiting or regulating the bringing into, or taking out of, India of goods or articles of any description (including coin, bullion, bank notes, currency notes, securities and foreign exchange), and applying the provisions of the Sea Customs Act, 1878 (VIII of 1878), and in particular section 19 thereof, to such prohibitions and regulations ;

(xxvii) prohibiting or regulating the bringing into, or taking out of, India and the possession, use or transmission of ciphers and other secret means of communicating information ;

(xxviii) prohibiting or regulating the publication of inventions and designs ;

(xxix) preventing the disclosure of official secrets ;

(xxx) prohibiting or regulating meetings, assemblies, fairs and processions ;

(xxxi) preventing or controlling any use, calculated to prejudice the public safety or the maintenance of public order, of uniforms, flags and insignia and of anything similar thereto ;

(xxxii) ensuring the accuracy of any report or declaration legally required of any person ;

(xxxiii) preventing the unauthorised change of names ;

(xxxiv) preventing anything likely to cause misapprehension in respect of the identity of any official person, official document or official property or in respect of the identity of any person, document or property purporting to be, or resembling, an official person, official document or official property ;

(xxxv) entry into, and search of, any place reasonably suspected of being used for any purpose prejudicial to the public safety or interest, and for the seizure and disposal of anything found there and reasonably suspected of being used for such purpose.

(3) The rules made under sub-section (1) may further—

(i) provide for the arrest and trial of persons contravening any of the rules or any order issued thereunder ;

(ii) provide that any contravention of, or any attempt to contravene, and any abetment of or attempt to abet the contravention of, any of the provisions of the rules, or any order issued under any such provision, shall be punishable with imprisonment for a term which may extend to seven years or with fine or with both ;

(iii) provide for the seizure, detention and forfeiture of any property in respect of which such contravention, attempt or abetment as is referred to in the preceding clause has been committed and for the adjudication of such forfeiture whether by a Court or by any other authority ;

(iv) prescribe the duties and powers of public servants and other persons as regards preventing the contravention of, or securing the observance of, the rules or any order issued thereunder ;

(v) provide for preventing obstruction and deception of, and disobedience to, any person acting, and interference with any notice issued, in pursuance of the rules or any order issued thereunder ;

(vi) prohibit attempts by any person to screen from punishment any one, other than the husband or wife of such person, contravening any of the rules or any order issued thereunder ;

(vii) empower or direct any authority to take such action as may be specified in the rules or as may seem necessary to such authority for the purpose of ensuring the public safety or interest ;

(viii) provide for charging fees in respect of the grant or issue of any licence, permit, certificate or other document for the purposes of the rules.

(4) The appropriate Government may by order direct that any power or duty which by rule under sub-section (1) is conferred or imposed upon such Government shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised or discharged by any officer or authority subordinate to such Government or by any other authority.

(5) A Provincial Government may, by order, direct that any power or duty which by rule made by the Central Government under sub-section (1) is conferred or imposed on the Provincial Government, or which, being by such rule conferred or imposed on the Central Government, has been directed under sub-section (4) to be exercised or discharged by the Provincial Government, shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised or discharged by any officer or authority, not being (except in the case of a Chief Commissioner's Province) an officer or authority subordinate to the Central Government.

(6) Any rule made by the Central Government under sub-section (1) may confer powers and impose duties or authorise the conferring of powers and imposition of duties upon the Government of an Acceding State or officers and authorities thereof to be designated for the purpose by the Government of that State.

4. *Effect of rules, etc., inconsistent with other enactments.*—Any rule made under section 3, and any order made under any such rule, shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), or this Ordinance or in any instrument having effect by virtue of any enactment other than the Act aforesaid or this Ordinance.

5. *Special powers to control civilian personnel employed in connection with His Majesty's Indian forces.*—The Central Government may, by notification in the official Gazette, direct by general or special order that any persons who, not being members of His Majesty's Indian forces, are attach-

ed to, or employed with, or following those forces, shall be subject to military, naval or air force law, and thereupon such persons shall be subject to discipline, and liable to punishment for offences, under the Indian Army Act, 1911 (VIII of 1911), the Indian Navy (Discipline) Act, 1934 (XXXIV of 1934), or the Indian Air Force Act, 1932 (XIV of 1932), as the case may require, as if they were included in such class of persons subject to any of those Acts as may be specified in the notification.

6. *Enhanced penalties.*—(1) If any person, with intent to wage war against His Majesty or to assist any persons waging war with His Majesty, contravenes any provision of the rules made under section 3 or any order issued under any such rule, he shall be punishable with death, or transportation for life, or imprisonment for a term which may extend to ten years, and shall also be liable to fine.

(2) If any person —

(a) contravenes any such provision of, or any such rule or order made under, the Indian Aircraft Act, 1934 (XXII of 1934), as may be notified in this behalf by the Central Government, or

(b) in any area notified in this behalf by a Provincial Government, contravenes any such provision of, or any such rule made under, the Indian Arms Act, 1878 (XI of 1878), the Indian Explosives Act, 1884 (IV of 1884), or the Explosive Substances Act, 1908 (VI of 1908), as may be notified in this behalf by the Provincial Government, he shall, notwithstanding anything contained in any of the aforesaid Acts or rules made thereunder, be punishable with imprisonment for a term which may extend to five years, or, if his intention is to wage war against His Majesty or to assist any persons waging war with His Majesty, with death, transportation for life, or imprisonment for a term which may extend to ten years, and shall in either case also be liable to fine.

(3) For the purposes of this section, any person who attempts to contravene, or abets or attempts to abet or does any act preparatory to a contravention of, a provision of any law, rule or order, shall be deemed to have contravened that provision.

7. *Amendment of certain Acts.*—(1) Section 5 of the Indian Official Secrets Act, 1923 (XIX of 1923), shall have effect as if—

(a) in sub-section (1) thereof, after the words “in such a place” the words “or which relates to, or is used in, a protected area, as defined in the rules made under the Public Safety Ordinance, 1948, or relates to anything in such an area” had been inserted; and

(b) for sub-section (4) thereof, the following sub-section had been substituted, namely:—

“(4) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to five years, or, if such offence is committed with intent to wage war against His Majesty or to assist any persons waging war with His Majesty, with death, or transportation for life, or imprisonment for a term which may extend to ten years, and shall in either case also be liable to fine.”

(2) Section 12 of the Indian Official Secrets Act, 1923 (XIX of 1923) shall have effect as if after clause (a) the following clause had been inserted, namely:—

“(aa) an offence under section 5 shall be a cognizable and non-bailable offence”.

(3) The Indian Press (Emergency Powers) Act, 1931 (XXIII of 1931)

shall have effect as if in sub-section (1) of section 4 thereof, after clause (b) the following word and clause had been inserted, namely :—

“or

(bb) directly or indirectly convey any ‘confidential information’ or any ‘prejudicial report’ as defined in the rules made under the Public Safety Ordinance, 1948, or are calculated to instigate the contravention of any of those rules,”

(4) The Indian Aircraft Act, 1934 (XXII of 1934) shall have effect as if—

(a) at the end of clause (r) of sub-section (2) of section 5 the following words had been inserted, namely :—

“including the taking of steps necessary to secure compliance with, or to prevent contravention of, the rules regulating such matters, or, where any such rule has been contravened, to rectify, or to enable proceedings to be taken in respect of, such contravention” ;

(b) in clause (b) of sub-section () of section 8, for the words, brackets, letters and figures “clause (h) or clause (i) of sub-section (2) of section 5”, the words, brackets, letters and figures “clauses (d), (e), (h), (i), (k) or (l) of sub-section (2) of section 5, or the commission of an offence punishable under section 11,” had been substituted ;

(c) in section 11, after the words “in the air” the words “or in such a manner as to interfere with any of His Majesty’s Indian forces, ships or aircraft” had been inserted ;

(d) in section 13, for the words, brackets, figures, and letters “clause (i) or clause (l) of sub-section (2) of section 5” the words, brackets, figures and letters “clauses (c), (d), (e), (h), (i), (j), (k) or (l) of sub-section (2) of section 5, or punishable under section 11” had been substituted ; and

(e) section 14 had been omitted.

(5) The Motor Vehicles Act, 1939 (IV of 1939) (in this sub-section referred to as the said Act) shall have effect subject to the following provisions, namely :—

“(a) The Provincial Government may—

(1) by general or special order in writing exempt from all or any of the provisions of Chapter IV of the said Act any transport vehicle used or repaired for use in connection with any work or purpose declared by the Provincial Government in the order to be a work or purpose connected with the securing of the public safety, the maintenance of public order, the maintenance of supplies and services essential to the life of the community or the prevention of any grave menace to the security of India ;

(2) by the same or like order authorise any authority to issue temporary permits and give directions not inconsistent with the other provisions of the said Chapter in respect of any such transport vehicles.

(b) If the Provincial Government by general or special order in writing so directs, the provisions of sub-section (2) of section 38 of the said Act shall have effect in relation to any motor vehicle or class of motor vehicles specified in the order as if the words ‘not being in any case less than six months’ were omitted”

CHAPTER III.

Supplemental.

8. *Ordinary avocations of life to be interfered with as little as possible.*—Any authority or person acting in pursuance of this Ordinance shall interfere with the ordinary avocations of life and the enjoyment of property as little as may be consonant with the purposes of this Ordinance.

9. *Savings as to orders.*—(1) No order made in exercise of any power

conferred by or under this Ordinance shall be called in question in any Court.

(2) Where an order purports to have been made and signed by any authority in exercise of any power conferred by or under this Ordinance, a Court shall, within the meaning of the Indian Evidence Act, 1872 (1 of 1872), presume that such order was so made by that authority.

10. *Protection of action taken under Ordinance.*—(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Ordinance or any rule made thereunder or any orders issued under any such rule.

(2) Save as otherwise expressly provided by or under this Ordinance, no suit or other legal proceeding shall lie against the Central or a Provincial Government for any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Ordinance or any rules made thereunder or any orders issued under any such rule.

11. *Powers and functions and legal protection of military and police forces of Acceding States when employed on military or police duties in the Provinces of India.*—When any member of the military or police forces of an Acceding State are, with the authority of the Central or a Provincial Government, employed in any Province of India on military or police duties, then—

(a) sections 128, 130 and 131 of the Code of Criminal Procedure, 1898 (V of 1898) shall apply to officers, non-commissioned officers and men of the military force of such Acceding State when so employed, as if they were officers, non-commissioned officers and soldiers respectively of His Majesty's Indian land forces;

(b) any provision of law for the time being in force which invests a police officer in any Province of India with any status, power or function shall operate to invest a police officer of equivalent rank in the police force of such Acceding State with the like status, power and function; and for the purposes of the Code of Criminal Procedure, 1898 (V of 1898), an officer in any such force not below the rank equivalent to that of a sub-inspector of police in a Province of India shall be deemed to be an officer-in-charge of a police station;

(c) any provision of law for the time being in force which gives protection, whether specifically or otherwise, to members of His Majesty's Indian military forces or of the police forces in the Provinces of India from or in respect of any prosecution or other legal proceedings or in respect of any other liability shall apply also to members of the military force or the police force of an Acceding State when so employed.

12. *Compensation to be paid in accordance with certain principles for compulsory acquisition of immovable property, etc.*—(1) Where under section 13 or under any rule made under this Ordinance, any action is taken of the nature described in sub-section (2) of section 299 of the Government of India Act, 1935, there shall be paid compensation, the amount of which shall be determined in the manner, and in accordance with the principles, hereinafter set out, that is to say,—

(a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;

(b) where no such agreement can be reached, the appropriate Government shall appoint as arbitrator a person qualified under sub-section (3) of section 220 of the Government of India Act, 1935, for appointment as a Judge of a High Court;

(c) the appropriate Government may in any particular case nominate a person having expert knowledge as to the nature of the property acquired, to assist the arbitrator, and where such nomination is made, the person to be compensated may also nominate an assessor for the said purpose;

(d) at the commencement of the proceedings before the arbitrator, the appropriate Government and the person to be compensated shall state what in their respective opinions is a fair amount of compensation;

(e) the arbitrator in making his award shall have regard to—

(i) the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894 (I of 1894), so far as the same can be made applicable; and

(ii) whether the acquisition is of a permanent or temporary character;

(f) an appeal shall lie to the High Court against an award of an arbitrator except in cases where the amount thereof does not exceed an amount prescribed in this behalf by rule made by the appropriate Government.

(g) save as provided in this section and in any rules made thereunder, nothing in any law for the time being in force shall apply to arbitrations under this section.

(2) The appropriate Government may make rules for the purpose of carrying into effect the provisions of this section.

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

(a) the procedure to be followed in arbitrations under this section;

(b) the principles to be followed in apportioning the cost of proceedings before the arbitrator and on appeal;

(c) the maximum amount of an award against which no appeal shall lie.

13. *Power to acquire requisitioned property.*—(1) Without prejudice to any power to acquire property conferred by any rule made under this Ordinance, any immovable property which has been requisitioned under rule so made may, in the manner provided by any such rules for the acquisition of property, be acquired in the circumstances and by the Government hereinafter specified, namely,—

(a) where any works have, during the period of requisition, been constructed on, in or over the property wholly or partly at the expense of any Government, by that Government if it decides that the value of or the right to use, such works shall by means of the acquisition of the property be preserved or secured for the purposes of any Government, or

(b) where the cost to any Government of restoring the property to its condition at the time of its requisition as aforesaid would in the determination of that Government be excessive having regard to the value of property at the time, by that Government;

and at the beginning of the day on which notice of such acquisition is served or published under the aforesaid rules, the immovable property shall vest in the acquiring Government free from any mortgage, pledge, lien or similar encumbrance, and the period of the requisition thereof shall end.

(2) Any decision or determination of a Government under sub-section (1) shall be final, and shall not be called in question in any Court.

(3) For the purposes of this section “works” includes buildings structures and improvements of the property, of every description.

14. Release from requisition.—(1) Where any property requisitioned under any rule made under this Ordinance is to be released from such requisition, the Government by which or under whose authority the property was requisitioned or any person generally or specially authorized by it in this behalf may, after such enquiry, if any, as it or he may in any case consider it necessary to make or cause to be made, specify by order in writing the person to whom possession of the property shall be given.

(2) The delivery of possession of the property to the person specified in an order made under sub-section (1) shall be a full discharge of the Government from all liabilities in respect of the property, but shall not prejudice any rights in respect of the property which any other person may be entitled by due process of law to enforce against the person to whom possession of the property is given.

C. RAJAGOPALACHARI,
Governor-General.

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The Taxation Laws Amendment Ordinance, 1949.

Ordinance No. IX of 1949

An Ordinance further to amend the Indian Income-tax Act, 1922, the Indian Finance Act, 1942, the Excess Profits Tax Ordinance, 1943, the Indian Finance Act, 1946, the Business Profits Tax Act, 1947 and the Taxation on Income (Investigation Commission) Act, 1947.

WHEREAS an emergency has arisen which makes it necessary further to amend the Indian Income-tax Act, 1922 (XI of 1922), the Indian Finance Act, 1942 (XII of 1942), the Excess Profits Tax Ordinance, 1943 (XVI of 1943), the Indian Finance Act, 1946 (VII of 1946), the Business Profits Tax Act, 1947 (XXI of 1947) and the Taxation on Income (Investigation Commission) Act, 1947 (XXX of 1947), for the purposes hereinafter appearing ;

Now, THEREFORE, in exercise of the powers conferred by section 42 of the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor-General is pleased to make and promulgate the following Ordinance :—

CHAPTER I. PRELIMINARY.

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Taxation Laws Amendment Ordinance, 1949.

(2) Chapter II shall be deemed to have come into force on the 31st day of March, 1949, and the remaining provisions of this Ordinance shall, unless otherwise expressly provided herein, come into force at once.

CHAPTER II.

AMENDMENT OF THE INDIAN INCOME-TAX, 1922.

2. *Amendment of section 5A, Act XI of 1922.*—In sub-section (1) of section 5A of the Indian Income-tax Act, 1922 (hereinafter in this Chapter referred to as the Income-tax Act), for the words “not more than ten persons” the words “as many persons as it thinks fit” shall be substituted.

3. *Amendment of section 10, Act XI of 1922.*—In section 10 of the Income-tax Act,—

(1) in sub-section (2),—

(i) after clause (vi), the following clause shall be inserted, namely :—

“(vii) in respect of depreciation of buildings newly erected, or of machinery or plant being newly installed, after the 31st day of March, 1948, a further sum (which shall be deductible in determining the written

down value) equal to the amount admissible under clause (vi) (exclusive of the extra allowance for double or multiple shift working of the machinery or plant and the initial depreciation allowance admissible under that clause for the first year of erection of the building or the installation of the machinery or plant) in the assessment for the year commencing with the 1st day of April, 1949 :

Provided that this clause shall not apply in respect of any building, machinery or plant which prior to the 1st day of April, 1948, had at any time been used for the purposes of business and had after the said date been transferred directly or indirectly from one business to another ;”

(ii) in the second proviso to clause (vii), for the words “is sold” the words “is sold, whether during the continuance of the business or after the cessation thereof,” shall be substituted ;

(2) to clause (a) of sub-section (5) the following proviso shall be added, namely :—

“Provided that where, before the date of acquisition by the assessee, the assets were at any time used by any other person for the purposes of his business and the Income-tax Officer is satisfied that the main purpose of the transfer of such assets, directly or indirectly, to the assessee was the reduction of a liability to income-tax (by claiming depreciation with reference to an enhanced cost), the actual cost to the assessee shall be such an amount as the Income-tax Officer may, with the previous approval of the Inspecting Assistant Commissioner, determine having regard to all the circumstances of the case.”

4. *Amendment of section 46B, Act XI of 1922.*— To sub-section (2) of section 15B of the Income-tax Act, the following proviso shall be added, namely :—

“Provided that where any sum paid during the previous year as donation to the fund known as the Gandhi National Memorial Fund is in excess of the limits specified in this section, the exemption granted under this section shall apply to the whole of that sum.”

5. *Insertion of new section 15C in Act XI of 1922.*— After section 15B of the Income-tax Act, the following section shall be inserted, namely :—

“15C. *Exemption from tax of newly established industrial undertakings.*— (1) Save as otherwise hereinafter provided, the tax shall not be payable by an assessee on so much of the profits or gains derived from any industrial undertaking to which this section applies as do not exceed six per cent. per annum on the capital employed in the undertaking, computed in accordance with such rules as may be made in this behalf by the Central Board of Revenue.

(2) This section applies to industrial undertaking which—

(i) is not formed by the splitting up or the reconstruction of business already in existence or by the transfer to a new business of building, machinery or plant used in a business which was being carried on before the 1st day of April, 1948 ;

(ii) has begun or begins to manufacture or produce articles in any Province of India at any time after the 1st day of March, 1948 ;

(iii) employs more than fifty persons ; and

(iv) involves the use of electrical energy or any other form of energy which is mechanically transmitted and is not directly generated by human agency :

Provided that the Central Government may, by notification in the

official Gazette, direct that the exemption conferred by this section shall not apply to any particular industrial undertaking.

(3) The profits or gains of an industrial undertaking to which this section applies shall be computed in accordance with the provisions of section 10.

(4) The tax shall not be payable by a shareholder in respect of so much of any dividend paid or deemed to be paid to him by an industrial undertaking as is attributable to that part of the profits or gains on which the tax is not payable under this section.

(5) Nothing in this section shall affect the application of section 23A in relation to the profits or gains of an industrial undertaking to which this section applies, and for the purposes of that section, the expression assessable income shall be deemed to include the profits or gains in respect of which the tax is not payable under this section.

(6) The provisions of this section shall apply to the assessments for the years commencing on the 1st day of April, 1949."

6. *Amendment of section 16, Act XI of 1922.*— In clause (a) of sub-section (1) of section 16 of the Income-tax Act, for the words, figures and letter "section 15 and section 15B", the words, figures and letters "section 15, section 15B and section 15C" shall be substituted.

7. *Amendment of section 17, Act XI of 1922.*— In sub-section (4) of section 17 of the Income-tax Act, after the words, figures and letter "or under section 15B" the words, figures and letter "or under section 15C" shall be inserted.

8. *Amendment of section 18A, Act XI of 1922.*— In section 18A of the Income-tax Act —

(i) in sub-section (5), after the words "from the date of payment" the following shall be inserted, namely:—

"to the date of the provisional assessment made under section 23B, or if no such assessment has been made,";

(ii) in sub-section (6), in the first proviso, after the word "Provided" the word "also" shall be inserted, and before the proviso as so amended, the following proviso shall be inserted, namely:—

"Provided that where a provisional assessment is made under section 23B, interest shall be calculated in accordance with the foregoing provision up to the date on which the tax as provisionally assessed is paid, and thereafter interest shall be calculated at the rate aforesaid on the amount by which the tax as so assessed (in so far as it relates to income to which the provisions of section 18 do not apply) falls short of the said eighty per cent."

9. *Insertion of new section 23B in Act XI of 1922.*— After section 23A of the Income-tax Act, the following section shall be inserted, namely:—

"23B. *Power to make provisional assessment in advance of regular assessment.*— (1) The Income-tax Officer may, at any time after the receipt of a return made under section 12, proceed to make in a summary manner, a provisional assessment of the tax payable by the assessee, on the basis of his return and the accounts and documents, if any, accompanying it, after giving due effect to (i) the allowance referred to in paragraph (b) of the proviso to clause (vi) of sub-section (2) of section 10, and (ii) any loss carried forward under sub-section (2) of section 24.

(2) A partner of a firm may be provisionally assessed under sub-section (1) in respect of his share in the firm's income, profits and gains if its

return has been received, although the return of the partner himself may not have been received.

(3) A firm may be provisionally assessed under sub-section (1) as if it were an unregistered firm, unless the firm fulfils such conditions as the Central Government may, by notification in the official Gazette, specify in that behalf.

(4) There shall be no right of appeal against a provisional assessment made under sub-section (1).

(5) For the avoidance of doubt, it is hereby declared that the provisions of section 45 (except the first proviso) and section 46 apply in relation to any tax payable in pursuance of a provisional assessment made under sub-section (1) as if it were a regular assessment made under section 23.

(6) Income-tax paid or deemed to have been paid under section 18 or section 18A in respect of any income provisionally assessed under sub-section (1), shall be deemed to have been paid towards the provisional assessment.

(7) After a regular assessment has been made under section 23, any amount paid or deemed to have been paid towards a provisional assessment made under sub-section (1), shall be deemed to have been paid towards the regular assessment; and where the amount paid or deemed to have been paid towards the provisional assessment, exceeds the amount payable under the regular assessment, the excess shall be refunded to the assessee.

(8) Nothing done or suffered by reason or in consequence of any provisional assessment made under this section shall prejudice the determination on the merits, of any issue which may arise in the course of the regular assessment under section 23.

10. *Amendment of section 54, Act XI of 1922.*— In sub-section (3) of section 54 of the Income-tax Act,—

(i) in clause (d), after the word "suit" the words "or proceeding" shall be inserted;

(ii) in clause (i) the words "on agricultural income" shall be omitted.

11. *Amendment of section 61, Act XI of 1922.*— In clause (b) of sub-section (5) of section 64, the words "by him" shall be omitted and shall be deemed never to have been inserted.

CHAPTER III.

AMENDMENT OF THE INDIAN FINANCE ACT, 1942.

12. *Amendment of section 10, Act XII of 1922.*— To sub-section (1) of section 10 of the Indian Finance Act, 1922, after the fourth proviso, the following further proviso shall be added, namely:—

"Provided further that if it is subsequently found that the sum repaid in accordance with the provisions of this sub-section was in excess of the sum so payable, the sum repaid in excess may be recovered in the same manner as excess profits tax may be recovered under the Excess Profits Tax Act, 1940 (XV of 1940), and notwithstanding anything contained in sub-section (7) of section 46 of the Indian Income-tax Act, 1922 (XI of 1922), as made applicable by section 21 of the Excess Profits Tax Act, 1940, such recovery may be made at any time."

CHAPTER IV.

AMENDMENT OF THE EXCESS PROFITS TAX ORDINANCE, 1943.

13. *Amendment of section 2, Ordinance XVI of 1943.*— For sub-sec-

tion (3) of section 2 of the Excess Profits Tax Ordinance, 1943, the following sub-section shall be substituted, namely :—

“(3) Any further sum, such as is referred to in sub-section (1), deposited in accordance with the provisions of that sub-section, whether before or after the commencement of the Taxation Laws Amendment Ordinance, 1949, shall not be repaid by the Central Government unless five years have expired from the date on which the deposit was made :

Provided that the Central Government may repay such deposit before the expiry of the period specified herein if it is satisfied that such repayment is in the public interest.”

CHAPTER V.

AMENDMENT OF THE INDIAN FINANCE ACT, 1946.

14. *Amendment of section 11, Act VII of 1946.*— To sub-section (12) of section 11 of the Indian Finance Act, 1946, the following proviso shall be added, namely :—

“Provided that where, subsequent to any repayment made under the provisions of section 10 of the Indian Finance Act, 1942 (VII of 1942) or section 2 of the Excess Profits Tax Ordinance, 1943 (XVI of 1943), a reduction in the excess profits tax is effected whether by relief given in respect of a deficiency of profits, or by relief given in respect of a double excess profits tax, or by an order passed in any appeal, or otherwise, the sum to be refunded to the assessee on account of such reduction shall be decreased by such proportion thereof as the amount already repaid bore to the excess profits tax before the reduction as aforesaid.”

CHAPTER VI.

AMENDMENT OF THE BUSINESS PROFITS TAX ACT, 1947.

15. *Amendment of section 4, Act XXI of 1947.*— In section 4 of the Business Profits Tax Act, 1947 (hereinafter in this Chapter referred to as the Business Profits Tax Act), after the first proviso, the following further proviso shall be inserted, namely :—

“Provided further that where the profits include any profits from an industrial undertaking which are exempt from income-tax under section 15C of the Indian Income-tax Act, 1922 (XI of 1922), the business profits tax otherwise payable on the whole of the taxable profits shall be reduced by an amount which bears to that business profits tax the same proportion as the amount of such inclusion bears to the whole profits.”

16. *Amendment of Schedule II, Act XXI of 1947.*— (1) To rule 2 of Schedule II to the Business Profits Tax Act, the following *Explanation* shall be added, namely :—

“*Explanation.*— A reserve or paid-up share capital brought into existence by creating or increasing (by re-valuation or otherwise) any book asset is not capital for the purposes of ascertaining the abatement under this Act in respect of any chargeable accounting period.”

(2) The amendment made by sub-section (1) shall be deemed to have had effect from the date on which the Business Profits Tax Act came into force.

CHAPTER VII.

AMENDMENT OF THE TAXATION ON INCOME (INVESTIGATION COMMISSION) ACT, 1947.

17. *Amendment of section 3, Act XXX of 1947.*— For clause (b) of section 3 of Taxation on Income (Investigation Commission) Act, 1947 (hereinafter in this Chapter referred to as the Investigation Commission Act), the following clause shall be substituted, namely :—

(b) to investigate in accordance with the provisions of this Act any case or points in a case referred to it under section 4 and make a report thereon (including such interim reports as the Commission may think fit) to the Central Government in respect of all or any of the assessment made in relation to the case before the date of its report or interim report, as the case may be ;”

18. *Amendment of section 6, Act XXX of 1947.*— In section 6 of the Investigation Commission Act,—

(i) for sub-section (c), the following sub section shall be substituted, namely :—

“(c) The Commission shall have power to require any person or banking or other company to prepare and furnish on or before a specified date written statements of accounts and affairs verified in such manner as may be prescribed by the Commission and, if so required by the Commission, also duly verified by a qualified auditor, giving information on such points or matters as in the opinion of the Commission may, directly or indirectly, be useful for, or relevant to, any case referred to it, and any person or banking or other company so required shall be bound, notwithstanding any law to the contrary, to comply with such requirement.”;

(ii) after sub-section (2), the following sub-section shall be inserted, namely :—

“(2A) For the purpose of any investigation, the Commission may impound and retain in its custody, for such period as it thinks fit, any document produced before it.”;

(iii) in sub-section (4), for the brackets, figures and word “(1) and (2)”, the brackets, figures, word and letter “(1), (2) and (2A)” shall be substituted ;

(iv) for sub-section (7), the following sub-section shall be substituted, namely :—

“(7) Where in the opinion of the Commission any person or banking or other company is likely to be in possession of any information or document which may, directly or indirectly, be useful for or relevant to, any case referred to it or any case likely to be reported by the Commission to the Central Government under the provisions of sub-section (4) of section 5, the Commission, and, subject to the direction of the Commission, any authorised official, may make enquiries in such manner as it or he may deem fit and obtain from such person or banking or other company statements, on oath or otherwise, on such points or matters as may be specified ; and for the purpose of any such enquiry, the Commission and the authorised official shall have all the powers conferred on them by sub-sections (1), (2), (2A), (3) and (4).”;

(v) For sub-section (9), the following sub-section shall be substituted, namely :—

“(9) Subject to any rules made in this behalf under this Act, any authorised official shall have power—

(i) to examine at all reasonable times any books of account or other documents which in his opinion will be useful for or relevant to the proceedings in any case under this Act ;

(ii) if specially authorised in this behalf by the Commission, to enter any building or place where he has reason to believe that any such books of account or documents may be found ;

(iii) to seize any such books of account or documents or place marks of identification thereon and make extracts or copies therefrom ;

(iv) in the course of any search under this section, to make a note or an inventory of any other article or thing found in the course of such search which in his opinion may be useful for or relevant to the disposal of any case under this Act :

and the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), relating to searches, so far as can be made applicable, shall apply to searches made under the authority of this section."

19. *Insertion of new sections 6A and 6B in Act XXX of 1947.*—After section 6 of the Investigation Commission Act, the following sections shall be inserted, namely :—

"6A. *Power of Commission to tender immunity from prosecution, etc.*—

(1) At any stage of the investigation into a case referred to it under section 5, the Commission may, with a view to obtaining the evidence of any person appearing to have been, directly or indirectly, concerned in or privy to the evasion of payment of taxation on income in such case and after recording its reasons for so doing, tender to such person immunity from prosecution for any offence under the Indian Income-tax Act, 1922 (XI of 1922), the Indian Penal Code (Act XLV of 1860) or any other law for the time being in force, and also from the imposition of any penalty under the Indian Income-tax Act, 1922, on condition of his making a full and true disclosure of the whole of the circumstances relative to the evasion of payment of taxation on income and to every other person concerned, whether as principal, agent or abettor, in such evasion.

(2) Nothing contained in sub-section (1) shall render any person immune from liability to taxation on so much of his income as may be found to have been concealed or to have escaped taxation.

(3) Every person accepting a tender of immunity under this section shall be examined as a witness before the Commission.

6B. *Withdrawal of tender of immunity in certain cases*—(1) If at any time after the tender of immunity under section 6A it appears to the Commission that any person who has accepted such tender has, either by wilfully concealing anything essential or by giving false evidence, not complied with the condition on which the tender was made the Commission may record a finding to that effect, and thereupon the immunity shall be deemed to be withdrawn, and any such person may be tried for the offence in respect of which the tender of immunity was made or for any other offence of which he appears to have been guilty in connection with the same matter and shall also become liable to the imposition of any penalty under the Indian Income-tax Act, 1922 (XI of 1922), to which he would otherwise have been liable.

(2) If no such finding as is referred to in sub-section (1) is recorded by the Commission, the person to whom a tender of immunity has been made and has been accepted by him shall not be liable to prosecution for any offence in respect of which the tender of immunity was made or to the imposition of any penalty under the Indian Income-tax Act, 1922, to the extent covered by such immunity."

20. *Insertion of new section 8A in Act XXX of 1947.*—After section 8 of the Investigation Commission Act, the following section shall be inserted, namely :—

"8A. *Settlement of cases under Investigation.*—(1) Where any person concerned in any case referred to or pending before the Commission for investigation applies to the Commission at any time during such investigation to have the case or any part thereof settled in so far as it relates to

him, the Commission shall, if it is of opinion that the terms of the settlement contained in the application may be approved, refer the matter to the Central Government, and if the Central Government accepts the terms of such settlement, the Commission shall have the terms thereof recorded and thereupon the investigation, in so far as it relates to matter covered by such settlement, shall be deemed to be closed.

(2) For the purpose of enforcing the terms of any settlement arrived at in pursuance of sub-section (1), the Central Government may direct that such proceedings as may be appropriate under the Indian Income-tax Act, 1922 (XI of 1922), the Excess Profits Tax Act, 1940 (XV of 1940) or any other law may be taken against the person to whom the settlement relates, and, in particular, the provisions of the second proviso to clause (a) of sub-section (5) of section 23, section 24B, the proviso to sub-section (2) of section 25A, the proviso to sub-section (2) of section 26 and sections 44 and 46 of the Indian Income-tax Act, 1922, shall be applicable to the recovery of any sum specified in such settlement by the Income-tax officer having jurisdiction to assess the person by whom such sum is payable as if it were income-tax or an arrear of income-tax within the meaning of those provisions.

Subject to the provisions of sub-section (6) of section 8, any settlement arrived at under this section shall be conclusive as to the matters stated therein, and no person whose case has been so settled shall be entitled to reopen in any proceeding for the recovery of any sum under this section or in any subsequent assessment or reassessment proceeding relating to taxation on income or in any other proceeding before any Court or other authority any matter which forms part of such settlement.

(4) Nothing contained in this section shall, unless otherwise expressly specified in the settlement, be a bar to the institution of proceedings under section 34 of the Indian Income-tax Act, 1922."

CHAPTER VIII. MISCELLANEOUS.

21. *Repeal and saving.*—(1) The Indian Income-tax (Amendment) Ordinance, 1948 (XXXVIII of 1948), is hereby repealed.

(2) Notwithstanding the expiry of the Excess Profits Tax (Amendment) Ordinance, 1948 (XXVII of 1948), and the Taxation on Income (Investigation Commission) (Amendment) Ordinance, 1948 (XXXV of 1948) or the repeal by this Ordinance of the Indian Income-tax (Amendment) Ordinance, 1948, anything done or any action taken in exercise of any power conferred by any of the Ordinances referred to in this section shall for all purposes be deemed to have been done or taken in the exercise of the powers conferred by this Ordinance as if this Ordinance had been in force on the day such thing was done or such action was taken.

C. RAJAGOPALACHARI,
Governor-General.

Published in the *Gazette of India*, Extraordinary, dated the 27th June 1949.
The Essential Supplies (Temporary Powers) Amendment Ordinance, 1949.
Ordinance No. XIV of 1949.

An Ordinance further to amend the Essential Supplies (Temporary Powers) Act, 1946.

WHEREAS an emergency has arisen which makes it necessary further to amend the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), for the purposes hereinafter appearing ;

NOW, THEREFORE, in exercise of the powers conferred by section 42 of the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor-General is pleased to make and promulgate the following Ordinance :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Essential Supplies (Temporary Powers) Amendment Ordinance, 1949.

(2) It shall come into force at once.

2. *Amendment of the preamble, Act XXIV of 1946.*—In the preamble to the Essential Supplies (Temporary Powers) Act, 1946 (hereinafter referred to as the said Act),—

(a) after the words “woollen textiles” the words and brackets “raw cotton (including ginned cotton and unginned cotton or *kapas*) and cotton seed”, shall be inserted ;

(b) after the word “coal” the brackets and words “(including coke and other derivatives of coal)” shall be inserted, and shall be deemed always to have been inserted.

3. *Amendment of section 2, Act XXIV of 1946.*—In section 2 of the said Act,—

(a) after item (ii) of clause (a), the following items shall be inserted, namely :—

“(iia) raw cotton,

(iib) cotton seed,” ;

(b) after clause (a), the following clause shall be inserted and shall be deemed always to have been inserted, namely :—

“(aa) ‘coal’ shall include coke and other derivatives of coal ;” ;

(c) after clause (f), the following clause shall be inserted, namely :—

“(g) ‘raw cotton’ shall include ginned cotton and unginned cotton or *kapas*.”.

C. RAJAGOPALACHARI,
Governor-General.

Published in the *Gazette of India*, Extraordinary, dated 13th September 1949

The Requisitioned Land (Apportionment of Compensation) Ordinance, 1949.

Ordinance No. XXII of 1949.

An Ordinance to provide for the apportionment of compensation payable in respect of requisitioned land.

WHEREAS doubts have arisen whether an arbitrator appointed under section 19 of the Defence of India Act, 1939 (XXXV of 1939), or under the said section as deemed to be continuing in force for the purpose of section 6 of the Requisitioned Land (Continuance of Powers) Act, 1947 (XVI of 1947), has power to apportion the compensation payable in respect of any requisitioned land among persons interested therein ;

AND WHEREAS an emergency which makes it necessary to resolve the said doubts and expressly to provide for the apportionment of compensation in all such cases ;

NOW, THEREFORE, in exercise of the powers conferred by section 42 of the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor-General is pleased to make and promulgate the following Ordinance :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Requisitioned Land (Apportionment of Compensation) Ordinance, 1949.

(2) It shall come into force at once.

2. *Definitions.*—In this Ordinance,—

(a) the expression “persons interested”, in relation to any requisition-

ed land, includes all persons claiming an interest in the compensation to be paid on account of the requisitioning or the acquisition of the requisitioned land under the provisions of section 19 of the Defence of India Act, 1939 (XXXV of 1939) or section 6 of the Requisitioned Land (Continuance of Powers) Act, 1947 (XVII of 1947) ;

(b) the expression "requisitioned land" means any immovable property which is, or was, subject to any requisition effected under the rules made under the Defence of India Act, 1939 or continued under the Requisitioned Land (Continuance of Powers) Act, 1947.

3. *Apportionment of compensation.*—(1) Notwithstanding anything contained in either of the Acts mentioned in section 2, where there are several persons interested in any requisitioned land, it shall be lawful, and shall be deemed always to have been lawful, for an arbitrator appointed in pursuance of either of the sections mentioned in clause (a) of section 2, to apportion by his award the compensation payable in respect of the requisitioning or, as the case may be, acquisition of the land among the persons interested.

(2) Where an arbitrator appointed in pursuance of either of the sections mentioned in clause (a) of section 2 has, before the commencement of this Ordinance, made an award determining, but not apportioning, the compensation payable, and such compensation has not been paid, the Government by whom such compensation is payable may, upon the application of any person interested, appoint the same or another arbitrator to apportion the compensation among the persons interested, and it shall be lawful for the arbitrator so appointed to make a supplementary award of apportionment.

(3) An appeal shall lie to the High Court against a supplementary award made under sub-section (2) if, and only if, an appeal would have lain against the original award under the provisions of section 19 of the Defence of India Act, 1939, and the rules made thereunder.

(4) The provisions of the rules made under sections 19 shall, in so far as they are applicable, apply to arbitrations and awards under this section as they apply in relation to arbitrations and awards under the said section 19.

PART V

BOMBAY ACTS

The Bombay Rents, Hotel and Lodging House Rates Control (Amendment) Act, 1948.

Received the assent of the Governor on the 14th April 1948 and is published in the *Bombay Government Gazette*, Part IV, dated the 16th April 1948.

Bombay Act No. XXXVI of 1948.

An Act to amend the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947.

WHEREAS it is expedient to amend the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 (Bom. LVII of 1947), for the purposes hereinafter appearing ; It is hereby enacted as follows :—

1. *Short title.*— This Act may be called the Bombay Rents, Hotel and Lodging House Rates Control (Amendment) Act, 1948.

2. *Amendment of section 6 of Bom. LVII of 1947.*—In section 6 of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 (Bom. LVII of 1947) (hereinafter called the said Act)—

(a) in sub-section (1),

(i) after the word “trade,” the word “or” shall be inserted ;

(ii) the words “or any other purpose notified in the *Official Gazette*, by the Provincial Government” shall be deleted ;

(b) to the said sub section (1), the following shall be added, namely—

“Provided that the Provincial Government may, by notification in the *Official Gazette*, direct that in any of the said areas, this Part shall cease to apply to premises let for any of the said purposes.” ;

(c) after the said sub section (1), the following sub-section shall be inserted, namely :—

“(A) The Provincial Government may, by notification in the *Official Gazette*, direct that in any of the said areas this Part shall apply to premises let for any other purpose.” ;

(d) in sub-section (2), for the words, brackets and figure “in, or notified under, sub section (1)” the following shall be substituted, namely:—

“in sub-section (1) or notified under sub-section (1A)”.

3. *Amendment of section 10 of Bom. LVII of 1947.*—In section 10 of the said Act—

(a) for the words “in such rate, cess or tax” the words “by way of such rate, cess or tax over the amount paid” shall be substituted ;

(b) after the words “this Act” the words “or the date on which the premises were first let, whichever is later,” shall be inserted.

4. *Amendment of section 15 of Bom. LVII of 1947.*—In section 15 of the said Act, for the proviso the following shall be substituted, namely:—

“Provided that the Provincial Government may, by notification in the *Official Gazette*, permit in any area the transfer of interest in premises held under such leases or class of leases and to such extent as may be specified in the notification.”

5. *Amendment of section 29 of Bom. LVII of 1947.*—After sub-section

2 THE BOMBAY PREVENTION OF HINDU BIGAMOUS MARRIAGES (AMENDMENT) ACT, 1948.

(1) of section 29 of the said Act, the following sub-section shall be inserted, namely :—

“(1A) Every appeal under sub-section (1) shall be made within thirty days from the date of the decree or order, as the case may be :

Provided that in computing the period of limitation prescribed by this sub section the provisions contained in sections 4, 5 and 12 of the Indian Limitation Act, 1908 (IX of 1908), shall, so far as may be, apply.”

6 *Insertion of new section 29A in Bom. LVII of 1947.*—After section 29 of the said Act, the following section shall be inserted, namely :—

“29A. *Saving of suits involving title.*—Nothing contained in section 28 or 29 shall be deemed to bar a party to a suit, proceeding or appeal mentioned therein in which a question of title to premises arises and is determined, from suing in a competent court to establish his title to such premises.”

7. *Amendment of section 40 of Bom. LVII of 1947.*—To section 40 of the said Act, the following explanation shall be added, namely :—

“*Explanation.*—For the purposes of sub-section (1), receipt of charges in advance for more than one month shall be deemed to be a fine or premium or consideration.”

8. *Saving.*—The amendment made by section 5 shall not apply to appeals from decrees or orders made before the coming into operation of this Act.

The Bombay Prevention of Hindu Bigamous Marriages (Amendment) Act, 1948.

Received the assent of the Governor-General on the 20th April 1948 and is published in the *Bombay Government Gazette*, Part IV, dated the 24th April 1948

Bombay Act No. XXXVIII of 1948.

An Act to amend the Bombay Prevention of Hindu Bigamous Marriages Act, 1946.

WHEREAS it is expedient to amend the Bombay Prevention of Hindu Bigamous Marriages Act, 1946 (Bom. XXV of 1946), for the purposes hereinafter appearing ; It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Bombay Prevention of Hindu Bigamous Marriages (Amendment) Act, 1948.

2. *Amendment of section 3 of Bom. XXV of 1946.*—To clause (1) of section 3 of the Bombay Prevention of Hindu Bigamous Marriages Act, 1946 (Bom. XXV of 1946), (hereinafter referred to as “the said Act”), the following shall be added at the end, namely :—

“ ; but does not include the marriage of a person during the lifetime of his or her spouse, if such spouse at the time of such marriage shall have been continually absent from such person for the space of seven years, and shall not have been heard of by such person as being alive within that time provided that the person contracting such marriage shall, before such marriage takes place, inform the person with whom such marriage is contracted of the real state of facts so far as the same are within his or her knowledge.”

3. *Amendment of section 5 of Bom. XXV of 1946.*—In section 5 of the said Act, for the words and figures “shall be deemed to have committed an offence under section 494 of the Indian Penal Code (XLV of 1860)” the following shall be substituted, namely :—

“shall, on conviction, be punishable with imprisonment for a term which may extend to seven years and shall also be liable to fine.”

4. *Substitution of new sections 8 and 8A for section 8 of Bom. XXV of 1946.*—For section 8 of the said Act, the following shall be substituted, namely :—

“8. *Jurisdiction for offences under section 5*—Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (V of 1898), an offence under section 5 may be tried by any Court of a Presidency Magistrate or a Magistrate of the First Class.

8A. *Jurisdiction for offences under sections 6 and 7.*—Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (V of 1898), no Court inferior to that of a Presidency Magistrate or a Magistrate of the First Class shall try any offence punishable under section 6 or 7.”

The Bombay City Civil Court Act, 1948.

Received the assent of the Governor General on the 3rd May 1948 and is published in the *Bombay Government Gazette*, Part IV, dated the 10th May 1948.

Bombay Act No. XL of 1948.

An Act to establish an additional Civil Court for Greater Bombay.

WHEREAS it is expedient to establish an additional Civil Court for the Greater Bombay ; it is hereby enacted as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Bombay City Civil Court Act, 1948.

(2) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint in this behalf.

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

(1) “City Court” means the court established under section 3 ;

(2) “High Court” means the High Court of Judicature at Bombay ;

(3) “institution fee” means the court fee payable in respect of the plaint or application by which a suit or proceeding is instituted ;

(4) “Small Cause Court” means the Court of Small Causes of Bombay.

(5) “special law” means a law applicable to a particular subject.

3. *Constitution of City Court*—The Provincial Government may, by notification in the *Official Gazette* establish for the Greater Bombay a court, to be called the Bombay City Civil Court. Notwithstanding anything contained in any law, such court shall have jurisdiction to receive, try and dispose of all suits and other proceedings of a civil nature not exceeding ten thousand rupees in value, and arising within the Greater Bombay, except suits or proceedings which are cognizable.—

(a) by the High Court as a Court of Admiralty or Vice-Admiralty or as a Colonial Court of Admiralty, or as a Court having testamentary, intestate or matrimonial jurisdiction, or

(b) by the High Court for the relief of insolvent debtors, or

(c) by the High Court under any special law other than the Letters Patent, or

(d) by the Small Cause Court :

Provided that the Provincial Government may, from time to time, after consultation with the High Court, by a like notification extend the jurisdiction of the City Court to any suits or proceedings of the nature specified in clauses (a) and (b).

4. *Power of Provincial Government to enhance jurisdiction of City Court.*—Subject to the exceptions specified in section 3, the Provincial Government may, by notification in the *Official Gazette*, invest the City Court with jurisdiction to receive, try and dispose of all suits and other

proceedings of a civil nature arising within the Greater Bombay and of such value not exceeding twenty-five thousand rupees as may be specified in the notification.

5. *Subordination to and superintendence by High Court.*—The City Court shall be deemed to be a court subordinate to and subject to the superintendence of the High Court within the meaning of the Letters Patent of the High Court and of the Code of Civil Procedure, 1908 (V of 1908).

6. *Appointment of Judges.*—The Provincial Government may, by notification in the *Official Gazette*, appoint as many persons as it thinks fit to be Judges of the City Court.

7. *Powers of Judges when City Court consists of more than one Judge.*—When the City Court consists of more than one Judge—

(a) each of the Judges may exercise all or any of the powers conferred on the Court by this Act or any other law for the time being in force ;

(b) the Provincial Government may appoint any one of the Judges to be the principal Judge ;

(c) the principal Judge may from time to time make such arrangements as he may think fit for the distribution of the business of the court among the various Judges thereof.

8. *Registrar.*—(1) The Provincial Government may appoint an official to be called the Registrar of the City Court. He shall be the chief ministerial officer of the court ; and shall exercise such powers and discharge such duties of a ministerial nature as the Judge of the City Court, or when the court consists of more than one Judge, the principal Judge may, from time to time, by rules direct.

(2) The Provincial Government may, with the previous approval of the High Court, invest the Registrar with any powers of the Judge of the City Court other than powers of trying suits and proceedings.

9. *Questions arising in suits, etc. under Act to be dealt with according to law administered by High Court.*—Save as otherwise provided in this Act all questions which arise in suits or other proceedings under this Act in the City Court shall be dealt with and determined according to the law for the time being administered by the High Court in the exercise of its ordinary original civil jurisdiction.

10. *Fees for process.*—(1) The High Court shall, from time to time, with the sanction of the Provincial Government prescribe and regulate the fees to be taken for any process issued by the City Court or by any officer of such court.

(2) Table of the fees so prescribed shall be published in the *Official Gazette*.

11. *Repayment of institution fee under certain circumstances.*—(1) When any suit in the City Court is settled by agreement of the parties before issues have been settled or any evidence recorded, half the amount of the institution fee paid by the plaintiff shall be repaid to him by the court.

(2) The Provincial Government may, from time to time, by order, provide for repayment of any part of the institution fee to plaintiffs in suits disposed of under such circumstances as may be specified in the order.

12. *High Court jurisdiction barred except in certain cases.*—Notwithstanding anything contained in any law, the High Court shall not have jurisdiction to try suits and proceedings cognizable by the City Court :

Provided that the High Court may, for any special reason, and at any stage remove for trial by itself any suit or proceeding from the City Court.

13. *Costs to be disallowed when plaintiff sues in High Court instead of*

in City Court.—If in any suit instituted in the High Court the Judge who tries it is of the opinion that it ought to have been instituted in the City Court and in such suit—

(a) if the plaintiff does not obtain a decree, the defendant shall be entitled to his costs as between attorney and client; or

(b) if the plaintiff obtains a decree for any matter of an amount or value less than the maximum amount of the pecuniary jurisdiction of the City Court, no costs shall be allowed to the plaintiff.

14. Allowance for fees paid in City Court in cases removed to High Court.—When any suit or proceeding is removed for trial to the High Court from the City Court under section 12—

(a) it shall be heard and disposed of by the High Court in the exercise of its original civil jurisdiction and the said Court shall have all the powers and jurisdiction in respect thereof as if it had been originally instituted in such Court;

(b) court fee on the scale for the time being in force in the High Court as a court of original civil jurisdiction shall be payable in that court in respect of the suit or proceeding therein;

Provided that in the levy of any such fee which, according to the practice of the court, is credited to the Provincial Government, credit shall be given for the institution fee already paid in the City Court.

15. Appeals and limitation.—(1) An appeal shall lie to the High Court from—

(a) every decree passed by the Judge of the City Court, and

(b) such orders passed by the said Judge as are specified in and to the extent provided for by section 104 of the Code of Civil Procedure, 1908 (V of 1908).

(2) The period of limitation for an appeal from a decree or order of the City Court shall be thirty days from the day of such decree or order.

16. Seal of City Court.—The City Court shall use a seal of such form and dimensions as may be for the time being prescribed by the Provincial Government.

17. Holidays and vacations.—(1) The Judge of the City Court, or, when the Court consists of more than one Judge, the principal Judge, shall, at the commencement of each year, draw up a list of holidays and vacations to be observed in the court, and shall submit the same for the approval of the High Court.

(2) Such list, when it has received such approval, shall be published in the *Official Gazette*, and the said holidays and vacations shall be observed accordingly.

18. Transfer of suits pending in High Court.—(1) All suits and proceedings cognizable by the City Court and pending in the High Court, in which issues have not been settled or evidence has not been recorded on or before the date of the coming into force of this Act, shall be transferred to the City Court and shall be heard and disposed of by the City Court and the City Court shall have all the powers and jurisdiction thereof as if they had been originally instituted in that Court.

(2) In any suit or proceeding so transferred institution fee shall be paid, credit being given to any court fee levied in the High Court, and costs incurred in the High Court till the date of the transfer shall be assessed by the City Court in such manner as the Provincial Government may, after consultation with the High Court, determine by rules.

The Bombay High Court Letters Patent (Amendment) Act, 1948.

Received the assent of the Governor-General on the 3rd May 1948 and is published in the *Bombay Government Gazette*, Part IV, dated the 11th May 1948.

Bombay Act No. XLI of 1948.

An Act to amend the Letters Patent establishing the Supreme Court of Judicature at Bombay, bearing date the eighth day of December, One thousand Eight hundred and Twenty-three and to amend the Letters Patent of the High Court of Judicature for the Presidency of Bombay, bearing date the twenty-eighth day of December, One thousand Eight hundred and Sixty-five.

WHEREAS it is expedient to amend the Letters Patent establishing the Supreme Court of Judicature at Bombay, bearing date the eighth day of December, One thousand Eight hundred and Twenty-three and to amend the Letters Patent of the High Court of Judicature for the Presidency of Bombay, bearing date the twenty-eighth day of December, One thousand Eight hundred and Sixty-five for the purposes hereinafter appearing ; It is hereby enacted as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Bombay High Court Letters Patents (Amendment) Act, 1948.

(2) It shall come into force on such date as the Provincial Government may, by notification in the *official Gazette*, appoint.

2. *Amendment of Letters Patent of 8th December 1823.*—In the Letters Patent establishing the Supreme Court of Judicature at Bombay, bearing date the eighth day of December, One thousand Eight hundred and Twenty-three—

(1) in paragraph 21—

(a) after the words “Judicature at Bombay” where they occur for the first time, the words “and of the Bombay City Civil Court” shall be inserted ;

(b) after the words “Judicature at Bombay” where they occur for the second time, the words “or to the said Bombay City Civil Court, as the case may be,” shall be inserted ;

(c) after the word “respectively” the words “or by the Bombay City Civil Court or by any Judge of the said Court” shall be inserted ;

(2) in paragraph 22—

(a) after the words “Judicature at Bombay” where they occur for the first time, the words “or the Bombay City Civil Court” shall be inserted ;

(b) after the words “Judicature at Bombay” where they occur for the second time, the words “or the said Bombay City Civil Court, as the case may be,” shall be inserted ;

(c) for the word “Court” where it occurs at the end, the word “Courts” shall be substituted ;

(3) in paragraph 23—

(a) after the words “said Court” where they occur for the first time, the words “or of the said Bombay City Civil Court” shall be inserted ;

(b) for the words “said Court” where they occur for the second time, the words “said Supreme Court of Judicature at Bombay” shall be substituted ;

(4) to paragraph 43, the following shall be added, namely :—

“The foregoing provisions as respects the Sheriff and his duties shall, so far as may be, apply to the Court of Session for Greater Bombay.”

3. *Amendment of Letters Patent of 28th December 1865.*—(1) In the Letters Patent of the High Court of Judicature for the Presidency of Bom-

bay, bearing date the twenty-eighth day of December, One thousand Eight hundred and Sixty-five—

(1) in clause 12, for the words "in which the debt, or damage, or value of property sued for does not exceed one hundred rupees" the words "or the Bombay City Civil Court" shall be substituted ;

(2) in clause 22—

(a) the words "within the local limits of its ordinary original civil jurisdiction, and also" shall be deleted ;

(b) for the words "such limits" the words "the local limits of its ordinary original civil jurisdiction" shall be substituted.

(2) For the avoidance of doubt, it is hereby declared that the amendments made by clause (2) of sub-section (1) shall not be deemed to affect any of the powers of the High Court under the provisions, for the time being in force, of the Code of Criminal Procedure, 1898 (V of 1898).

The Court-fees (Bombay Amendment) Act, 1948.

Received the assent of the Governor on the 19th March 1948 and is published in the *Bombay Government Gazette*, Part IV, dated the 11th May, 1948.

Bombay Act No. XLII of 1948.

An Act to amend the Court-fees Act, 1870, in its application to the Province of Bombay.

WHEREAS it is expedient to amend the Court-fees Act, 1870 (VII of 1870), in its application to the Province of Bombay, for the purpose hereinafter appearing ; It is hereby enacted as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Court-fees (Bombay Amendment) Act, 1948.

(2) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint.

2. *Amendment of section 22 of Act VII of 1870.*—In the Court-fees Act, 1870 (VII of 1870), in section 22, after the words "every District Judge" the words "the Judge of the Bombay City Civil Court or, if the said Court consists of more than one Judge, the principal Judge thereof," shall be inserted.

The Presidency Small Cause Courts (Bombay Amendment) Act, 1948.

Received the assent of the Governor General on the 3rd May 1948 and is published in the *Bombay Government Gazette*, Part IV, dated the 18th May 1948.

Bombay Act No. XLIV of 1948.

An Act to amend the Presidency Small Cause Courts Act, 1882, in its application to the Province of Bombay.

WHEREAS it is expedient to amend the Presidency Small Cause Courts Act, 1882 (XV of 1882), in its application to the Province of Bombay, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Presidency Small Cause Courts (Bombay Amendment) Act, 1948.

(2) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint.

2. *Amendment of section 21 of Act XV of 1882.*—In section 21 of the Presidency Small Cause Courts Act, 1882 (XV of 1882) (hereinafter called "the said Act"),—

(a) the words "and all suits whereof the amount or value of the subject-matter exceeds one thousand rupees" shall be deleted; and

(b) for the words "High Court" the words "Bombay City Civil Court" shall be substituted.

3. *Substitution of new section for section 22 of Act XV of 1882.*—For section 22 of the said Act, the following shall be substituted, namely:—

"22. *Costs when plaintiff sues in High Court or in Bombay City Civil Court in other cases cognisable by Small Cause Court.*—If in any suit instituted in the High Court or in the Bombay City Civil Court, other than a suit to which section 21 applies, the Judge who tries it is of the opinion that it ought to have been instituted in the Small Cause Court and if in such suit—

(a) where it is instituted in the High Court, the plaintiff does not obtain a decree, the defendant shall be entitled to his costs as between attorney and client; or

(b) where it is instituted in the Bombay City Civil Court, the plaintiff does not obtain a decree, the defendant shall be entitled to his costs and may also be awarded such additional amount not exceeding one thousand rupees by way of compensation as the Judge may award; or

(c) where it is instituted in the High Court or in the Bombay City Civil Court, the plaintiff obtains a decree for any matter of an amount or value less than two thousand rupees, no costs shall be allowed to the plaintiff."

4. *Amendment of section 31 of Act XV of 1882.*—In section 31 of the said Act,—

(a) after the words "Madras City Civil Court or" the words "the Bombay City Civil Court or" shall be inserted; and

(b) the words "or Bombay" shall be deleted.

5. *Deletion of sections 39 and 40 of Act XV of 1882.*—Sections 39 and 40 of the said Act shall be deleted.

6. *Amendment of section 47 of Act XV of 1882.*—In section 47 of the said Act, after the words "High Court" the words "or the Bombay City Civil Court" shall be inserted.

7. *Amendment of section 49 of Act XV of 1882.*—In section 49 of the said Act, for the words "High Court" the words "Bombay City Civil Court or the High Court, as the case may be," shall be substituted.

8. *Amendment of section 61 of Act XV of 1882.*—In section 61 of the said Act, after the words "High Court" at both the places where they occur the words "or the Bombay City Civil Court" shall be inserted.

9. *Amendment of section 63 of Act XV of 1882.*—In the marginal note to section 63 and in the said section 63 of the said Act, for the words "one thousand" the words "two thousand" shall be substituted.

The Legal Practitioners (Bombay Amendment) Act, 1948.

Received the assent of the Governor-General on the 3rd May 1948 and is published in the *Bombay Government Gazette*, Part IV, dated the 18th May 1948.

Bombay Act No. XLV of 1948.

An Act to amend the Legal Practitioners Act, 1879, in its application to the Province of Bombay.

WHEREAS it is expedient to amend the Legal Practitioners Act, 1879 (XVIII of 1879), in its application to the Province of Bombay, for the pur-

purpose hereinafter appearing; It is hereby enacted as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Legal Practitioners (Bombay Amendment) Act, 1948.

(2) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint.

2. *Amendment of section 36 Act XVIII 1879.*—In the Legal Practitioners Act, 1879 (XVIII of 1879), in section 36, in sub-section (1), for the words " District Judge," the words " and District Judge, the Judge of the Bombay City Civil Court or, if the said Court consists of more than one Judge, the principal Judge thereof. every " shall be substituted.

The Code of Criminal Procedure (Bombay Second Amendment) Act, 1948.

Received the assent of the Governor-General on the 10th May 1948 and is published in the *Bombay Government Gazette*, Part IV, dated the 22nd May 1948.

Bombay Act No XLVI of 1948.

An Act to amend the Code of Criminal Procedure, 1898, in its application to the Province of Bombay.

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1898 (V of 1898), in its application to the Province of Bombay, for the purposes hereinafter appearing; It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Code of Criminal Procedure (Bombay Second Amendment) Act, 1948.

2. *Insertion of new section 476C in Act V of 1898.*—In the Code of Criminal Procedure, 1898 (V of 1898) (hereinafter called the said Code), in its application to the Province of Bombay, after section 476B the following new section shall be inserted, namely :—

"476C. *Power to order costs.*—A criminal court dealing with an application made to it for filing a complaint under section 476 or 476A, and a court dealing with an appeal under section 476B and the High Court dealing with an application in revision shall have power to make such order as to costs as may be just :

Provided that no such order shall be made against the Government or any public servant acting on behalf of the Government "

3. *Insertion of new Chapter XLIIA in Part IX of Act V of 1898.*—In Part IX of the said Code, after Chapter XLII the following new Chapter shall be inserted, namely :—

" CHAPTER XLIIA.

Of costs to be paid by the complainant or informant.

516AA. *Power to order costs against complainant or informant.*—(1) If in any case instituted upon complaint or upon information given to a police officer or to a magistrate, the accused is ordered to be discharged or acquitted by any court (including a court of appeal or revision) or if in any such case the proceedings are quashed by the High Court by an order made under section 561A and if such court is of the opinion that the complaint was made or the information was given without any reasonable and probable cause, it may, at the time of making such order, if the complainant or informant is present, call upon him forthwith to show cause why he should not be ordered to pay costs to such person; or if the complainant or informant is not present, direct the issue of a notice to him to appear and show cause as aforesaid.

(2) The court shall record and consider any cause which such complainant or informant may show and may make an order directing him to

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AMENDMENT) ACT, 1948.**

pay the whole or any part of such costs. Such costs may include any expenses incurred in respect of witnesses and of pleader's fees which the court considers reasonable.

(3) The court may, by the order directing payment of costs under sub-section (2), further order that in default of payment the person ordered to pay such costs shall suffer simple imprisonment for a period not exceeding thirty days.

(4) When any person is imprisoned under sub-section (3), the provisions of sections 68 and 69 of the Indian Penal Code (XLV of 1860), shall, so far as may be, apply.

(5) No person who has been directed to pay costs by an order made under this section shall, by reason of such order, be exempted from any civil or criminal liability in respect of the complaint made or information given by him.

(6) Where any such order is made by a magistrate and the amount directed to be paid exceeds fifty rupees, the complainant or informant may, within sixty days from the date of the order, appeal against it to the court of session.

(7) In cases where the order is appealable under sub-section (6), the costs shall not be paid before the period allowed for the presentation of the appeal has elapsed or, if an appeal is presented, before the appeal has been decided and in other cases the costs shall not be paid before the expiration of one month from the date of the order."

The Bombay Essential Commodities and Cattle (Control) (Second Amendment) Act, 1948.

Received the assent of the Governor-General on the 24th September 1948 and is published in the *Bombay Government Gazette*, Part IV, dated the 29th September 1948.

Bombay Act No. XLVII of 1948.

An Act to amend the Bombay Essential Commodities and Cattle (Control) Act, 1946.

WHEREAS it is expedient to amend the Bombay Essential Commodities and Cattle (Control) Act, 1946 (Bom. XXII of 1946), for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Bombay Essential Commodities and Cattle (Control) (Second Amendment) Act, 1948.

(2) It shall come into force on the 30th September 1948.

2. *Amendment of section 1 of Bom. XXII of 1946.*—In sub-section (4) of section 1 of the Bombay Essential Commodities and Cattle (Control) Act, 1946 (Bom. XXII of 1946), for the word "two" the word "four" shall be substituted.

The Presidency-towns Insolvency (Bombay Amendment) Act, 1948.

Received the assent of the Governor-General on the 19th October 1948 and is published in the *Bombay Government Gazette*, Part IV, dated the 22nd October 1948.

Bombay Act No. LI of 1948.

An Act to amend the Presidency-towns Insolvency Act, 1909 in its application to the Province of Bombay.

WHEREAS it is expedient to amend the Presidency-towns Insolvency Act, 1909 (III of 1909), in its application to the Province of Bombay, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Presidency-towns Insolvency (Bombay Amendment) Act, 1948.

2. In the Presidency-towns Insolvency Act, 1909 (III of 1909),—

(a) for clause (i) of section 9, the following shall be substituted, namely :—

“(i) if, after a creditor has served an insolvency notice on him under this Act in respect of a decree or an order for the payment of any amount due to such creditor, the execution of which is not stayed, he does not, within the period specified in the notice which shall not be less than one month, either comply with the requirements of the notice or satisfy the Court that he has a counter claim or set off which equals or exceeds the decretal amount or the amount ordered to be paid by him and which he could not lawfully set up in the suit or proceeding in which the decree or order was made against him.”;

(b) in sub-section (1) of section 9A, after the words “or his agent” the word “, or to satisfy the Court that he has a counter claim or set off which equals or exceeds the decretal amount or the amount ordered to be paid by him and which he could not lawfully set up in the suit or proceeding in which the decree or order was made against him” shall be inserted.

3. *Validation of certain rules and notices.*—The amendments made by this Act shall be deemed to have been made with effect from the 19th day of June 1939 and notwithstanding any judgment of any Court or anything contained in any law,—

(a) the rules including the forms relating to insolvency notices made by the High Court under the Presidency-towns Insolvency Act, 1909 (III of 1909), before the 14th day of June 1948, shall be deemed to have been made under the said Act as amended by this Act, and

(b) no insolvency notice issued under any of the said rules and no order of adjudication made for non-compliance with any such notice made before the 14th day of June 1948 shall be called in question in any Court on the ground merely that any of the rules under which or the form in which the notice was issued was not authorised by the provisions of the said Act.

4. *Repeal of Bom. Ordinance No. III of 1948.*—The Presidency-towns Insolvency (Bombay Amendment) Ordinance, 1948 (Bom. Ordinance No. III of 1948) is hereby repealed.

The Bombay Sales Tax (Amendment) Act, 1948.

Received the assent of the Governor on the 20th October 1948 and is published in the *Bombay Government Gazette*, Part IV, dated the 26th October 1948.

Bombay Act No. LII of 1948.

An Act to amend the Bombay Sales Tax Act, 1946.

WHEREAS it is expedient to amend the Bombay Sales Tax Act, 1946 (Bom. V of 1946), for the purposes hereinafter appearing; It is hereby enacted as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Bombay Sales Tax (Amendment) Act, 1948.

(2) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint.

2. *Amendment of section 6 of Bom. V of 1946.*—In section 6 of the Bombay Sales Tax Act, 1946 (Bom. V of 1946) (hereinafter called the said Act),—

(i) in clause (a) of sub-section (1) after the word and figure "Schedule I", the following proviso shall be inserted, namely :—

"Provided that in respect of sales or supplies of bullion or specie, the general tax shall, subject to such conditions and restrictions as may be prescribed, be levied on the taxable turnover of a dealer at the rate of one-fourth per cent." ;

(ii) in sub-section (3), in Rule II, after the word and figure "Schedule I", the words "and bullion and specie" shall be inserted.

3. *Amendment of section 29 of Bom. V of 1946.*—In sub-section (2) of section 29 of the said Act, after clause (d), the following clause shall be inserted, namely :—

"(dd) the conditions and restrictions subject to which the general tax on bullion and specie is to be levied ;".

4. *Saving.*—Nothing in this Act shall be deemed to affect any liability of a dealer to pay the amount of the general tax in respect of bullion or specie at the rate of one-half of an anna in a rupee on his taxable turnover before the coming into force of this Act or to entitle such dealer to a refund of tax already paid by him in respect of such goods for any period prior to the said date.

The Societies Registration (Bombay Amendment) Act, 1948.

Received the assent of the Governor on the 25th October 1948 and is published in the *Bombay Government Gazette*, Part IV, dated the 5th November 1948.

Bombay Act No. LIII of 1948.

An Act to amend the Societies Registration Act, 1860, in its application to the Province of Bombay.

WHEREAS it is expedient to amend the Societies Registration Act, 1860 (XXI of 1860), in its application to the Province of Bombay, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Societies Registration (Bombay Amendment) Act, 1948.

2. *Amendment of section 12 of Act XXI of 1860.*—In section 12 of the Societies Registration Act, 1860 (XXI of 1860), hereinafter called the said Act, after the words "other society" the words "or whenever the governing body of any society registered under this Act decides to change the name of the society" shall be inserted.

3. *Insertion of new sections 12A, 12B and 12C in Act XXI of 1860.*—After section 12 of the said Act, the following new sections shall be inserted, namely :—

"12A. *Registration of change of name.*—(1) Where a proposition for change of name has been agreed to and confirmed in the manner prescribed by section 12, a copy of the proposition so agreed to and confirmed shall be forwarded to the Registrar of Companies for registering the change of name. If the proposed name is identical with that by which any other existing society has been registered, or in the opinion of the Registrar so nearly resembles such name as to be likely to deceive the public or the members of either society, Registrar shall refuse to register the change of name.

(2) Save as provided in sub-section (1), the Registrar shall, if he is satisfied that the provisions of this Act in respect of change of name have been complied with, register the change of name and issue a certificate of registration altered to meet the circumstances of the case. On the issue of such a certificate the change name shall be complete.

(3) The Registrar shall charge for any copy of a certificate issued under sub-section (2) a fee of rupee one and all fees so paid shall be accounted for to the Provincial Government.

12B. Effect of change of name.—The change in the name of a society shall not affect any rights or obligations of the society or render defective any legal proceeding by or against the society; and any legal proceeding which might have been continued or commenced by or against it by its former name may be continued or commenced by or against it by its new name.

12C. Registration of change of names effected before coming into force of Bom. LIII of 1948.—If any society registered under this Act has, before the date of the coming into force of the Societies Registration (Bombay Amendment) Act, 1948 (Bom. LIII of 1948), intimated to the Registrar of Companies the change of its name and if the Registrar has recorded such change, the Registrar may, notwithstanding anything contained in this Act, on an application made by the society in this behalf and on payment of a fee as provided for in sub-section (3) of section 12A, register the change of such name and issue a certificate to the society under sub-section (2) of the said section 12A. On the issue of such certificate the change shall be deemed to be complete from the date on which such change was recorded by the Registrar notwithstanding the fact that the society had not followed the procedure prescribed in sections 12 and 12A."

The Bombay Money lenders (Amendment) Act, 1948

Received the assent of the Governor on the 18th November 1948 and is published in the *Bombay Government Gazette*, Part IV, dated the 29th November 1948.

Bombay Act, No. LVIII of 1948.

An Act to amend the Bombay Money-lenders Act, 1946.

WHEREAS it is expedient to amend the Bombay Money-lenders Act, 1946 (Bom. XXXI of 1947), for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Bombay Money-lenders (Amendment) Act, 1948.

2. *Amendment of section 2 of Bom. XXXI of 1947.*—In section 2 of the Bombay Money-lenders Act, 1946 (Bom. XXXI of 1947), (hereinafter called the said Act),—

(i) in clause (g), after sub-clause (d) the following new sub-clauses shall be inserted, namely:—

"(d1) an advance made to a subscriber to, or a depositor in, a Provident Fund from the amount standing to his credit in the fund in accordance with the rules of the fund;

(d2) a loan to or by an insurance company as defined in the Insurance Act, 1938 (IV of 1938)";

(ii) in clause (10) after paragraph (iii) the following new paragraph shall be inserted, namely:—

"(iiia) a company or";

(iii) after clause (12) the following new clause shall be inserted, namely:—

"(12A) 'Provident Fund' means a Provident Fund as defined in the Provident Funds Act, 1925 (XIX of 1925), and includes a Government Provident Fund and a Railway Provident Fund as defined in the said Act;"

3. *Amendment of section 6 of Bom. XXXI of 1947.*—In section 6 of the said Act,—

(i) in sub-section (1)—

(a) for the words “within the limits of which he intends to carry on the business of money-lending”, the following words shall be substituted, namely :—

“within the limits of which, the place where he intends to carry on the business of money-lending or if he intends to carry on such business at more than one place in area, the principal place of such business is situated.” ;

(b) in paragraph (iii) of clause (b) for the words “a bank” the words “a bank or company” shall be substituted ;

(c) in clause (e) for the word “bank” the words “bank or company” shall be substituted ;

(d) after clause (f) the following new clause shall be inserted, namely :—

“(g) if the places at which the business of money-lending is to be carried on are more than one, the names of persons who shall be in the management of the business at each such place.” ;

(ii) in sub-section (2),—

(a) in paragraph (ii) of clause (a) the words “and the adult coparceners” shall be deleted ;

(b) in paragraph (iii) of clause (a) and in clause (b) for the word “bank” the words “bank, company” shall be substituted ;

(iii) after sub-section (3), the following new sub-sections shall be added, namely :—

“(4) The application shall be accompanied by a licence fee at the following rates :—

(a) If the place at which the business of money-lending is to be carried on is not more than one. Rs. 5.

(b) If the business of money-lending is to be carried on at more than one place within the limits of the area of the Registrar. Rs. 5 for the licence for the principal place of business and Rs. 2 for the licence for each of the other places in the area.

Provided that where an application is made after the expiry of the period prescribed by rules in respect of such application, it shall be accompanied by a licence fee at double the rates specified above.

(5) The fee payable under this section shall be paid in the manner prescribed and shall not be refunded, notwithstanding the fact that the grant of the licence is refused or the application is withdrawn.”

4. *Amendment of section 7 of Bom. XXXI of 1947.*—(1) Section 7 of the said Act shall be renumbered as sub-section (1) of that section and in sub-section (1) so renumbered the words, letters and figure “on payment in the prescribed manner of a licence fee of Rs. 5” shall be deleted ; and to the said sub-section the following shall be added, namely :—

“If the application is in respect of more than one place of business in the area under the jurisdiction of the Registrar, a separate licence in respect of each such place shall be granted in the name of the applicant and the person responsible for the management of the business at such place.”

(2) After sub-section (1) so renumbered, the following new sub-section shall be inserted, namely :—

(2) If the application also contains a request for the grant of a licence to carry on the business of money-lending at any place within the Province, but at a place outside the jurisdiction of the Registrar who granted the licence in respect of the principal place of business of the money-lender, the Registrar shall forward copies of the application and of the licence granted to the Registrar having jurisdiction who may grant a licence on payment of the licence fee provided for in section 6 without making any inquiry in respect of the application."

5. *Insertion of new section 8A in Bom. XXXI of 1947.*—After section 8 of the said Act, the following new section shall be inserted namely :—

"8A. *Registrar's power to cancel licences.*—(1) The Registrar may, during the term of any licence, cancel the same by an order in writing on the ground that the person to whom it was granted has been guilty of any act or conduct for which he might under section 8 have refused him the grant of the licence and which act or conduct was not brought to his notice at the time of the grant.

(2) Before cancelling a licence under sub-section (1) the Registrar shall give notice in writing to the licensee and may hold such inquiry as may be necessary.

(3) An appeal shall lie from an order of the Registrar cancelling a licence under sub-section (1) to the Registrar General whose decision shall be final."

6. *Insertion of new section 13A in Bom. XXXI of 1947.*—After section 13 of the said Act, the following new section shall be inserted, namely :—

13A. *Power of authorised officer to require production of record or document.*—For the purpose of verifying whether the business of money-lending is carried on in accordance with the provisions of this Act, any Registrar, Assistant Registrar or any other officer authorised by the Provincial Government in this behalf may require any money-lender to produce any record or document in his possession which in his opinion is relevant for the purpose and thereupon such money-lender shall produce such record or document. The Registrar, Assistant Registrar or officer so authorised may after reasonable notice at any reasonable time enter any premises where he believes such record or document to be and may ask any question necessary for interpreting or verifying such record."

7. *Amendment of section 14 of Bom. XXXI of 1947.*—In sub-section (1) of section 14 of the said Act, in sub-clause (b) of clause (ii) for the word "bank" wherever it occurs the words "bank, company" shall be substituted.

8. *Insertion of new section 19A in Bom. XXXI of 1947.*—After section 19 of the said Act, the following new section shall be inserted, namely :—

"19A. *Fees for certain statements supplied to debtors and Assistant Registrars.*—(1) A money-lender may recover from a debtor fees for the statements supplied to him under sub-section (2) of section 18 or sub-section (1) of section 19 and in respect of copies of such statements applied to the Assistant Registrar under the said sub-sections.

(2) Such fees shall be recoverable at such rates and in such manner as may be prescribed, subject to the maximum of two rupees per debtor, per year, irrespective of the number of statements or copies thereof supplied to the debtor or the Assistant Registrar during the relevant year."

9. *Amendment of marginal note to section 22 and of section 22 of Bom. XXXI of 1947.*—In the marginal note to section 22 of the said Act, after the word “bank” the word “company” shall be inserted; and in the said section 22 for the word “bank” the words “bank, company” shall be substituted.

10. *Amendment of section 35 of Bom. XXXI of 1947.*—In section 35 of the said Act,—

(i) after the word “bank” where it occurs for the first time the words “or a company” shall be inserted;

(ii) for the word “bank” where it occurs for the second time the words “bank, company” shall be substituted.

11. *Amendment of section 39 of Bom. XXXI of 1947.*—In sub-section (2) of section 39 of the said Act,—

(i) for clause (b) the following shall be substituted, namely :—

(b) the form of the application for a licence, the further particulars to be included therein and the manner of payment of licence fee under section 6;”;

(ii) after clause (c) the following new clause shall be inserted, namely :—

“(c) the rates at which and the manner in which fees may be recovered under section 19A;”

The Provincial Insolvency (Bombay Amendment) Act, 1948.

Received the assent of the Governor-General on the 21st December 1948 and is published in the *Bombay Government Gazette*, Part IV, dated the 30th December 1948.

Bombay Act No. LXVIII of 1948.

An Act to amend the Provincial Insolvency Act, 1920, in its application to the Province of Bombay.

WHEREAS it is expedient to amend the Provincial Insolvency Act, 1920 (V of 1920), in its application to the Province of Bombay, for the purposes hereinafter appearing; It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Provincial Insolvency (Bombay Amendment) Act, 1948.

2. *Amendment of sections 6 and 6A of Act V of 1920.*—In the Provincial Insolvency Act 1920 (V of 1920),—

(a) for clause (i) of section 6, the following shall be substituted, namely :—

“(i) if, after a creditor has served an insolvency notice on him under this Act in respect of a decree or an order for the payment of any amount due to such creditor, the execution of which is not stayed, he does not, within the period specified in the notice which shall not be less than one month, either comply with the requirements of the notice or satisfy the Court that he has a counter-claim or set off which equals or exceeds the decretal amount or the amount ordered to be paid by him and which he could not lawfully set up in the suit or proceeding in which the decree or order was made against him”;

(b) in sub-section (1) of section 6A, after the words “or his agent” the words “, or to satisfy the Court that he has a counter-claim or set off which equals or exceeds the decretal amount or the amount ordered to be paid by him and which he could not lawfully set up in the suit or proceeding in which the decree or order was made against him” shall be inserted.

3. *Validation of certain rules and notices.*—The amendments made by this Act shall be deemed to have been made with effect from the 19th day of June 1939 and notwithstanding any judgment of any Court or anything contained in any law,—

(a) the rules including the forms relating to insolvency notices made by the High Court under the Provincial Insolvency Act, 1920 (V of 1920), before the date of coming into operation of this Act shall be deemed to have been made under the said Act as amended by this Act, and

(b) no insolvency notice issued under any of the said rules and no order of adjudication made for non-compliance with any such notice made before the date of coming into operation of this Act shall be called in question in any Court on the ground merely that any of the rules under which or the form in which the notice was issued was not authorised by the provisions of the said Act.

The Bombay Tenancy and Agricultural Lands Act, 1948.

Received the assent of the Governor-General on the 16th December 1948 and is published in the *Bombay Government Gazette*, Part IV, dated the 28th December 1948.

Bombay Act No. LXVII of 1948.

An Act to amend the law relating to tenancies of agricultural lands and to make certain other provisions in regard to those lands.

WHEREAS it is necessary to amend the law which governs the relations of landlords and tenants of agricultural lands ;

AND WHEREAS on account of the neglect of a landholder or disputes between a landholder and his tenants, the cultivation of his estate has seriously suffered, or for the purpose of improving the economic and social conditions of peasants or ensuring the full and efficient use of land for agriculture, it is expedient to assume management of estates held by landholders and to regulate and impose restrictions on the transfer of agricultural lands, dwelling houses, sites and lands appurtenant thereto, belonging to or occupied by agriculturists, agricultural labourers and artisans in the Province of Bombay and to make provisions for certain other purposes hereinafter appearing ; It is hereby enacted as follows :—

CHAPTER I.

Preliminary.

1. *Short title and extent.*—(1) This Act may be called the Bombay Tenancy and Agricultural Lands Act, 1948.

(2) It extends to the whole of the Province of Bombay.

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

(1) “Agriculture” includes horticulture, the raising of crops, grass or garden produce, dairy farming, poultry farming, stock breeding and grazing, but does not include cutting of wood only.

(2) “Agriculturist” means a person who cultivates land personally.

(3) “Co-operative Society” means a society registered under the provisions of the Bombay Co-operative Societies Act, 1925 (Bom. VII of 1925), or a society deemed to have been registered under the said Act.

(4) “Co-operative Farming Society” means a society registered as such under the Bombay Co-operative Societies Act, 1925 (Bom. VII of 1925).

(5) “To cultivate” means to carry on any agricultural operation.

(6) "To cultivate personally" means to cultivate on one's own account—

- (i) by one's own labour, or
- (ii) by the labour of any member of one's family, or
- (iii) by servants on wages payable in cash or kind but not in crop share or by hired labour under one's personal supervision or the personal supervision of any member of one's family.

Explanation I.—A tenant who is a widow or a minor or is subject to any physical or mental disability shall be deemed to cultivate the land personally, if it is cultivated by her or his servants or by hired labour.

Explanation II.—In the case of an undivided Hindu family, the land shall be deemed to have been cultivated personally, if it is cultivated by any member of such family.

(7) "Improvement" means with reference to any land, any work which adds to the value of the land and which is suitable thereto as also consistent with the purpose for which it is held; and includes—

(a) the construction of tanks, wells, water channels, embankments and other works for storage, supply or distribution of water for agricultural purposes;

(b) the construction of works for the drainage of land or for the protection of land from floods or from erosion or other damage from water;

(c) the reclaiming, clearing, enclosing, levelling or terracing of land;

(d) the erection of buildings on the land, required for the convenient or profitable use of such land for agricultural purposes; and

(e) the renewal or reconstruction of any of the foregoing works or alterations therein or additions thereto as are not of the nature of ordinary repairs; but does not include such clearances, embankments, levellings, enclosures, temporary wells, water channels and other works as are commonly made by the tenants in the ordinary course of agriculture.

(8) "Land" means land which is used for agricultural purposes, and includes—

(a) the sites of farm buildings appurtenant to land used for agricultural purposes, and

(b) the sites of dwelling houses occupied by agriculturists, agricultural labourers or artisans and land appurtenant to such dwelling houses.

(9) "Landholder" means a zamindar, jagirdar, saranjamdar, inamdar, talukdar, malek or a kho or any person not hereinbefore specified who is a holder of land or who is interested in land, and whom the Provincial Government has declared on account of the extent and value of the land or his interests therein to be a landholder for the purposes of this Act.

(10) "Mamlatdar" includes a Mahalkari and any other officer whom the Provincial Government may appoint to perform the duties of a Mamlatdar under this Act.

(11) "Person" includes an undivided Hindu family.

(12) "Prescribed" means prescribed by rules made under this Act.

(13) "Profits of Agriculture" in respect of any land means the surplus remaining with the cultivator after the expenses of cultivation including the wages of the cultivator working on the land are deducted from the gross produce.

(14) "Protected tenant" means a person who is recognised to be a protected tenant under section 31.

(15) "Reasonable rent" means the rent determined under section 12.

16. "Rent" means any consideration, in money or kind or both, paid or payable by a tenant on account of the use or occupation of the land held by him but shall not include the rendering of any personal service or labour.

(17) "Tenancy" means the relationship of landlord and tenant.

(18) "Tenant" means an agriculturist who holds land on lease and includes a person who is deemed to be a tenant under the provisions of this Act. The word "landlord" shall be construed accordingly.

(19) "Tribunal" means the Agricultural Lands Tribunal constituted under section 67.

(20) "Year" means the year ending on the 31st of March or on such date as the Provincial Government may, by a notification, appoint for any locality.

(21) Words and expressions used in this Act but not defined shall have the meaning assigned to them in the Bombay Land Revenue Code, 1879 (Bom. V of 1879), and the Transfer of Property Act, 1882 (IV of 1882), as the case may be.

CHAPTER II.

General provisions regarding tenancies.

3. *Application of Chapter V of Transfer of Property Act.*—The provisions of Chapter V of the Transfer of Property Act, 1882 (IV of 1882), shall, in so far as they are not inconsistent with the provisions of this Act, apply to the tenancies and leases of lands to which this Act applies.

4. *Persons to be deemed tenants*—A person lawfully cultivating any land belonging to another person shall be deemed to be a tenant if such land is not cultivated personally by the owner and if such person is not—

(a) a member of the owner's family, or

(b) a servant on wages payable in cash or kind but not in crop share or a hired labourer cultivating the land under the personal supervision of the owner or any member of the owner's family, or

(c) a mortgagee in possession.

Explanation—A person shall not be deemed to be a tenant under this section if such person has been on an application made by the owner of the land as provided under section 2A of the Bombay Tenancy Act, 1939 (Bom. XXIX of 1939), declared by a competent authority not to be a tenant.

5. *No tenancy to be for less than ten years.*—(1) No tenancy of any land shall be for a period of less than ten years.

(2) Notwithstanding any agreement, usage or law to the contrary, no tenancy shall be terminated before the expiry of a period of ten years except on the grounds mentioned in section 14 :

Provided that any tenancy may be terminated by a tenant before the expiry of a period of ten years by surrendering his interest as a tenant in favour of the landlord.

6. *Maximum rent.*—(1) Notwithstanding any agreement, usage, decree or order of a Court or any law, the maximum rent payable by a tenant for the lease of any land shall not, in the case of an irrigated land, exceed one fourth and in the case of any other land exceed one third of the crop of such land or its value as determined in the prescribed manner.

(2) The Provincial Government may, by notification in the *Official Gazette*, fix a lower rate of the maximum rent payable by the tenants of

lands situate in any particular area or may fix such rate on any other suitable basis as it thinks fit.

7. *Rent*.—The rent payable by a tenant shall, subject to the maximum rate fixed under section 6, be the rent agreed upon between such tenant and his landlord or in the absence of any such agreement the rent payable according to the usage of the locality or if there is no such agreement or usage, or where there is a dispute as regards the reasonableness of the rent according to such agreement or usage, the reasonable rent.

8. *Commutation of crop-share rent into cash*.—The Provincial Government may, from time to time, by notification in the *Official Gazette*, declare that rents payable wholly or partly as a crop-share in any area to which the notification applies shall, with effect from a date specified in the notification, which shall not be earlier than six months from the date of the notification, be commuted into cash rent.

(2) the Provincial Government may also by notification in the *Official Gazette* in respect of any specified area fix the rate of commutation. If no rate of commutation has been so fixed the amount of commutation shall be determined by the Mamlatdar in the manner prescribed. The amount so determined shall not exceed the rent at the maximum rate fixed under section 6 and shall not be altered for a period of five years from the date on which it was determined :

Provided that the Mamlatdar may, during the said period of five years, reduce the rent if on an application made to him by a tenant he is satisfied that on account of deterioration of the land by floods or other causes beyond the control of the tenant the land has been wholly or partially rendered unfit for the purposes of cultivation.

(3) Notwithstanding anything contained in any agreement, usage, decree or order of a Court, no landlord in any area in respect of which a notification has been issued under sub-section (1) shall recover any rent by way of crop-share or in excess of the commuted cash rent after the date specified in such notification under sub-section (1).

9. *Prohibition for receiving rent in terms of service or labour*.—(1) Any landlord receiving rent from any tenant in terms of service or labour shall within twelve months from the date of coming into force of this Act apply to the Mamlatdar or commuting such rent into cash. Such application shall be made in such form as may be prescribed.

(2) On receipt of an application under sub-section (1), the Mamlatdar shall after holding an inquiry by order in writing commute such rent into cash rent.

(3) Notwithstanding anything contained in any agreement, usage, decree or order of a Court or any law no landlord shall recover or receive rent in terms of service or labour after a period of twelve months from the date of coming into force of this Act.

10. *Refund of rent recovered in contravention of the provisions of the Act and other penalties*.—If any landlord recovers rent from any tenant in contravention of the provisions of sections 6, 7, 8 or 9, he shall forthwith refund the excess amount recovered to the tenant and shall be liable to pay such compensation to the tenant as may be determined by the Mamlatdar in this behalf and shall also be liable to such penalty as may be prescribed by rules made under this Act.

11. *Abolition of all cesses, etc.*—Notwithstanding any agreement, usage or law, it shall not be lawful for any landlord to levy any cess, rate, *vero*, *huk* or tax or service of any description or denomination whatsoever from

any tenant in respect of any land held by him as a tenant other than the rent lawfully due in respect of such land.

12. *Enquiries as regards reasonable rent.*—(1) For the determination of the reasonable rent of any land the tenant or his landlord may apply in writing to the Mamlatdar. Such application shall be in such form as may be prescribed.

(2) On receipt of an application under sub-section (1) the Mamlatdar shall give notice to the landlord or to the tenant, as the case may be, and after holding an inquiry, shall determine the reasonable rent of the land.

(3) In determining the reasonable rent regard shall, subject to the provisions of section 6 be had to the following factors :—

- (a) the rental values of lands used for similar purposes in the locality;
- (b) the profits of agriculture of similar lands in the locality ;
- (c) the prices of crops and commodities in the locality ;
- (d) the improvements made in the land by the landlord or tenant ;
- (e) the assessment payable in respect of the land; and
- (f) such other factors as may be prescribed :

Provided that in determining the reasonable rent the Mamlatdar may commute any rent payable wholly or partly as a crop-share into cash rent.

(4) A tenant may at any time during the pendency of proceedings under this section deposit with the Mamlatdar or if an appeal has been filed, with the Collector, as the case may be, a sum equal to the amount of rent which if no proceedings had been instituted under this section he would have been liable to pay in respect of the land of which the reasonable rent is to be determined. On the completion of proceedings the Mamlatdar or the Collector shall direct that the amount so deposited or such part of it as is equal to the amount determined as reasonable rent under this section shall be paid to the landlord and shall make such other order as may be necessary.

(5) Every order passed by the Mamlatdar under this section; if not appealed against, and every order passed by the Collector in appeal shall hold good for a period of five years and shall not be called in question during that period :

Provided that the Mamlatdar or the Collector, as the case may be, may, during the said period of five years—

(i) reduce the rent if on an application made to him by a tenant the Mamlatdar or the Collector, as the case may be, is satisfied that:

(a) on account of deterioration of the land by floods or other cause beyond the control of the tenant the land has been wholly or partially rendered unfit for the purposes of cultivation, or

(b) the tenant has incurred any expenditure on account of improvements made on the land, or

(ii) enhance the rent, if on an application made to him by a landlord the Mamlatdar or the Collector, as the case may be, is satisfied that on account of any improvement made in the land by or at the expense of the landlord the produce of the land is increased.

13. *Suspensions or remissions of rent.* —(1) Notwithstanding anything contained in section 84A of the Bombay Land Revenue Code, 1879 (Bom. V of 1879), whenever from any cause the payment of the whole land revenue payable to Government by a landlord in respect of any land is suspended or remitted, the landlord shall suspend or remit, as the case may be, the payment to him of the rent of such land by his tenant. If in the case of such land the land revenue is partially suspended or remitted, the landlord

shall suspend or remit the rent payable by the tenant of such land in the same proportion.

(2) If no land revenue is payable to Government in respect of such land and if from any cause, the payment of the whole or any part of the land revenue payable to Government in respect of any other land in the neighbourhood of such land has been suspended or remitted, the Collector shall, subject to the general or special orders of Government, in the manner provided in sub-section (1) suspend or remit, as the case may be, the payment to the landlord of the rent or part of it due in respect of such land.

(3) No application for assistance under sections 86 and 87 of the Bombay Land Revenue Code, 1879 (Bom. V of 1879), shall be entertained, no suit shall lie and no decree of a Civil Court shall be executed for recovery by a landlord of any rent, the payment of which has been remitted, or during the period for which the payment of such rent has been suspended under this section. The period during which the payment of rent is suspended under this section shall be excluded in computing the period of limitation prescribed for any suit or proceeding for the recovery of such rent.

(4) Notwithstanding anything contained in sections 86 and 87 of the Bombay Land Revenue Code, 1879 (Bom. V of 1879), the Collector shall in passing an order under sub-section (2) of section 87 of the said Code, for rendering assistance to the landlord, allow to the tenant a set-off for the sum, if any, paid by such tenant to the landlord in excess of the amount of rent due from him after deducting the amount required to be remitted under sub-section (1) or sub-section (2) of this section or under section 84A of the said Code. The set off under this sub-section shall be allowed only in respect of the sums paid by such tenant to such landlord during a period of three years immediately preceding the date of the application made under section 86 of the said Code.

(5) If any landlord fails to suspend or remit the payment of rent as provided in this section he shall be liable to refund to the tenant the amount recovered by him in contravention of this section. The tenant may apply to the Mamlatdar for the recovery of the amount and the Mamlatdar may after making an inquiry make an order for the refund.

14. Termination of tenancy.—(1) Notwithstanding any agreement, usage, decree or order of a Court of law, the tenancy of any land held by a tenant shall not be terminated unless such tenant—

(a) (i) has failed to pay in any year, within fifteen days from the day fixed for the payment of the last instalment of land revenue in accordance with the rules made under the Bombay Land Revenue Code, 1879 (Bom. V of 1879), for that year, the rent of such land for that year, or

(ii) if an application for the determination of reasonable rent is pending before the Mamlatdar or the Collector under section 12, has failed to deposit within fifteen days from the aforesaid date with the Mamlatdar or the Collector, as the case may be, a sum equal to the amount of rent which he would have been liable to pay for that year if no such application had been made, or

(iii) in case the reasonable rent determined under section 12 is higher than the sum deposited by him, has failed to pay the balance due from him within two months from the date of the decision of the Mamlatdar or the Collector, as the case may be ;

(b) has done any act which is destructive or permanently injurious to the land ;

(c) has sub-divided the land ;

- (d) has sublet the land or failed to cultivate it personally ; or
- (e) has used such land for a purpose other than agriculture.

(2) In the case of a tenant, the duration of whose tenancy is for a period of ten years or more, the tenancy shall terminate at the expiration of such period, unless the landlord has by the acceptance of rent or by any act or conduct of his allowed the tenant to hold over within the meaning of section 116 of the Transfer of Property Act, 1982 (IV of 1982).

(3) Notwithstanding anything contained in sub-section (1), the tenancy of any land held by a tenant who is a minor or who is subject to physical or mental disability shall not be liable to be terminated under the said sub-section only on the ground that such land has been sublet on behalf of he said tenant.

15. Tenancy deemed to be renewed for ten years if the tenant allowed to hold over.—Where the period of tenancy of any tenant has expired and if such tenant has been allowed to hold over under the last preceding section the tenancy of such tenant shall be deemed to have been renewed for a further period of ten years from the date of its expiry on the same terms and conditions as before.

16. Bar to eviction from dwelling house.—(1) If in any village, a tenant is in occupation of a dwelling house built at the expense of such tenant or his predecessor-in-title on a site belonging to his landlord, such tenant shall not be evicted from such dwelling house (with the materials and the site thereof and the land immediately appurtenant thereto and necessary for its enjoyment) unless—

(a) the landlord proves, that the dwelling house was not built at the expense of such tenant or his predecessor-in title, and

(b) such tenant makes a default in the payment of rent, if any, which he has been paying for the use and occupation of such site.

(2) The provisions of sub-section (1) shall not apply to a dwelling house which is situated on any land used for the purposes of agriculture from which he has been evicted under sub section (1) of section 34.

17. Tenant to be given first option of purchasing site on which he has built a dwelling house.—(1) If a landlord to whom, the site referred to in section 16 belongs intends to sell such site, the tenant at the expense of whom or whose predecessor-in-title, a dwelling house is built thereon shall be given in the manner provided in sub-section (2) the first option of purchasing the site at a value determined by the Tribunal.

(2) The landlord intending to sell such site shall give notice in writing to the tenant requiring him to state within three months from the date of service of such notice whether he is willing to purchase the site

(3) If within the period of three months so specified the tenant intimates in writing to the landlord that he is willing to purchase the site, the landlord shall make an application to the Tribunal for the determination of the value of the site. On receipt of such application the Tribunal after giving notice to the tenant and after holding an inquiry shall determine the value of the site. The Tribunal may, by an order in writing require the tenant to deposit the amount of value of such site within three months from the date of such order. On the deposit of such amount the site shall be deemed to have been transferred to the tenant and the amount deposited shall be paid to the landlord. The Tribunal shall on payment of the prescribed fees grant a certificate in the prescribed form to such tenant specifying therein the site so transferred and the name of such tenant.

(4) If the tenant fails to intimate his willingness to purchase the site

within the time specified in sub-section (2) or fails to deposit the amount of the value within the time specified in sub-section (3), the tenant shall be deemed to have relinquished his right of first option to purchase the site and the landlord shall then be entitled to evict the tenant either on payment of such compensation for the value of the structure of such dwelling house as may be determined by the Tribunal or allow the tenant at his option to remove the materials of the structure.

(5) Any sale of a site held in contravention of this section shall be null and void.

18. *Dwelling houses of agricultural labourers and artisans.*—The Provincial Government may, by notification in the *Official Gazette*, direct that the provisions of sections 16 and 17 shall apply to the dwelling houses and the sites thereof occupied by agricultural labourers or artisans in any particular area specified in the notification.

19. *Tenant's rights to trees planted by him.*—If a tenant has planted or plants any trees on any land leased to him, he shall be entitled to the produce and the wood of such trees during the continuance of his tenancy and shall on the termination of his tenancy be entitled to such compensation for the said trees as may be determined by the Mamlatdar :

Provided that a tenant shall not be entitled to compensation under this section if the tenancy is terminated by surrender on the part of the tenant :

Provided further that the landlord shall during the continuance of the tenancy, be entitled to the rent of the land as if the trees had not been planted.

20. *Right to produce of naturally growing trees.*—(1) A tenant shall during the continuance of his tenancy be entitled to two-thirds of the total produce of trees naturally growing on the land, the landlord being entitled to one-third of the produce of such trees.

(2) If there is any dispute regarding the right to the produce of such trees or the apportionment of such produce as provided under sub-section (1) the tenant or the landlord may apply to the Mamlatdar. Such application shall be made in such form as may be prescribed.

(3) On receipt of such application, the Mamlatdar shall, after holding an inquiry, pass such order thereon as he deems fit.

21. *Sub-letting of land by or on behalf of person in military, naval or air service of the Crown not to terminate tenancy.*—Notwithstanding anything contained in this Act or any other law for the time being in force or any agreement or usage, the tenancy of any land leased to and held by a person in the military, naval or air service of the Crown shall not be liable to be terminated on the ground only that the land has been sub-let by or on behalf of the said person.

22. *Tenants responsible for maintenance of boundary marks.*—Notwithstanding anything contained in section 123 of the Bombay Land Revenue Code, 1879 (Bom. V of 1879), the responsibility for the maintenance and good repair of the boundary marks of the land held by a tenant and any charges reasonably incurred on account of service by revenue officers in case of alteration, removal or disrepair of such boundary marks shall be upon the tenant.

23. *Repairs of protective bunds.*—(1) Notwithstanding any agreement' usage or custom to the contrary, if it appears to the Provincial Government that the construction, maintenance or repairs of any bunds protecting any

land held by a tenant is neglected due to a dispute between the landlord and the tenant or for any other reason, it may by an order in writing direct that the construction, maintenance or repairs shall be carried out by such persons as may be specified in the order and the costs thereof shall be recoverable from the person in actual possession of the land as arrears of land revenue.

(2) The person from whom the costs are recovered under sub-section (1) shall be entitled to recover the same or any part thereof from any person who under any agreement, usage or custom is wholly or partially liable to construct, maintain or repair the bunds.

(3) Notwithstanding anything contained in sub-section (1) it shall be lawful for the tenant of any land, the protective bunds of which are neglected, to construct, maintain or repair such bunds at his costs and the costs so incurred by him shall on application made by him to the Mamlatdar be recoverable by him from the landlord according to his liability under the agreement, usage or custom. The costs of the proceedings of the tenant's application shall also be recoverable from the landlord in case the landlord is held wholly or partially liable to pay the costs incurred by the tenant for construction, maintenance or repairs to the bunds.

24. Relief against termination of tenancy in certain cases.—Where any tenancy of any land held by any tenant is terminated on the ground that the tenant has done any act which is destructive or permanently injurious to the land, no proceeding for ejectment against such tenant shall lie unless and until the landlord has served on the tenant a notice in writing specifying the act of destruction or injury complained of and the tenant fails within a period of one year from the service of notice to restore the land to the condition in which it was before such destruction or injury.

25. Relief against termination of tenancy for non-payment of rent.—Where any tenancy of any land held by any tenant is terminated for non-payment of rent and the landlord files any proceeding to eject the tenant, the Mamlatdar shall call upon the tenant to tender to the landlord the rent in arrears together with the cost of the proceeding, within fifteen days from the date of order, and if the tenant complies with such order, the Mamlatdar shall, in lieu of making an order for ejectment, pass an order directing that the tenancy had not been terminated, and thereupon the tenant shall hold the land as if the tenancy had not been terminated :

Provided that nothing in this section shall apply to any tenant whose tenancy is terminated for non-payment of rent if he has failed for any three years to pay rent within the period specified in section 14.

26. Receipts for rent.—(1) In the absence of an express intimation in writing to the contrary by a tenant, every payment made by a tenant to the landlord shall be presumed to be a payment on account of rent due by such tenant for the year in which the payment is made.

(2) Every landlord shall give a written receipt for the amount of rent at the time when such amount is received by him in respect of any land in such form and in such manner as may be prescribed.

27. Sub-division, sub-letting and assignment prohibited.—(1) No sub-division or sub-letting of the land or assignment of any interest held by a tenant shall be valid. Such sub-division, sub-letting or assignment shall make the tenancy liable to termination :

Provided that nothing in this sub-section shall prejudicially affect the rights of a permanent tenant or any tenant the duration of whose tenancy is presumed to be co-extensive with the duration of the tenure of the land-

lord under section 83 of the Bombay Land Revenue Code, 1879 (Bom. V of 1879).

(2) Notwithstanding anything contained in sub-section (1), it shall be lawful for a tenant to be a member of a co-operative farming society and as such member to sublet, assign, mortgage or to create a charge on, his interest in the land in favour of such society or in consideration of a loan advanced by any person authorised under section 54 of the Bombay Agricultural Debtors Relief Act, 1947 (Bom. XXVIII of 1947).

28. Bar to attachment, seizure or sale by process of Court.—Save as expressly provided in this Act or as provided in the Bombay Co-operative Societies Act, 1925 (Bom. VII of 1925), or the Bombay Agricultural Debtors Relief Act, 1947 (Bom. XXVIII of 1947), for the recovery of loans permitted under section 27, any interest in the land held by him as a tenant shall not be liable to be attached, seized or sold in execution of a decree or order of a Civil Court.

29. Procedure of taking possession.—(1) A tenant or an agricultural labourer or artisan entitled to possession of any land or dwelling house under any of the provisions of this Act may apply in writing for such possession to the Mamlatdar. The application shall be made in such form as may be prescribed.

(2) No landlord shall obtain possession of any land or dwelling house held by a tenant except under an order of the Mamlatdar. For obtaining such order he shall make an application in the prescribed form.

(3) On receipt of application under sub-section (1) or (2) the Mamlatdar shall, after holding an inquiry, pass such order thereon as he deems fit.

(4) Any person taking possession of any land or dwelling house except in accordance with the provisions of sub-section (1) or (2), as the case may be, shall be liable to forfeiture of crops, if any, grown in the land in addition to payment of costs as may be directed by the Mamlatdar or by the Collector and also to the penalty prescribed in section 81.

30. Act not to affect rights or privileges of tenant under any other law.—Save as otherwise provided in sub-section (1) of section 27, no other provision contained in this Act shall be construed to limit or abridge the rights or privileges of any tenant under any usage or law for the time being in force or arising out of any contract, grant, decree or order of a court or otherwise howsoever.

CHAPTER III.

Protected tenants, their special rights and privileges.

31. Protected tenants.—For the purposes of this Act, a person shall be recognised to be a protected tenant if such person has been deemed to be a protected tenant under section 3, 3A or 4 of the Bombay Tenancy Act, 1939 (Bom. XXIX of 1939).

32. Right of protected tenant to purchase land.—(1) Notwithstanding anything contrary in any law, usage or contract but subject to the provisions of sub-section (6), a protected tenant shall at any time be entitled to purchase from the landlord the land held by him as a protected tenant.

(2) For this purpose the protected tenant shall make an offer in writing to the landlord stating the amount of price for which he intends to purchase the land.

(3) If the landlord refuses or fails to accept the offer and to execute the sale deed within three months from the date of the offer the protected

tenant may apply to the Tribunal for the determination of the reasonable price of the land.

(4) The Tribunal after giving notice to the landlord and to all persons interested in the land, and after making an inquiry, shall determine the price in accordance with the rules made in this behalf. The protected tenant shall thereupon deposit the amount of the price so determined with the Tribunal within the prescribed period.

(5) On such deposit being made, the Tribunal shall issue a certificate in the prescribed form to the protected tenant declaring him to be the purchaser of the land. Such certificate shall be conclusive evidence of the sale as against the landlord and all persons interested therein.

(6) The right of a protected tenant under this section to purchase from his landlord the land held by him as a protected tenant shall be subject to all the following conditions specified in clause (a) or (b) as the case may be, and in clause (c) :—

(a) if the protected tenant does not hold any arable land, as an owner, the purchase of the land by him shall be limited to the extent of fifty acres of arable land ;

(b) if the protected tenant holds any arable land, as an owner, the purchase of the land by him shall be limited to such area as will be sufficient to make up the area of the land owned by him to the extent of fifty acres of arable land ; and

(c) the total area of the arable land remaining in the ownership of the landlord after the purchase of the land or any portion thereof by the protected tenant is not less than fifty acres :

Provided that where the land to be purchased is of the ownership of an undivided Hindu family which consists of more than one branch the total area of the arable land remaining in the ownership of the said family, after the purchase of the land or any portion thereof by the protected tenant, shall not be less than fifty acres per branch of the said family subject to the maximum of the total area of two hundred acres, irrespective of the fact that the number of the branches of such family are more than four.

(7) If any question arises under this section regarding—

(a) the priority or any other right in relation to the purchase of the land among the protected tenants *inter se* or between the protected tenant and the landlord, or

(b) the kind, extent or location of any particular area of land to be purchased,

such question shall be decided by the Tribunal in the prescribed manner.

33. Right of protected tenants to exchange land.—(1) Notwithstanding anything contained in this Act or any other law or any agreement or usage, the protected tenants holding lands in the same village as such protected tenants may agree and may make an application to the Mamlatdar in the prescribed form for the exchange of their tenancies in respect of the lands held by them as protected tenants.

(2) On receipt of the application, the Mamlatdar after giving notice to the landlords concerned and after making an inquiry may sanction the exchange on such terms and conditions as may be prescribed and may issue certificates on the prescribed form to the applicants.

(3) The certificates so issued shall be conclusive of the fact of such exchange against the landlords and all persons interested in the lands exchanged.

(4) Each of the two protected tenants shall on exchange hold the land

on the same terms and conditions on which it was held by the original tenant immediately before the exchange subject to such modifications as may have been sanctioned by the Mamlatdar.

34. Landlord's right to determine protected tenancy.—(1) Notwithstanding anything contained in section 14, a landlord may terminate the tenancy of a protected tenant by giving him one year's notice in writing, stating therein the reasons for such termination, if the landlord *bona fide* requires the land for any of the following purposes, namely :—

(1) for cultivating personally, or

(2) for any non-agricultural use for his own purpose.

(2) Nothing in sub-section (1) shall entitle the landlord,—

(a) to terminate the tenancy of a protected tenant, if the landlord at the date of the notice has been cultivating personally other land fifty acres or more in area :

Provided that if the land which is being cultivated personally is less than fifty acres, the right of the landlord to terminate the tenancy of the protected tenant and to take possession of the land leased to him shall be limited to such area as will be sufficient to make up the area of the land which he has been cultivating personally to the extent of fifty acres :

Provided further that if an undivided Hindu family which consists of more than one branch is the landlord, the right of the family under this section to terminate the tenancy of the protected tenant and to take possession of the land leased to him shall be limited to such area as will be sufficient to make up the area of the land which the said family cultivates personally or uses for a non-agricultural purpose for its own purpose to the extent of fifty acres per branch of the said family subject to a maximum of the total area of two hundred acres, irrespective of the fact that the branches of such family are more than four ; or

(b) to terminate the tenancy of a protected tenant, if such tenant has become a member of a co-operative farming society so long as such tenant remains such member.

(3) If under sub-section (2) the tenancy of a protected tenant is terminated of a part of the land leased to him, the rent shall be apportioned in the prescribed manner in proportion to the area of the land left with the protected tenant.

35. Branch of undivided Hindu family for the purposes of sections 32 and 34.—For the purposes of sections 32 and 34 a branch of an undivided Hindu family shall mean a branch of such family, entitled under the rules of Hindu Law to a share *per stirpes* in the property owned by the family on partition of the property

Explanation.—A wife, a mother or a grandmother entitled under the rules of Hindu Law to a share on the partition of the property of an undivided Hindu family shall not be deemed to constitute a branch of such family.

36. Power of Provincial Government to reduce the limit of fifty acres.—

(1) Notwithstanding anything contained in section 32 or 34, the Provincial Government may, by notification in the *Official Gazette*, direct that the limits of fifty acres and two hundred acres specified in either of the said sections shall for the purposes of any area specified in the notification be reduced to the limits specified therein.

(2) The Provincial Government may by a like notification direct that the limits of 50 acres and two hundred acres specified in the said sections or the reduced limit specified in the notification under sub-section (1) shall comprise of such kind or kinds of lands in the area as may be specified in the notification.

37. Landlord to restore possession if he fails to cultivate within one year.—(1) If after the landlord takes possession of the land after the termination of the tenancy under section 34, he fails to use it for any of the purposes specified in the notice given under sub-section (1) of section 34 within one year from the date on which he took possession or ceases to use it at any time for any of the aforesaid purposes within twelve years from the date on which he took such possession, the landlord shall forthwith restore possession of the land to the tenant whose tenancy was terminated by him, unless he has obtained from the tenant his refusal in writing to accept the tenancy on the same terms and conditions or has offered in writing to give possession of the land to the tenant on the same terms and conditions and the tenant has failed to accept the offer within three months of the receipt thereof.

(2) After the tenant has recovered possession under sub-section (1) he shall, subject to the provisions of this Act, hold such land on the same terms and conditions on which he held it at the time his tenancy was terminated.

(3) If the landlord has failed to restore possession of the land to the tenant as provided in sub-section (1) he shall be liable to pay such compensation to the tenant as may be determined by the Mamlatdar for the loss suffered by the tenant on account of eviction.

38. Circumstances in which landlord shall be deemed to cultivate personally.—If a landlord after taking possession of the land after the termination of the tenancy under section 34 dies leaving as his heir a widow or a minor or a person who is subject to mental or physical disability, such heir shall be deemed to cultivate the land personally, if such land is cultivated by her or his servants or by hired labour.

39. Application for recovery of possession by tenant.—If at any time the tenant makes an application to the Mamlatdar and satisfies him that the landlord has failed to comply within a reasonable time with the provisions of section 37, the tenant shall be entitled on a direction by the Mamlatdar to obtain immediate possession of the land and to such compensation as may be awarded by the Mamlatdar for any loss caused to the tenant by eviction and by failure on the part of the landlord to restore or give possession of the land to him as required by section 37.

40. Continuation of tenancy on the death of a protected tenant.—If a protected tenant dies, the landlord shall offer to continue the tenancy on the same terms and conditions on which such tenant was holding it at the time of his death to the heir or heirs of the deceased tenant :

Provided that the offer required to be made by the landlord under this section shall be made in writing :

Provided further that if any heirs of the deceased tenant do not agree to continue the tenancy on the same terms and conditions on which the deceased protected tenant was holding the land, the Collector may select an heir or heirs who is or are willing to continue the tenancy on the same terms and conditions. The decision of the Collector shall be final.

Explanation.—For the purposes of this section, an heir means the lineal male descendants of a tenant or his adopted son and failing both his widow who has not remarried.

41. Compensation for improvement made by protected tenant.—(1) A protected tenant who has made an improvement on the land held by him shall, if his tenancy is terminated under the provisions of this Act, be entitled to compensation for such improvement. For determining the amount of the compensation the tenant shall apply to the Mamlatdar in the prescribed form.

(2) The compensation to which a tenant shall be entitled under subsection (1) shall be the estimated value of such improvement at the time of the termination of his tenancy. In estimating such value regard shall be paid to—

(a) the amount by which the value of the land is increased by the improvement ;

(b) the present condition of the improvement and the probable duration of its effects ;

(c) the labour and capital provided or spent by the tenant for the making of the improvement ; and

(d) any reduction or remission of rent or other advantage allowed to the tenant by the landlord in consideration of the improvement.

42. *Protected tenant's right to erect farm-house.*—A protected tenant shall be entitled to erect a farm-house on the land held by him as a protected tenant.

43. *Restriction on protected tenant's right of transfer.*—No land purchased by a protected tenant under section 32 shall be transferred by sale, gift, exchange, lease, mortgage or assignment without the previous sanction of the Provincial Government.

CHAPTER IV.

Management of estates held by landholders.

44. *Power to assume management of land-holder's estate.*—Notwithstanding any law for the time being in force, usage or custom or the terms of contract or grant, when the Provincial Government is satisfied that on account of the neglect of a landholder or disputes between him and his tenants, the cultivation of his estate has seriously suffered, or when it appears to the Provincial Government that it is necessary for the purpose of improving the economic and social conditions of peasants or ensuring the full and efficient use of land for agriculture to assume management of any landholder's estate, a notification announcing such intention shall be published in the *Official Gazette*, and the Collector shall cause notice of the substance of such notification to be given at convenient places in the locality where the estate is situated. Such notification shall be conclusive.

45. *Vesting of estate in management.*—On the publication of the notification under section 44, the estate in respect of which the notification has been published shall, so long as the management continues, vest in the Provincial Government. Such management shall be deemed to commence from the date on which the notification is published and the Provincial Government shall appoint a Manager to be in charge of such estate.

46. *Effect of declaration of management.*—On the publication of the notification under section 44, the following consequences shall ensue :—

(1) All proceedings then pending in any Civil Court in respect to the debts and liabilities enforceable against the estate shall be stayed; and the operation of all processes, executions and attachments then in force for or in respect of such debts and liabilities shall be suspended ;

(2) So long as the management continues no fresh proceedings, processes, executions or attachments shall be instituted in or issued, enforced or executed by any Civil Court in respect of such debts and liabilities ;

(3) So long as the management continues the holder of the estate shall be incompetent—

(a) to enter into any contract involving the estate in pecuniary liability,

(b) to mortgage, charge, lease or alienate the property under management or any part thereof, or

(c) to grant valid receipts for the rents and profits arising or accruing therefrom :

Provided that nothing contained in this section shall be deemed to preclude the Manager from letting and the holder from taking the whole or any part of such estate on such terms consistent with this Act as may be agreed upon between the parties ;

(4) So long as the management continues, no person other than the Manager shall be competent to mortgage, charge, lease or alienate such estate or any part thereof.

47. Manager's powers.—(1) The Manager shall during the management of the estate have all the powers which the holder thereof might as such have exercised and shall receive and recover all rents and profits due in respect of the property under management.

(2) For the purposes of recovering such rents and profits the Manager shall have, in addition to any powers possessed by the holder, all the powers possessed by the Collector under the law for the time being in force for securing and recovering land revenue due to Government.

48. Manager to pay costs of management, etc.—(1) From the sums received or recovered under section 47, the Manager shall pay—

(i) the costs of management including the costs of necessary repairs ;

(ii) the Government revenue and all debts and liabilities for the time being due or incurred to the Crown in respect of the property under management ;

(iii) the rent, if any, due to any superior holder in respect of the said estate ;

(iv) such periodical allowance as the Collector may from time to time fix for the maintenance and other expenses of the holder and of such members of his family as the Collector directs ;

(v) the costs of such improvements of the said estate as he thinks necessary and as approved by the Collector.

(2) The residue shall be retained by the Manager for the liquidation, in the manner hereinafter provided, of the debts and liabilities other than those mentioned in sub-section (1) and also for the repayment, either before or after the liquidation of such debts and liabilities, of any loan received from Government by the Manager under this Act. The balance, if any, shall be paid to the holder.

49. Notice to claimants.—On the publication of the order of management, the Manager shall publish in the *Official Gazette* a notice calling upon all persons having claims against the estate under management to notify the same in writing to such Manager within two months from the date of the publication. He shall also cause copies of such notice to be exhibited at such several places as he thinks fit.

50. Claim to contain full particulars.—(1) Every such claimant shall, along with his claim, present full particulars thereof.

(2) Every document on which the claimant founds his claim, or on which he relies in support thereof, shall be delivered to the Manager along with the claim.

(3) If the document be an entry in any book, the claimant shall produce the book to the Manager, together with a copy of the entry on which he relies. The Manager shall mark the book for the purpose of identification, and, after examining and comparing the copy with the original, shall return the book to the claimant.

(4) If any document in possession or under the control of the claimant is not delivered or produced by him to the Manager along with the claim,

the Manager may refuse to receive such document in evidence on the claimant's behalf at the investigation of the case.

51. Claim not duly notified to be barred.—Every such claim other than the claim of the Crown not informed to the Manager within the time and in the manner required by such notice shall, except as provided hereinafter be deemed for all purposes and on all occasions, whether during the continuance of the management or afterwards, to have been duly discharged :

Provided that when proof is made to the Manager that the claimant was unable to comply with the provisions of section 49, the Manager may receive such claim within the further period of two months from the expiration of the original period of two months.

52. Determination of debts and liabilities.—The Manager shall inquire into the history and merits of every claim received under preceding sections and shall in accordance with the rules to be made under this Act determine the amount of the debts and liabilities, if any, justly due to the several claimants.

53. Power to rank debts and fix interest.—If such amount cannot be paid at once, the Manager shall then proceed to rank such debts and liabilities according to the order in which they shall be paid, and to fix the interest, if any to be paid thereon, respectively from the date of the final decision thereon, to the date of the payment and discharge thereof.

54. Scheme for liquidation.—When the total amount of the debts and liabilities including those due and incurred to the Crown has been finally determined, the Manager, shall prepare and submit to the Collector a schedule of such debts and liabilities, and a scheme (hereinafter called the liquidation scheme) showing the mode in which it is proposed to pay and discharge the same, whether from the income of the property under management, or with the aid of funds raised under the powers hereinafter conferred, or partly in one of such ways and partly in the other.

55. Provisions of scheme.—Every liquidation scheme shall further provide for the continuance of the payments to be made by the Manager and for the repayment of money, if any, which the Manager proposes to borrow from Government under this Act and may provide for the improvement of the estate under management either from the said income or with the aid of the funds raised as aforesaid or partly in one of such ways and partly in the other.

56. Effects of sanctioning scheme.—When the Collector sanctions the liquidation-scheme, he shall notify the fact of such sanction at such place and in such manner as the Provincial Government may from time to time by rule direct ; and thereupon—

(i) all proceedings, processes, executions and attachments stayed or suspended under section 46 shall be for ever barred ;

(ii) every debt or liability due or owing to any person which was provable before the Manager shall be extinguished, and such person shall be entitled to receive under the liquidation-scheme the amount, if any, finally awarded to him under the preceding sections in respect of such debt or liability.

57. Power to remove mortgagee in possession.—(1) If the estate under management or any part thereof be in the possession of mortgagee or a conditional vendee, the Manager, at any time after the liquidation scheme has been sanctioned as aforesaid, may by an order in writing require such incumbrancer to deliver up possession of the same to him at the end of the then current revenue year.

(2) If such incumbrancer refuses or neglects to obey such order, the Manager may without resorting to a Civil Court enter upon the property and summarily evict therefrom the said incumbrancer or any other person obstructing or resisting on his behalf.

3) Nothing in this section shall be held to affect the right of any incumbrancer to receive under the liquidation scheme the amount, if any, awarded to him under this Act.

58. *Power to sell or lease.*—Subject to the rules made under this Act, the Manager after the liquidation scheme has been sanctioned as aforesaid, shall have power to sell or grant on lease all or any part of the estate under the management :

Provided that the estate or any part thereof shall not be sold or leased for a period exceeding ten years without the previous permission of the Collector :

Provided further that the Collector shall not give such permission unless he is satisfied that such sale or lease is necessary for the benefit of the estate. The decision of the Collector shall be final.

59. *Manager's receipt a discharge.*—The Manager's receipt for any moneys, rents or profits raised or received by him under this Act shall discharge the person paying the same therefrom or from being concerned to see to the application thereof.

60. *Holder of estate dying.*—(1) If the holder of the estate dies after the publication of the order of management the management shall continue and proceed in all respects as if the holder were still living.

(2) Any person succeeding to the whole or any part of the estate under management shall, while such management continues, be subject in respect of such estate to the disabilities imposed under this Act.

(3) No Civil Court shall, during the continuance of the management issue any attachment or other process against any portion of the estate under management for or in respect of any debt or liability incurred by any such person either before or after his said succession.

61. *Termination of management.*—The Provincial Government, when it is of opinion that it is not necessary to continue the management of the estate, by order published in the official Gazette direct that the said management shall be terminated. On the termination of the said management, the estate shall be delivered into the possession of the holder, or, if he is dead, of any person entitled to the said estate together with any balances which may be due to the credit of the said holder. All acts done or purporting to be done by the Manager during the continuance of the management of the estate shall be binding on the holder or to any person to whom the possession of the estate has been delivered.

62. *Manager deemed to be public servant.*—The Manager appointed under this Chapter shall be deemed to be a public servant under section 21 of the Indian Penal Code, (XLV of 1860).

CHAPTER V.

Restrictions on transfers of agricultural lands, management of uncultivated lands and acquisition of estates and lands.

63. *Transfers to non-agriculturists barred.*—(1) Save as provided in this Act,—

(a) no sale (including sales in execution of a decree of a Civil Court or for recovery of arrears of land revenue or for sums recoverable as arrears of land revenue), gift, exchange or lease of any land or interest therein, or

(b) no mortgage of any land or interest therein, in which the possession of the mortgaged property is delivered to the mortgagee,

shall be valid in favour of a person who is not an agriculturist:

Provided that the Collector or an officer authorised by the Provincial Government in this behalf may grant permission for such sale, gift, exchange, lease or mortgage, on such conditions as may be prescribed.

(2) Nothing in this section shall be deemed to prohibit the sale, gift, exchange or lease of a dwelling house or the site thereof or any land appurtenant to it in favour of an agricultural labourer or an artisan.

64. *Sale of agricultural land to particular persons.*—(1) Where a landlord intends to sell any land, he shall apply to the Tribunal for determining its reasonable price. In determining the reasonable price, the Tribunal shall take into consideration the factors to be taken into consideration in fixing the reasonable rent under section 12.

(2) After the Tribunal has determined the reasonable price, the landlord shall make an offer in the prescribed form to persons in the following order of priority, provided that the person to whom the offer has been made has failed to pay to him the amount of the reasonable price as determined by the Tribunal or to deposit the same with the Tribunal within two months from the date on which the offer is communicated to such person. The order of priority shall be as follows:—

A. In the case of agricultural land other than a dwelling house, the site thereof and land appurtenant to such house when such site or dwelling house or land is not used or is not necessary to carry on agricultural operations in the adjoining lands—

- (i) the tenant in actual possession of the land;
- (ii) the person or persons personally cultivating any land adjacent to the land to be sold,
- (iii) a co-operative farming society,
- (iv) any other agriculturist,
- (v) any other person who has obtained from the Collector a certificate that he intends to take the profession of agriculturist.

B. In the case of a dwelling house or a site of a dwelling house or land appurtenant to such house when such dwelling house, site or land is not used or is not necessary to carry on agricultural operations in the adjoining lands—

- (i) the tenant if he does not own a dwelling house or a suitable site for such house,
- (ii) the person residing in the village who is not in possession of any dwelling house:

Provided that if there are more than one such persons the offer shall be made to such person or persons and in such order of priority as the Collector may determine in this behalf having regard to the needs of the following persons, namely:—

- (a) an agricultural labourer,
- (b) an artisan,
- (c) any other person in the village.

(3) Any sale made in contravention of this section shall be void.

65. *Assumption of management of land which remained uncultivated.*—(1) If it appears to the Provincial Government that for any two consecutive years, any land has remained uncultivated through default of either the landlord or tenant or any other cause whatsoever the Provincial Government may, after making such inquiry as it thinks fit, declare that the management

of such land shall be assumed. The declaration so made shall be conclusive.

(2) On the assumption of the management, such land shall vest in the Provincial Government during the continuance of the management and the provisions of Chapter IV shall mutatis mutandis apply to the said land:

Provided that the Manager shall have power to give such land on lease at rent equal to the amount of its assessment.

66. Acquisition of estate or land under management or interest therein.—

(1) If at any time it appears to the Provincial Government that any estate or land, the management of which has been assumed under the provisions of this Act or the interest of any other person in such estate or land should, in the public interest, be compulsorily acquired, it shall be lawful for the Provincial Government to publish a notification to that effect in the official Gazette. The notification so published shall be conclusive that the estate, land or interest is needed to be acquired in public interest.

(2) On the publication of the notification, the Collector shall cause publicity to be given to it at convenient places in the locality and also give notices to the holder of the estate, land or interest and to all persons known, or believed to be interested therein.

(3) The Collector shall then make an inquiry in the prescribed manner to determine the value of the estate, land or interest which has been acquired. For the said purpose the Collector shall have the same powers as are vested in courts in respect of the following matters under the Code of Civil Procedure, 1908 (V of 1908), in trying a suit:—

- (a) proof of facts by affidavits,
- (b) summoning and enforcing the attendance of any person and examining him on oath; and
- (c) compelling the production of documents.

(4) In determining the value the Collector shall take into consideration—

- (a) the assessment payable in respect of the estate or land;
- (b) the profits of agriculture and cultivation of the estate or land and of similar estates and lands in the locality;
- (c) the prices of crops and commodities in the locality;
- (d) exemption from assessment and other privileges enjoyed by the holder and other persons interested in respect of the land, estate and interest;
- (e) any other matter which may be prescribed.

(5) After determining the value of the estate, land or interest, the Collector shall make an award which shall contain—

- (a) the particulars of the estate, land or interest,
- (b) the compensation which in his opinion should be allowed for the land,
- (c) the apportionment of the compensation among all persons known or believed to be interested.

(6) Such award shall be filed in the Collector's office and shall, except as hereinafter provided, be final and conclusive evidence as between the Collector and persons interested whether they have respectively appeared before the Collector or not of all the particulars including area and value of the estate, land or interest and the apportionment of compensation.

(7) When the Collector has made an award, the estate, land or interest therein shall vest in the Crown free from all incumbrances.

CHAPTER VI.

Procedure and Jurisdiction of Tribunal and Mamlatdar and Appeals.

67. *Constitution of the Tribunal.*—(1) For the purposes of this Act, the Provincial Government shall constitute a Tribunal for any area to be called the Agricultural Lands Tribunal.

(2) The Tribunal shall consist of three or more members one of whom shall be the President. One member at least of the Tribunal shall be a person who is holding or has held a judicial office not lower in rank than that of a Civil Judge under the Bombay Civil Courts Act, 1869 (XIV of 1869), or who has been for not less than three years a barrister, a member of the Faculty of Advocates in Scotland or an Advocate enrolled under the Indian Bar Councils Act, 1926 (XXXVIII of 1926), or a pleader enrolled under the Bombay Pleaders Act, 1920 (XVII of (1920).

(3) For any area for which the Tribunal has not been constituted, the Mamlatdar or any officer authorised in this behalf by the Provincial Government shall exercise the powers and perform the duties and functions of the Tribunal.

68. *Duties of the Tribunal.*—It shall be the duty of the Tribunal—

(a) to determine the value of the site of a dwelling house under section 17;

(b) to decide any dispute as to the particular area of land to be purchased under section 32;

(c) to determine the reasonable price of the land under section 32 and section 64;

(d) to perform such other functions in carrying out the provisions of this Act, as may be prescribed or as may be directed by the Provincial Government.

69. *Powers of the Tribunal.*—(1) The Tribunal shall have the same powers in making inquiries under this Act as are vested in Courts in respect of the following matters under the Code of Civil Procedure, 1908 (V of 1908), in trying a suit, namely:—

(a) proof of facts by affidavits;

(b) summoning and enforcing the attendance of any person and examining him on oath; and

(c) compelling the production of documents.

(2) The Tribunal shall have also such other powers as may be prescribed. The Tribunal shall have powers to award costs.

(3) The orders of the Tribunal shall be given effect to in the manner provided in section 73.

70. *Duties of the Mamlatdar.*—For the purposes of this Act, the following shall be the duties and functions to be performed by the Mamlatdar—

(a) to decide whether a person is an agriculturist;

(b) to decide whether a person is a tenant or a protected tenant;

(c) to determine the value of the crop of the land under section 6;

(d) to determine the amount of rent in commutation of crop share rent under section 8;

(e) to determine the amount of the commutation of the rent received in terms of labour or service under section 9;

(f) to determine the amount of compensation under section 10 for the contravention of sections 6 to 9;

(g) to decide what is the reasonable rent under section 12;

(h) to determine the amount to be refunded to a tenant under section 13 (5);

(i) to determine the amount of compensation for trees to which a tenant is entitled under section 19;

(j) to determine any dispute regarding the right to produce of trees naturally growing under section 20;

(k) to determine the costs of repairing protective bunds under section 23;

(l) to sanction exchange of tenancies under section 33;

(m) to determine the amount of compensation payable to a protected tenant for any improvement under section 41;

(n) to take measures for putting the tenant or landlord or the agricultural labourer or artisan into the possession of the land or dwelling house under this Act; and

(o) to decide such other matters as may be referred to him by or under this Act.

71. Commencement of proceedings.—Save as expressly provided by or under this Act, all inquiries and other proceedings before the Mamlatdar or Tribunal shall be commenced by an application which shall contain the following particulars:—

(a) the name, age, profession and place of residence of the applicant and the opponent;

(b) a short description and situation of the property of which possession is sought, or the amount of the claim, as the case may be;

(c) the circumstance out of which the cause of action arose;

(d) a list of the applicant's document, if any, and of his witnesses, and whether such witnesses are to be summoned to attend or whether the applicant will produce them on the day of the hearing;

(e) such other particulars as may be prescribed.

72. Procedure.—In all inquiries and proceedings commenced on the presentation of applications under section 7, the Mamlatdar or the Tribunal shall exercise the same powers as the Mamlatdar's Court under the Mamlatdars' Courts Act, 1906 (Bom. II of 1906), and shall follow the provisions of the said Act, as if the Mamlatdar or the Tribunal were a Mamlatdar's Court under the said Act and the application presented was a plaint presented under section 7 of the said Act. In regard to matters which are not provided for in the said Act, the Mamlatdar or the Tribunal shall follow the procedure as may be prescribed by the Provincial Government. Every decision of the Mamlatdar or the Tribunal shall be recorded in the form of an order which shall state reasons for such decision.

73. Execution of order for payment of money or for restoring possession.—(1) Any sum the payment of which has been directed by an order of the Mamlatdar or the Tribunal including an order awarding costs shall be recoverable from the person ordered to pay the same as an arrear of land revenue.

(2) An order of the Mamlatdar or the Tribunal awarding possession or restoring the possession or use of any land shall be executed in the manner provided in section 21 of the Mamlatdars' Courts Act, 1906 (Bom. II of 1906), as if it was the decision of the Mamlatdar under the said Act.

74. Appeals.—(1) An appeal against the orders of the Mamlatdar and Tribunal may be filed to the Collector in the following cases:—

(a) an order under section 4,

(b) an order under section 6,

(c) an order under section 8,

(d) an order under section 9,

- (e) an order under section 10,
- (f) an order under section 12,
- (g) an order under section 13,
- (h) an order under section 17,
- (i) an order under section 19,
- (j) an order under section 20,
- (k) an order under section 23,
- (l) an order under section 25,
- (m) an order under section 29,
- (n) an order under section 32,
- (o) an order under section 33,
- (p) an order under section 37,
- (q) an order under section 39,
- (r) an order under section 41, and
- (s) an order under section 64.

(2) Save as otherwise provided in this Act, the provisions of Chapter XIII of the Bombay Land Revenue Code, 1879 (Bom. V of 1879), shall apply to appeals to the Collector under this Act, as if the Collector were the immediate superior of the Mamlatdar or the Tribunal. The Collector in appeal shall have power to award costs.

75. Appeal against award of Collector.—(1) An appeal against the award of the Collector made under section 66 may be filed to the Bombay Revenue Tribunal, notwithstanding anything contained in the Bombay Revenue Tribunal Act, 1939 (Bom. XII of 1939).

(2) In deciding appeals under sub-section (1), the Bombay Revenue Tribunal shall exercise all the powers which a court has and follow the same procedure which a court follows in deciding appeals from the decree or order of an original court under the Code of Civil Procedure, 1908 (V of 1908).

76. Revision.—(1) Notwithstanding anything contained in the Bombay Revenue Tribunal Act, 1939 (Bom. XII of 1939), an application for revision may be made to the Bombay Revenue Tribunal constituted under the said Act against any order of the Collector on the following grounds only:—

- (a) that the order of the Collector was contrary to law;
- (b) that the Collector failed to determine some material issue of law;

or

(c) that there was a substantial defect in following the procedure provided by this Act, which has resulted in the miscarriage of justice.

(2) In deciding applications under this section the Bombay Revenue Tribunal shall follow the procedure which may be prescribed by rules made under this Act after consultation with the Bombay Revenue Tribunal.

77. Court-fees.—Notwithstanding anything contained in the Court-fees Act, 1870 (VII of 1870), every application or appeal made under this Act to the Mamlatdar, Tribunal, Collector or Bombay Revenue Tribunal shall bear a Court-fee stamp of such value as may be prescribed.

78. Orders in appeal or revision.—(1) The Collector in appeal and the Bombay Revenue Tribunal in appeal under section 75 and in revision under section 76 may confirm, modify or rescind the order in appeal or revision or its execution or may pass such other order as may seem legal and just in accordance with the provisions of this Act.

(2) The orders of the Collector in appeal or of the Bombay Revenue Tribunal in appeal or revision shall be executed in the manner provided for the execution of the orders of the Mamlatdar and Tribunal under section 73.

79. *Limitation.*—Every appeal or application for revision under this Act shall be filed within a period of sixty days, from the date of the order of the Mamlatdar, Tribunal or Collector, as the case may be. The provisions of sections 4, 5, 12 and 14 of the Indian Limitation Act, 1908 (IX of 1908), shall apply to the filing of such appeal or application for revision.

80. *Inquiries and proceedings to be judicial proceedings.*—All inquiries and proceedings before the Mamlatdar, the Tribunal, the Collector and the Bombay Revenue Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code (XLV of 1860).

CHAPTER VII Offences and Penalties

81. *Offences and penalties.*—(1) Whoever contravenes any provision of any of the sections, sub-sections or clauses mentioned in the first column of the following Table shall, on conviction, for each such offence, be punishable with fine which may extend to the amount mentioned in that behalf in the third column of the said table.

Explanation.—The entries in the second column of the said table headed 'subject' are not intended as the definitions of offences described in the sections, sub-sections and clauses mentioned in the first column, or even as abstracts of those sections, sub-sections and clauses, but are inserted merely as references to the subjects of the sections, sub-sections and clauses, the numbers of which are given in the first column.

TABLE.

Section, sub-section or clause. 1	Subject. 2	Fine which may be imposed. 3
		Rs.
Section 5	Tenancy of land for a period less than ten years or termination of tenancy before the expiry of period of ten years.	1,000
Section 8 (3)	Recovery of rent by way of crop share or in excess of commuted cash-rent.	1,000
Section 9 (3)	Receipt of rent in form of labour or service.	1,000
Section 11	Levy of cess, rate, veto, huk, tax or service which has been abolished.	1,000
Section 26 (2)	Failure to give written receipt for the amount of rent received.	100
Section 29	Taking possession of land or dwelling house contrary to section 29.	1,000

(2) An offence for the contravention of the provisions of section 9 or 11 shall be cognizable.

CHAPTER VIII

Miscellaneous.

82. Rules.—(1) The Provincial Government may make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for the following matters:—

(a) the manner of determining the value of the crop of the land under section 6;

(b) the manner of determining the amount of commutation of crop-share rent into cash under section 8;

(c) the penalty to be recovered under section 10;

(d) the other factors to be taken into consideration for determining reasonable rent under section 12;

(e) the fees to be paid for the grant of a certificate and the form of such certificate under sub-section (3) of section 17;

(f) the manner and the form in which a receipt is to be given by the landlord under section 26;

(g) the manner of determining the reasonable price of land and the period during which the amount of price may be deposited under section 32;

(h) the terms and conditions for exchange of lands and the form of certificate to be issued under section 33;

(i) the manner of determining debts and liabilities under section 52;

(j) the manner of notifying liquidation scheme sanctioned under section 56;

(k) the conditions subject to which permission to acquire land or interest therein may be granted under section 63;

(l) the manner of making inquiry to determine the value of the estate, land or interest acquired and any other matter to be taken into consideration in determining the value under section 65;

(m) the other functions of the Tribunal under section 68;

(n) the other powers of the Tribunal under section 69;

(o) the other procedure to be followed by the Mamlatdar and Tribunal under section 72;

(p) the value of the court fee stamp payable on an application to the Mamlatdar or Tribunal or on an application or appeal to the Collector or Bombay Revenue Tribunal under section 77;

(q) any other matter which is or may be prescribed under this Act.

(3) Rules made under this section shall be subject to the condition of previous publication in the *Official Gazette*.

83. Delegation of powers.— The Provincial Government may, subject to such restrictions and conditions as it may impose, by notification in the *Official Gazette*, delegate to any of its officers, not below the rank of an Assistant or Deputy Collector, all or any of the powers conferred on it by this Act.

84. Summary eviction.— Any person unauthorisedly occupying or wrongfully in possession of any land—

(a) the transfer of which either by the act of parties or by the operation of law is invalid under the provisions of this Act,

(b) the management of which has been assumed under the said provisions, or

(c) to the use and occupation of which he is not entitled under the said

provisions and the said provisions do not provide for the eviction of such persons, may be summarily evicted by the Collector.

85. Bar of jurisdiction.—(1) No Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by the Mamlatdar or Tribunal, a Manager, the Collector or the Bombay Revenue Tribunal in appeal or revision or the Provincial Government in exercise of their powers of control.

(2) No order of the Mamlatdar, the Tribunal, the Collector or the Bombay Revenue Tribunal or the Provincial Government made under this Act shall be questioned in any civil or criminal court.

Explanation.—For the purposes of this section, a Civil Court shall include a Mamlatdar's Court constituted under the Mamlatdars' Courts Act, 1906 (Bom. II of 1906).

86. Control.—In all matters connected with this Act, the Provincial Government shall have the same authority and control over the Mamlatdars and the Collectors acting under this Act as they have and exercise over them in the general and revenue administration.

87. Indemnity.—No suit or other legal proceeding shall lie against any person in respect of anything which is in good faith done or intended to be done under this Act.

88. Act not to apply to certain lands and areas.—(1) Nothing in the foregoing provisions of this Act shall apply :—

(a) to lands held on lease from the Crown, a local authority or a co-operative society ;

(b) to lands held on lease for the benefit of an industrial or commercial undertaking ;

(c) to any area within the limits of Greater Bombay and within the limits of the municipal boroughs of Poona City and Suburban, Ahmedabad, Sholapur, Surat and Hubli and within a distance of two miles of the limits of such boroughs ; or

(d) to any area which the Provincial Government may, from time to time, by notification in the *Official Gazette*, specify as being reserved for urban non-agricultural or industrial development.

(2) Notwithstanding anything contained in sub-section (1) the Provincial Government may, by notification published in the *Official Gazette*, direct that any particular land or class of lands in any area shall not be exempt from all or any of the provisions of this Act.

89. Repeal.—(1) The enactment specified in the Schedule is hereby repealed to the extent mentioned in the fourth column thereof.

(2) But nothing in this Act or any repeal effected thereby—

(a) shall affect the amendments made in section 59 of the Bombay Land Revenue Code, 1879 (Bom. V of 1879), or sections 6 and 9 of the Khoti Settlement Act, 1880 (Bom. I of 1880);

(b) shall save as expressly provided in this Act, affect or be deemed to affect,

(i) any right, title, interest, obligation or liability already acquired, accrued or incurred before the commencement of this Act, or

(ii) any legal proceeding or remedy in respect of any such right, title, interest, obligation or liability or anything done or suffered before the commencement of this Act,

and any such proceeding shall be continued and disposed of, as if this Act was not passed.

(3) Notwithstanding anything contained in sub-section (2), all proceedings for the recovery or restoration of the possession of the land under section 7 of the Act so repealed, pending at the date of the commencement of this Act before the Mamlatdar or in appeal before the Collector, shall, notwithstanding anything contained in this section, be deemed to have been instituted and pending before the Mamlatdar or in appeal before the Collector, as the case may be, under this Act and shall be disposed of in accordance with the provisions of this Act.

(4) Any appointment, notification, notice, order, rule or form made or issued under the Bombay Tenancy Act, 1939 (Bom. XXIX of 1939), shall continue to be in force and deemed to have been made or issued under the provisions of this Act, in so far as such appointment, notification, notice, order, rule or form is not inconsistent with the provisions of this Act or rules made thereunder and shall continue to be in force unless and until it is superseded by any appointment, notification, notice, order, rule or form made or issued under this Act.

THE SCHEDULE.

Enactment repealed.

(See section 89).

Year	No.	Short title.	Extent of repeal.
1	2	3	4
1939	XXIX	The Bombay Tenancy Act, 1939.	<p>The whole except sections 3, 3A or 4 as modified in the following manner, namely :—</p> <p>3. <i>Protected tenants</i>—A tenant shall be deemed to be a protected tenant in respect of any land if—</p> <p>(a) he has held such land continuously for a period of not less than six years immediately preceding either—</p> <p>(i) the first day of January 1938, or</p> <p>(ii) the first day of January 1945; and</p> <p>(b) he has cultivated such land personally during the aforesaid period.</p> <p><i>Explanation I</i>—If the person who held such land on the first day of January 1938 or the first day of January 1945, as the case may be, came to hold the same by inheritance or succession from another person or if he has held such land as a tenant and is an heir to such other person, the period during which such other person held such land as a tenant shall be included in calculating the period of six years under this section.</p> <p><i>Explanation II</i>.—If the person who held such land on the first day of January 1938 or the first day of January 1945, as the case may be, held as a tenant at any time within six years before the said date from the same landlord in the same village any other land which he cultivated personally,</p>

Year 1	No. 2	Short title. 3	Extent of repeal. 4
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the period during which he held such other land shall be included in calculating the period of six years under this section.

Explanation III.—Where any land is held by two or more persons jointly as tenants, all such persons shall, if any one of them cultivated and continues to cultivate such land personally and if the other conditions specified in this section are fulfilled, be deemed to be protected tenants in respect of such land.

3A. *Tenants on expiry of one year from coming into force of Bom. XXVI of 1946 to be deemed protected tenants.*—Every tenant shall, from the eighth day of November 1947 be deemed to be a protected tenant for the purposes of this Act and his rights as such protected tenant shall be recorded in the Record of Rights, unless his landlord has prior to the aforesaid date made an application to the Mamlatdar for a declaration that the tenant is not a protected tenant.

Explanation.—A person shall not be deemed to be a protected tenant if such person has been on an application made by the owner of the land as provided in section 3A of the Bombay Tenancy Act, 1939 (Bom. XXIX of 1939), declared by a competent authority not to be a protected tenant.

4. *Tenants evicted after 1st April 1937 to be deemed protected tenants.*—(1) Every tenant shall be deemed to be a protected tenant for the purposes of this Act, if he—

(a) held any land and cultivated it personally continuously for a period of not less than six years immediately preceding the first day of April 1937 and was evicted from such land on or after such date otherwise than by order of a competent authority on any of the grounds specified in section 14 of this Act, or

(b) held any land and cultivated it personally continuously for a period of not less than six years immediately preceding the first day of April 1944 and was evicted from such land on or after such date other-

Year 1	No. 2	Short title. 3	Extent of repeal. 4
			<p>wise than by order of a competent authority on any of the grounds specified in section 14 of this Act :</p> <p>Provided that any tenant who had been evicted from the land in consequence of his failure to tender the rent referred to in section 9 of the Bombay Small Holders Relief Act, 1938 (Bom. VIII of 1938) as provided therein, shall not be deemed to be a protected tenant for the purposes of this Act, unless he had paid to the landlord such rent in cases falling under clause (a) within four months from the date on which this section came into force in the area in which the land is situated and in cases falling under clause (b) within six months from the eighth day of November 1946.</p> <p>(2) A person who is deemed to be a protected tenant under sub-section (1) shall, if he had intimated in writing to the landlord in cases falling under clause (a) of sub-section (1) within one year after the coming into force of this section in the area in which the land is situated and in cases falling under clause (b) of sub-section (1) within one year after the eighth day of November 1946, that he is willing to hold the land on the same terms and conditions on which he held it at the time when he was evicted, be entitled to recover possession of the land—</p> <p>(a) in cases falling under clause (a) of sub-section (1)—</p> <p>(i) if the land has been leased out by the landlord for a period expiring after the 31st day of May immediately following the date of the coming into force of this section in the area in which the land is situated, from the date on which such lease expires; and</p> <p>(ii) in other cases, from the 1st day of June immediately following the date of the coming into force of this section in the area in which the land is situated:</p> <p>(b) in cases falling under clause (b) of sub-section (1)—</p> <p>(i) if the land has been leased out by the landlord for a period expiring after</p>

Year 1	No. 2	Short title 3	Extent of repeal. 4
			31st day of May 1947 from the date on which such lease expires; and (ii) in other cases from the 1st day of June 1947. And on so recovering possession, he shall, subject to the provisions of this Act, hold the land on the said terms and conditions. (3) The provisions of this section shall not apply in cases where the landlord is using the land for any of the purposes mentioned in sub-section (1) of section 34 of this Act.

The Bombay Refugees (Amendment) Act, 1949.

Received the assent of the Governor General on the 9th December, 1948 and is published in the *Bombay Government Gazette*, Part IV, dated the 17th December 1948.

Bombay Act No. LXVI of 1948.

An Act to amend the Bombay Refugees Act, 1948.

WHEREAS it is expedient to amend the Bombay Refugees Act, 1948 (Bom XXI of 1948), for the purposes hereinafter appearing; It is hereby enacted as follows :—

1. *Short title* — This Act may be called the **Bombay Refugees (Amendment) Act, 1948**.

2. *Amendment of preamble to Bom. XXII of 1948*.—In the preamble to the Bombay Refugees Act, 1948 (Bom. XXII of 1948) (hereinafter called the 'said Act'), for the words beginning with the words "with a view" and ending with the words "certain other purposes", the following words shall be substituted, namely :—

"it is expedient to provide for the registration and to regulate the movement of refugees with a view to facilitating their relief and rehabilitation and to securing public health, sanitation and safety and for certain other purposes herein specified".

3. *Amendment of section 3 of Bom. XXII of 1948*.—To section 3 of the said Act, the following proviso shall be added, namely :—

"Provided that the Provincial Government may, from time to time by notification in the *Official Gazette*, direct that the functions of the Commissioner of Police or the District Magistrate under this section shall be performed by any other officer specified in such notification."

4. *Amendment of section 6 of Bom. XXII of 1948*.—In sub-section (2) of section 6 of the said Act, for the words "thirty days" the words "three months" shall be substituted.

5. *Substitution of new section for section 10 of Bom. XXII of 1948*.—For section 10 of the said Act, the following new section shall be substituted, namely :—

"10. *Penalties*.—(1) Whoever refuses or without lawful excuse neglects to comply with the requirements of section 4 or 6 shall, on conviction, be punished with fine which may extend to two hundred rupees

(2) Whoever gives particulars in filling the form under sub-section (2) of section 4 which are false and which he either knows or believes to be false or whoever contravenes any other provisions of this Act or any rule made thereunder or any order made in pursuance of this Act shall, on conviction,

be punished with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both."

6. *Substitution of new section for section 13 of Bom. XXII of 1948.*—For section 13 of the said Act, the following new section shall be substituted, namely:—

"13. *Certain offences to be cognizable.*—All offences under this Act except offences under sub-section (1) of section 10 shall be cognizable."

7. *Insertion of new section 16 in Bom. XXII of 1948.*—After section 15 of the said Act, the following new section shall be inserted, namely:—

"16. *Power of exemption.*—(1) The Provincial Government may, by notification in the official Gazette, direct that refugees from any particular area or place or any class of refugees shall be exempt from all or any of the provisions of this Act or any requirements thereof.

(2) An officer authorised in this behalf by the Provincial Government may, for reasons to be recorded in writing, order that any refugee shall be exempt from all or any of the provisions of this Act or any requirements thereof."

8. *Substitution of new Schedule for First Schedule to Bom. XXII of 1948.*—For the First Schedule to the said Act, the following new Schedule shall be substituted, namely:—

"FIRST SCHEDULE.

[See section 4 (2).]

Form of Registration GOVERNMENT OF BOMBAY REGISTRATION OF REFUGEES.

(1) Name of the applicant in full (in capital letters with surname first).

(2) Age

...

(3) Sex

...

(4) Whether married or single.

(5) Names of dependents at present in the Province of Bombay, their relationship, ages and sex.

(6) Names of dependents left behind, if any, in the place which he has left, their relationship, ages and sex.

(7) Address prior to evacuation : Village, Tehsil, District (in detail).

8. Present address (Building, Floor, Street, Road, etc.).

(9) Details of identity documents and other papers relating to evacuation, if any, with the applicant.

(10) Period of residence at place which he has left.

(11) Date and place of arrival in the Province of Bombay.

(12) Any moveable or immoveable property lost or left at the place which he has left or elsewhere and its value.

(13) Whether any property sold prior to evacuation. If so, its details and the price at which it was sold.

(14) Academical and technical qualifications.

(15) Occupation, profession or trade and monthly income prior to evacuation.

(16) Aptitude for any occupation, profession or trade other than that followed prior to evacuation.

(17) Details of land taken, if any, for settling either in the Province of Bombay or elsewhere in the Indian Union.

(18) Means of maintenance at present.

(19) Resources possessed at present.

(20) Details of facilities or assistance received, if any, at present either through official or non-official sources.

(21) Whether any facilities or assistance required for Rehabilitation. If so, their details.

(22) Whether he wishes to stay in the Province of Bombay. If so, for how long.

(23) Whether willing to go outside the Province of Bombay. If so, the place he wishes to proceed to.

Remarks—

Signature/Left hand thumb impression
and/or Photograph of the applicant,
if available.

Place

194

Registering Authority."

9. *Amendment of Second Schedule to Bom. XXII of 1948.*—In the Second Schedule to the said Act, the entry "Identification marks" shall be deleted.

The Code of Civil Procedure (Bombay Amendment) Act, 1948.

Received the assent of the Governor General on the 19th November 1948 and is published in the *Bombay Government Gazette*, Part IV, dated the 30th November 1948.

Bombay Act No. LX of 1948.

An Act to amend the Code of Civil Procedure, 1908, in its application to the Province of Bombay.

WHEREAS it is expedient to amend the Code of Civil Procedure, 1908 (V of 1908), in its application to the Province of Bombay, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. *Short title*—This Act may be called the Code of Civil Procedure (Bombay Amendment) Act, 1948.

2. *Amendment of section 60 of Act V of 1908.*—In sub-section (1) of section 60 of the Code of Civil Procedure, 1908 (V of 1908),—

(a) after clause (g) of the proviso, the following new clause shall be inserted, namely:—

"(gg) stipends and gratuities allowed to pensioners of a local authority;" and

(b) in Explanation 1, after the brackets and letter "(g)" the brackets and letters "(gg)" shall be inserted.

The Bombay Lotteries and Prize Competitions Control and Tax Act, 1948.

Received the assent of the Governor General on the 4th November 1948 and is published in the *Bombay Government Gazette*, Part IV, dated the 15th November 1948.

Bombay Act No. LIV of 1948.

An Act to control and to tax lotteries and prize competitions in the Province of Bombay.

WHEREAS it is expedient to control and to levy a tax on lotteries and prize competitions in the Province of Bombay; It is hereby enacted as follows :—

1. *Short title, extent and commencement.*—(1) This Act may be called the Bombay Lotteries and Prize Competitions Control and Tax Act, 1948.

(2) It extends to the whole of the Province of Bombay.

(3) It shall come into force on such date as the Provincial Government may, by notification in the Official Gazette, appoint in this behalf.

2. *Definitions.*—(1) In this Act, unless there is anything repugnant in the subject or context—

(a) “coupon” includes, in relation to a prize competition, any document in which the solution to the competition is submitted by any person;

(b) “money” includes a cheque or any other negotiable instrument, a postal order or a money order;

(c) “newspaper” includes any journal, magazine or other periodical publication;

(d) “prize competition” includes—

(i) cross-word ~~prize~~ competition, missing words prize competition, picture prize competition, number prize competition, or any other competition for which the solution is prepared beforehand by the promoters of the competition or for which the solution is determined by lot;

(ii) any competition in which prizes are offered for forecasts of the results either of a future event or of a past event the result of which is not yet ascertained or not yet generally known; and

(iii) any other competition success in which does not depend to a substantial degree upon the exercise of skill, but does not include a prize competition contained in a newspaper printed and published outside the Province of Bombay;

(e) “Province” means the Province of Bombay;

(f) “quarter” means a period of three months beginning from the 1st January to 31st March, from 1st April to 30th June, from 1st July to 30th September and from 1st October to 31st December in each year;

(g) “ticket” includes, in relation to any lottery or proposed lottery, any document evidencing the claim of a person to participate in the chances of the lottery.

(2) For the purposes of this Act—

(a) references to printing shall be construed as including references to writing and other modes of representing or reproducing words in a visible form; and

(b) documents or other matters shall be deemed to be distributed if they are distributed to persons or places whether within or without the Province and the expression “distribution” shall be construed accordingly.

3. *All lotteries unlawful.*—Subject to the provisions of this Act, all lotteries are unlawful.

4. *Offences in connection with lotteries.*—(1) Subject to the provisions

of this section every person who in connection with any lottery promoted or proposed to be promoted either in this Province or elsewhere—

(a) publishes any proposal to pay any sum, or to deliver any goods, or to do or forbear doing anything for the benefit of any person, on any event or contingency relative or applicable to the drawing of any ticket, lot, number or figure in the lottery; or

(b) prints any tickets for use in the lottery; or

(c) sells or distributes, or offers or advertises for sale or distribution, or has in his possession for the purpose of sale or distribution, any tickets or chances in the lottery; or

(d) prints, publishes or distributes, or has in his possession for the purpose of publication or distribution—

(i) any advertisement of the lottery, or

(ii) any list (whether complete or not) of prize winners or winning tickets in the lottery, or

(iii) any such matter descriptive of the drawing or intended drawing of the lottery, or otherwise relating to the lottery, as is calculated to act as an inducement to persons to participate in that lottery or in other lotteries; or

(e) brings, or invites any person to send into the Province for the purpose of sale or distribution any ticket in, or advertisement of the lottery; or

(f) sends or attempts to send out of the Province any money or valuable thing received in respect of the sale or distribution, or any document recording the sale or distribution, or the identity of the holder, of any ticket or chance in the lottery; or

(g) uses any premises, or permits any premises to be used, for purposes connected with the promotion or conduct of the lottery; or

(h) causes or attempts to cause any person to do any of the abovementioned acts,

shall, on conviction, be punishable—

(i) for the first offence with fine which may extend to one thousand rupees;

(ii) for the second offence with fine which may extend to two thousand rupees; and

(iii) for any subsequent offence with imprisonment for a term which may extend to three months or with fine which may extend to five thousand rupees or with both.

(2) In any proceedings instituted under sub-section (1), an accused person shall not be deemed to be guilty if he proves that the lottery to which the proceedings relate was such a lottery as is not deemed to be an unlawful lottery or prize competition under section 5, 6 or 7, as the case may be, and that at the date of the alleged offence the accused believed and had reasonable ground for believing that none of the conditions required by section 5 or 6 to be observed in connection with the promotion and conduct of the lottery had been broken.

5. *Licensed entertainment lotteries not unlawful.*—(1) A lottery promoted as an incident of an entertainment shall be deemed to be an unlawful lottery, unless the promoter thereof has obtained a licence in respect of such lottery.

(2) The following conditions shall be observed by the promoter in connection with the promotion and conduct of such lottery, namely:—

(a) the whole proceeds of the entertainment (including the proceeds of the lottery) after deducting—

(i) the expenses of the entertainment, excluding expenses incurred in connection with the lottery ;

(ii) the expenses incurred in printing tickets in the lottery ; and

(iii) such sum (if any) not exceeding one hundred rupees, which the promoters of the lottery think fit to appropriate on account of any expense incurred by them in purchasing prizes in the lottery, shall be devoted to purposes other than private gain ;

(b) none of the prizes in the lottery shall be money prizes ;

(c) tickets or chances in the lottery shall not be sold or issued, nor shall the result of the lottery be declared, except on the premises on which the entertainment takes place and during the progress of the entertainment ; and

(d) the facilities afforded for participating in lotteries shall not be the only, or the only substantial, inducement to persons to attend the entertainment.

(3) If any of the conditions specified in sub-section (2) is broken, every person concerned in the promotion or conduct of the lottery shall, on conviction, be punishable—

(a) for the first offence with fine which may extend to one thousand rupees ;

(b) for the second offence with fine which may extend to two thousand rupees ; and

(c) for any subsequent offence with imprisonment for a term which may extend to three months or with fine which may extend to five thousand rupees or with both :

Provided that in any proceeding under this section, it shall be a defence to prove that the breach was committed without his knowledge.

Explanation.—The entertainments to which this section applies are bazzars, sales of work fetes and other entertainments of a similar character, whether limited to one day or extending over two or more days.

6. *Licensed private lotteries not unlawful*—(1) A private lottery shall be deemed to be an unlawful lottery unless the promoter thereof has obtained a licence in respect of such lottery.

(2) The following conditions shall be observed by the promoter in connection with the promotion and conduct of such lottery, namely :—

(a) the whole proceeds, after deducting only expenses incurred for printing and stationery, shall be devoted to the provision of prizes for purchasers of tickets or chances, or, in the case of a lottery promoted for the members of a society, shall be devoted either to the provision of prizes as aforesaid or to purposes which are purposes of the society or, as to part, to the provision of prizes as aforesaid and, as to the remainder, to such purposes as aforesaid ;

(b) there shall not be exhibited, published or distributed any written notice or advertisement of the lottery other than—

(i) a notice thereof exhibited on the premises of the society for whose members it is promoted or, as the case may be, on the premises on which the persons for whom it is promoted work or reside ; and

(ii) such announcement or advertisement thereof as is contained in the tickets, if any ;

(c) the price of every ticket or chance shall be the same and the price of any ticket shall be stated on the ticket ;

(d) every ticket shall bear upon the face of it the names and address of each of the promoters and a statement of the persons to whom the sale of tickets or chances by the promoters is restricted, and a statement that no prize won in the lottery shall be paid or delivered by the promoters to any person other than the person to whom the winning ticket or chance was sold by them, and no prize shall be paid or delivered except in accordance with that statement;

(e) no ticket or chance shall be issued or allotted by the promoters except by way of sale and upon receipt of the full price thereof, and no money or valuable thing so received by a promoter shall in any circumstances be returned; and

(f) no tickets in the lottery shall be sent through the post.

(4) If any of the conditions specified in sub-section (2) is broken, each of the promoters of the lottery, and where the person by whom the condition is broken is not one of the promoters, that person also, shall, on conviction, be punishable—

(a) for the first offence with fine which may extend to one thousand rupees;

(b) for the second offence with fine which may extend to two thousand rupees; and

(c) for any subsequent offence with imprisonment for a term which may extend to three months or with fine which may extend to five thousand rupees or with both:

Provided that in any proceeding under this section, it shall be a defence for a person charged only by reason of his being a promoter of the lottery to prove that the offence was committed without his knowledge.

Explanation.—For the purposes of this section—

(a) the expression "private lottery" means a lottery in the Province which is promoted for, and in which the sale of tickets or chances by the promoters is confined to, either—

(i) members of one society established and conducted for purposes not connected with gaming, wagering or lotteries; or

(ii) persons all of whom work on the same premises; or

(iii) persons all of whom reside on the same premises, and which is promoted by persons each of whom is a person to whom under the foregoing provisions tickets or chances may be sold by the promoters and, in the case of a lottery promoted for the members of a society, is a person authorised in writing by the governing body of the society to promote the lottery: and

(b) the expression "society" includes a club, institution, organisation or other association of persons by whatever name called, and each local or affiliated branch or section of a society shall be regarded as a separate and distinct society.

7. *Licensed prize competitions not unlawful.*—A prize competition shall be deemed to be an unlawful prize competition unless a licence in respect of such competition has been obtained by the promoter thereof:

Provided that a licence may be granted for more than one such competition conducted by the same person.

8. *Penalty for contravention of section 7.*—Without prejudice to his liability, if any, to be proceeded against under the preceding provisions of this Act relating to lotteries, who contravenes the provisions of section 7 shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both.

9. *Licences.*— Every licence granted under this Act shall be granted by the Collector on payment of such fees and subject to such conditions and shall be in such form as may be prescribed.

10. *Power of Provincial Government to issue orders pertaining to licences.*— Notwithstanding anything contained in this Act or any rules made thereunder, it shall be lawful for the Provincial Government by general or special order to—

(a) prohibit the grant of licences in respect of a lottery or prize competition or class of lotteries or prize competitions throughout the Province or in any area ;

(b) prescribe the maximum number of licences which may be granted in any area ;

(c) direct that no licences specified in such order shall be granted without the previous approval of the Provincial Government ;

(d) issue such other instructions in any matter pertaining to the grant or otherwise of licences under the Act as the Provincial Government may deem proper.

11. *Suspension or cancellation of licence.*— The Collector may suspend or cancel a licence granted under this Act—

(1) if there is any breach of any of the conditions subject to which the licence is granted ; or

(2) if the holder of such licence contravenes any of the conditions specified in section 5 or 6 ; or

(3) if any tax payable under section 12 is not duly paid by the promoter ; or

(4) if the holder of such licence contravenes any of the provisions of section 15 ; or

(5) for any other reason for which the suspension or cancellation of the licence is, in the opinion of the Provincial Government, necessary in the public interest.

12. *Levy of tax on lotteries and prize competitions.*— (1) There shall be levied—

(a) in respect of every lottery for which a licence has been obtained under section 5 or 6, a tax at the rate of 12½ per cent. of the total sum received or due in respect of such lottery ; and

(b) in respect of every prize competition for which a licence has been obtained under section 7, a tax at such rate not exceeding 25 per cent. of the total sum received in respect of such competition as may be specified by the Provincial Government in a notification in the *Official Gazette*.

The tax shall be collected from the promoter of such lottery or prize competition, as the case may be.

(2) Notwithstanding anything contained in sub-section (1), the Provincial Government may, by notification in the *Official Gazette*, direct that the tax to be levied in respect of a lottery or prize competition shall be at such rate not exceeding 50 per cent. of the total sum received or due in respect of such lottery or prize competition as may be specified in the notification.

(3) The Collector may, after making such inquiry as he deems fit, determine the person who shall be deemed to be the promoter for the purposes of this section and the decision of the Collector in this behalf shall be final.

13. *Calculation and recovery of tax levied under section 12.*— (1) The

amount of tax to be levied in respect of a lottery or prize competition under section 12 shall be calculated by the Collector on the total sum received or due in respect of the lottery or prize competition as disclosed in the accounts maintained and statements submitted to him under section 15.

(2) In cases where no such accounts are maintained or where no such statements are submitted or where such accounts or statements are in the opinion of the Collector false or incorrect the Collector shall make the calculation to the best of his judgment.

(3) The tax leviable under section 12 shall in the case of a prize competition be paid within 30 days of the end of each quarter and in the case of a lottery be paid within 30 days of the date on which such lottery is drawn.

(4) If any tax payable under section 12 is in arrear the Collector may, in lieu thereof, recover any sum not exceeding double the amount of the tax so unpaid or any smaller sum above the amount of the tax which the Collector may think it reasonable to recover.

14. *Licence fee and other dues to be recoverable as arrears of land revenue.*— All sums payable as fees or taxes under this Act shall be recoverable as arrears of land revenue.

15. *Promoters of lotteries or prize competition to keep and maintain accounts.*— Every person promoting a lottery or prize competition of any kind shall keep and maintain accounts relating to such lottery or competition and shall submit to the Collector statements in such form and at such period as may be prescribed.

16. *Penalty for failure to keep accounts.*— If any promoter of a lottery or prize competition liable under section 15 to keep accounts or to submit statements fails to keep the accounts or to submit the statements in the manner and at the period prescribed, he shall, on conviction, be punishable with fine which may extend to five hundred rupees.

17. *Power of Collector to require production of accounts or to inspect accounts.*— The Collector may, for the purposes of this Act, at all reasonable times—

(i) require any promoter of a lottery or prize competition to produce before him accounts or other documents or to furnish any other information; or

(ii) inspect the accounts of any such promoter.

18. *Power of entry and search.*— It shall be lawful for a police officer—

(i) in Greater Bombay not below the rank of a Sergeant or Sub-Inspector and either empowered by general order in writing or authorised in each case by special warrant issued by the Commissioner of Police, Bombay, and

(ii) elsewhere not below the rank of a Sub-Inspector of Police authorised by a special warrant issued in each case by a Magistrate of the First Class or a District Superintendent of Police or by an Assistant or Deputy Superintendent of Police specially empowered by the Provincial Government in this behalf—

(a) to enter, with the assistance of such persons as may be found necessary, by night or by day, and by force, if necessary, any house, room or place which he has reason to suspect is used for purposes connected with the promotion or conduct of any lottery or prize competition;

(b) to search all parts of the house, room or place which he shall have so entered, the persons whom he shall find therein and also such persons as may be specified by name in the warrant;

(c) to take into custody and bring before a Magistrate all such persons;
(d) to seize all things which are reasonably suspected to have been used or intended to be used in connection with a lottery or prize competition and which are found therein :

Provided that no officer shall be authorised by special warrant unless the Commissioner of Police, the Magistrate, the District or Assistant or Deputy Superintendent of Police concerned is satisfied, upon any complaint made before him on oath and upon making such inquiry as he may think necessary, that there are reasonable grounds to suspect the said house, room or place to be used for purposes connected with the promotion or conduct of an unlawful lottery or prize competition.

19. *Searches how made.*—All searches made under section 18 shall be made in accordance with the provisions of the Code of Criminal Procedure, 1898 (V of 1898).

20. *Power to arrest without warrant in certain cases.*—A Police Officer may apprehend without warrant any person found, or reasonably suspected of, committing an offence under clause (a), (c) or (d) of sub-section (1) of section 4 in any public street, or thoroughfare or in any place to which the public have or are permitted to have access.

21. *Power of investigation.*—(1) Every Officer not below the rank of sub-inspector of police shall have power to investigate all offences punishable under this Act.

(2) Every such officer shall, in the conduct of such investigation, exercise the powers (except the power to arrest without warrant otherwise than under section 20) conferred by the Code of Criminal Procedure, 1898, (V of 1898) upon an officer incharge of a police station for the investigation of a cognizable offence.

22. *Offences to be bailable.*—All offences punishable under this Act shall be bailable.

23. *Jurisdiction to try offences.*—No Magistrate, below the rank of a Presidency Magistrate or a Magistrate of the Second Class, shall try an offence under this Act.

24. *Government may authorise certain officers to perform functions of Collector.*—The Provincial Government may, by general or special order, authorise any officer to perform the functions to be performed by the Collector under any of the provisions of this Act.

25. *Offences by corporations, etc.*—Where a person committing an offence under this Act is a company or other body corporate or an association of persons (whether incorporated or not) every person who at the time of the commission of the offence was a director, manager, secretary, agent or other officer or person concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

26. *Collectors and other officers to act subject to orders of Provincial Government.*—The Collectors and all officers duly authorised under section 24 shall exercise the powers and perform the duties conferred and imposed on them by or under this Act in accordance with such orders as the Provincial Government may from time to time make.

27. *Officers to be public servants.*—All officers acting under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

28. *Protection of persons acting in good faith and limitation of suits and prosecutions.*—(1) No suit, prosecution or other legal proceeding shall be

instituted against any officer of the Crown for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

(2) No suit shall be instituted against the Province and no prosecution or suit shall be instituted against any officer of the Crown in respect of anything done or intended to be done, under this Act, unless the suit or prosecution has been instituted within six months from the date of the act complained of.

29. Appeal and revision.—(1) Any person aggrieved by any order passed under this Act by the Collector or any officer authorised under section 24 may appeal against such order to the Commissioner or to such officer as the Provincial Government may appoint in this behalf.

(2) Every order passed in appeal under this section shall, subject to the powers of revision conferred by sub-section (3), be final and shall not be liable to be called in question in any court of law whether in a suit or other proceeding or by way of appeal or revision.

(3) The Provincial Government may, at any time, call for and examine the record of any order or the proceedings recorded by, any officer or person for the purpose of satisfying itself as to the legality or propriety of such order passed by, or as to the regularity of such proceedings of, such officer or person and may pass such order in reference thereto as it thinks fit.

30. Exemption — The Provincial Government may exempt from all or any of the provisions of this Act any prize competition the net proceeds of which are to be devoted to a charitable purpose.

31. Rules.—(1) The Provincial Government may, by notification in the *Official Gazette*, make rules for the purposes of carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision the Provincial Government may make rules for the following matters :—

(i) the form of licence and the fees on payment of which and the conditions subject to which a licence shall be granted under section 9 ;

(ii) the manner in which the accounts shall be kept and maintained and the form in which, the period at which, the statements of accounts are to be submitted under section 15.

(3) Any rule made under this section may provide that any person contravening any such rule shall, on conviction, be liable to fine which may extend to fifty rupees.

(4) Rules made under this section shall be subject to the condition of previous publication.

32. Saving.— Nothing in this Act shall apply to—

(a) the owner, lessee or occupier of any race course to whom a licence has been granted for horse racing on a race course under section 4 of the *Bombay Race Courses Licensing Act, 1912* (Bom. III of 1912), or to any person who carries on the business or vocation of or acts as a book-maker or turf commission agent under a licence or permit issued by such owner, lessee or occupier to enable him to carry on his business or vocation under the said Act as specified in the licence or permit or to any entries in respect of any stake or bet received by such person ;

(b) a state lottery within the meaning of entry 48 in List I in the *Seventh Schedule to the Government of India Act, 1935* (26 Geo. 5 Ch. 2). ;

(c) a lottery specially authorised by the Provincial Government.

33. *Repeal of section 294A of Act XLV of 1860.*— The provisions of section 294A of the Indian Penal Code (XLV of 1860), in its application to the Province of Bombay, are hereby repealed.

34. *Repeal.*— The Bombay Prize Competition Tax Act, 1919 (Bom. XI of 1919), is hereby repealed :

Provided that all licences granted under the said Act and in force on the date on which this Act comes into force shall be deemed to be granted under this Act.

The Bombay Industrial Relations (Amendment) Act, 1948.

Received the assent of the Governor-General on the 12th May 1948 and is published in the *Bombay Government Gazette*, Part IV, dated the 18th May 1948.

Bombay Act No. XLIII of 1948.

An Act to amend the Bombay Industrial Relations Act, 1946.

WHEREAS it is expedient to amend the Bombay Industrial Relations Act, 1946 (Bom. XI of 1947), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Bombay Industrial Relations (Amendment) Act, 1948.

2. *Amendment of section 3 of Bom. XI of 1947.*—In section 3 of the Bombay Industrial Relations Act, 1946 (Bom. XI of 1947) (hereinafter called the said Act), after clause (38) the following new clause shall be inserted, namely :—

“(38A) ‘Wage Board’ means a Wage Board constituted under section 86A ;”.

3. *Amendment of section 25 of Bom. XI of 1947.*—In section 25 of the said Act, for the words “Such officers of an approved union as may be authorised by” the words “Such officers and members of an approved union as may be authorised by or under” shall be substituted.

4. *Amendment of section 33 of Bom. XI of 1947.*—In section 33 of the said Act,—

(a) after the word “employee” the words “or a representative union” shall be inserted ;

(b) after clause (a) the following new clause shall be inserted namely :—

“(aa) in all proceedings before a Wage Board ;”.

5. *Amendment of section 34 of Bom. XI of 1947.*—In clause (b) of the proviso to sub-section (6) of section 34 of the said Act, for the words “a Representative Union”, the words “an approved union” shall be substituted.

6. *Amendment of section 42 of Bom. XI of 1947.*—In sub-section (4) of section 42 of the said Act,—

(a) after the word “employee” at both the places where it occurs, the words “or a representative union” shall be inserted ;

(b) for the word “his” at both the places where it occurs the word “the” shall be substituted.

7. *Amendment of section 46 of Bom. XI of 1947.*—In section 46 of the said Act —

(i) in sub-section (2) after clause (iv), the following new clause shall be inserted, namely :—

"(v) in cases where such matter or a dispute regarding such matter has been referred to a Wage Board for decision, before the date on which the decision comes into operation." ;

(ii) in sub-section (3) for the words "award or registered agreement" the words "effective award, registered agreement or effective order or decision of a Wage Board" shall be substituted ;

(iii) in sub-section (5) for the words "or registered agreement" the words "registered agreement or effective order or decision of a Wage Board" shall be substituted.

8. *Amendment of section 47 of Bom. XI of 1947.*—In section 47 of the said Act,—

(i) for the words "decision or order of a" the words "effective decision or order of a Wage Board," shall be substituted ;

(i) after the words "as the" the words "Wage Board or" shall be inserted ;

(iii) at the end the words, figures and letters "or, as the case may be, of the declaration referred to in section 76A or 86F," shall be added.

9. *Amendment of section 48 of Bom. XI of 1947.*—In section 48 of the said Act,—

(i) in sub-section (1) after the words "local area" the following shall be inserted, namely :—

"and shall be constituted irrespective of such consent, if the Provincial Government on an application made to it in this behalf by the registered union so directs" ;

(ii) for sub-section (3) the following shall be substituted, namely :—

"(3) Every Joint Committee shall stand dissolved whenever the condition specified in the proviso to sub-section (1) ceases to be complied with ; and a Joint Committee constituted with the consent of the employer and the registered union shall also stand dissolved on the expiry of the period of a three months' notice in that behalf being given by the employer to the union, or by the union to the employer."

10. *Amendment of section 49 of Bom. XI of 1947.*—In sub-section (1) of section 49 of the said Act, after the word "concerned" the following shall be inserted, namely :—

"Where the Joint Committee is to be constituted in pursuance of a direction of the Provincial Government on an application made by the registered union, the union and the employer shall nominate and appoint the members within such period as the Provincial Government may by order specify, a copy of such order shall, as soon as may be, be given to the union and the employer in the manner prescribed."

11. *Amendment of section 64 of Bom. XI of 1947.*—In sub-clause (ii) of clause (a) of section 64 of the said Act, for the word and figures "or 73" the figures, word and letter, "73 or 73A" shall be substituted.

12. *Amendment of section 65 of Bom. XI of 1947.*—To sub-section (2) of section 65 of the said Act, the following proviso shall be added, namely :—

"Provided that no such submission shall provide for reference of any such dispute to the arbitration of the Industrial Court where under any provision of this Act it is required to be referred to the Labour Court for its decision"

13. *Insertion of new section 73A in Bom. XI of 1947.*—After section 73 of the said Act, the following new section shall be inserted, namely :—

"73A. *Reference to arbitration by unions.*—Notwithstanding anything

contained in this Act, a registered union which is a representative of employees and the rules of which provide for the matter specified in clause (vi) of sub-section (1) of section 23, may at any time refer any industrial dispute for arbitration to the Industrial Court :—

Provided that no such dispute shall be referred to the Industrial Court where under any provision of this Act it is required to be referred to the Labour Court for its decision."

14. *Insertion of new section 76A in Bom. XI of 1947.*—In Chapter XI of the said Act, after section 76 the following new section shall be inserted, namely :—

"76A. *Procedure to give effect to awards affecting Provincial Government.*—(1) Notwithstanding anything contained in sections 74 to 76 (both inclusive) where the award affects an industry conducted or carried on by a department of the Provincial Government, the award shall not be effective except in accordance with the procedure set out in sub-sections (2) and (3).

(2) The arbitrator, Labour Court or Industrial Court shall, as soon as practicable on the conclusion of its proceedings, submit its award to the Provincial Government, and the Provincial Government shall, by order in writing, declare the decision to be binding :

Provided that where in the opinion of the Provincial Government it would be inexpedient on public grounds to give effect to the whole or any part of the award, the Provincial Government shall, on the first available opportunity, lay the decision together with the statement of its reasons for not making a declaration as aforesaid before the Legislative Assembly of the Province, and shall, as soon as may be, cause to be moved therein a resolution for the consideration of the award ; and the Legislative Assembly may by its resolution confirm, modify or reject the award.

(3) On the passing of a resolution under the proviso to sub-section (2), unless the award is rejected thereby, the Provincial Government shall, by order in writing, declare the award as confirmed or modified by the resolution : as the case may be, to be binding "

15. *Amendment of section 79 of Bom. XI of 1947.*—In sub-section (1) of section 79 of the said Act, after the words "Labour Officer" at both the places where they occur, the words "or a representative union" shall be inserted.

16. *Insertion of new Chapters XIIA and XIIB in Bom. XI of 1947.*—After section 86 of the said Act, the following new Chapters shall be inserted, namely :—

CHAPTER XIIA.

Wage Boards.

86A. *Wage Boards.*—The Provincial Government may, by notification in the *Official Gazette*, constitute for one or more industries a Wage Board for the Province.

86B. *Constitution of Wage Board.*—The Wage Board shall consist of an equal number of persons nominated by the Provincial Government to represent employers and employees and such number of independent persons as the Provincial Government nominates. The Chairman shall be appointed by the Provincial Government.

Explanation.—For the purposes of this section a person shall be deemed to be an independent person if he is unconnected with the indust-

rial matter which may be referred to it under section 86C and the industry directly affected by the industrial matter.

86C. *Reference to Wage Board.*— (1) Notwithstanding anything contained in any other provision of this Act, the Provincial Government may, by an order notified in the *Official Gazette*, refer to a Wage Board for decision any industrial matter or industrial dispute regarding items numbered 1, 2, 4, 9 and 10 in Schedule II, and such other industrial matters or disputes as may be prescribed.

(2) The order of reference under sub-section (1) shall specify which employers and employees (including representative of employees if any, and association of employers if any) shall be parties to the proceedings before the Wage Board.

86D. *Proceedings not to be commenced or continued before Conciliator, Board, etc.*— Notwithstanding anything contained in any other provision of this Act, where an industrial matter or industrial dispute is referred for decision to a Wage Board under section 86C, no proceedings regarding the same shall be commenced before a Conciliator, Board, Labour Court or the Industrial Court or a Court of Enquiry; and any such proceedings already commenced shall be forthwith stayed on the making of the reference.

86E. *Procedure before Wage Board.*— A Wage Board shall, in respect of an industrial matter or industrial dispute referred to it for decision, subject to any rules of procedure which may be prescribed, follow the same procedure as the Industrial Court in respect of arbitration proceedings before it.

In particular the rules of procedure which may be prescribed in this behalf may provide for the formation of committees for local areas from amongst members of the Wage Board with co-option of such other persons from the local areas as the Wage Board would for the purpose of any reference think fit to appoint to the committees and the exercise by each such committee of the jurisdiction and powers vested in the Wage Board in respect of such industrial matters or industrial disputes as are referred by the Wage Board to the Committee.

86F. *Procedure to give effect to decision of Wage Board affecting Provincial Government.*— (1) Where the decision of a Wage Board affects an industry conducted or carried on by a department of the Provincial Government, the decision shall not be effective except in accordance with the procedure set out in sub-sections (2) and (3).

(2) The Wage Board shall, as soon as practicable on the conclusion of its proceedings, submit its decision to the Provincial Government, and the Provincial Government shall by order in writing declare the decision to be binding.

Provided that where in the opinion of the Provincial Government it would be inexpedient on public grounds to give effect to the whole or any part of the decision, the Provincial Government shall on the first available opportunity lay the decision together with the statement of its reasons for not making a declaration as aforesaid before the Legislative Assembly of the Province, and shall, as soon as may be, cause to be moved therein a resolution for the consideration of the decision; and the Legislative Assembly may by its resolution confirm, modify or reject the decision.

(3) On the passing of a resolution under the proviso to sub-section (2), unless the decision is rejected thereby, the Provincial Government shall, by order in writing, declare the decision as confirmed or modified by the resolution, as the case may be, to be binding.

86G. Appeals.—(1) An appeal shall lie to the Industrial Court against an order or decision of a Wage Board (including reviewed order or decision), save in cases referred to in section 86F.

(2) Such appeal shall be made within six weeks from the date of the order or decision.

86H. Parties on whom order or decision of Wage Board is binding.—Subject to the provisions of sections 86F and 86G, an order or decision of a Wage Board shall be binding on—

(a) all parties to any proceeding before it who appeared or were represented therein;

(b) all parties who were summoned to appear as parties to the proceeding, whether they appeared or not;

(c) all the employers and employees in the concern or occupation or industry in the local area according as the order of reference under subsection (1) of section 86C directs irrespective of whether they were such employers or employees at the time of the making or giving of such order or decision, or whether they became such afterwards.

86I. Review order or decision by Wage Board.—(1) An employer or an employee or an association or a group of employers or a registered union or body of employees may apply to a Wage Board for review of an order or decision of the Wage Board and the Wage Board may for any sufficient reason and upon hearing all the parties review the order or decision:

Provided that no such application shall lie until a period of one year has elapsed from the date of the making or giving of the order or decision or the last review thereof, as the case may be:

Provided further that no such application by an employer or an association or a group of employers shall lie unless the employer, association or group, as the case may be, employs not less than fifteen per cent. of the employees whom the order or decision binds:

Provided also that no such application by an employee or a body of employees shall lie unless the employee or body of employees represents not less than fifteen per cent. of the employees whom the order or decision binds.

(2) Where the Provincial Government makes an application in this behalf, the Wage Board may at any time review its order or decision for any sufficient reason and upon hearing all the parties.

86J. Superintendence by Industrial Court.—The Industrial Court shall have superintendence over all Wage Boards and may—

(a) call for returns from such Boards;

(b) make and issue general rules, and lay down forms for regulating the practice and procedure of such Boards in matters not expressly provided for by or under this Act, and in particular, for securing expeditious disposal of cases;

(c) lay down the forms in which books, entries and accounts shall be kept by officers of Wage Boards;

(d) settle fees for processes issued by Wage Boards.

86K. Order or decision of Wage Boards not to be called in question.—(1) Save as otherwise provided by this Act, no order or decision of a Wage Board shall be called in question in any proceeding in any civil or criminal court.

(2) The appellate order or decision of the Industrial Court under section 86G shall have the same force as the original order or decision of the

Wage Board which it replaces except that there shall be no further appeal against it.

CHAPTER XIIB.

Provincial Wage Board.

86L. *Provincial Wage Board.*—(1) The Provincial Government may by notification in the *Official Gazette* constitute for all the industries together to which this Act applies a Provincial Wage Board for the Province.

(2) In relation to the Provincial Wage Board the provisions of sections 33, 46, 47, 86B to 86K (both inclusive), 87, 90, 97, 98, 115, 118, 119, 119A and 123 shall be read as if the reference therein to a Wage Board were reference to the Provincial Wage Board."

17. *Amendment of section 87 of Bom. XI of 1947.*—In section 87 of the said Act, after clause (b) the following new clause shall be inserted, namely:—

"(c) to decide appeals made under section 86G from an order or decision of a Wage Board;"

18. *Amendment of section 90 of Bom. XI of 1947.*—In section 90 of the said Act,—

(1) the following new sub-section shall be inserted at the beginning, namely:—

"(1) A Wage Board may refer to the Industrial Court any point of law arising in any proceedings before it under this Act. Any order or decision made or given by the Wage Board in such proceedings shall be in accordance with the decision of the Industrial Court";

(2) sub-sections (1) and (2) shall be renumbered as (2) and (3) respectively.

19. *Amendment of section 95 of Bom. XI of 1947.*—For the marginal note to section 95 of the said Act, the marginal note "Order of Industrial Court to be final except on review" shall be substituted; and the said section 95 shall be renumbered as sub-section (2) of that section and before sub-section (2) so renumbered the following shall be inserted, namely:—

"(1) An employer or an association or a group of employers or a registered union may at any time apply to the Industrial Court for review of a decision or award of the Industrial Court and the Industrial Court may, for any sufficient reason and upon hearing the parties, review the decision or award";

20. *Amendment of section 97 of Bom. XI of 1947.*—In sub-section (1) of section 97 of the said Act, in clause (i) for the word "award", the words "effective award" shall be substituted; and after the said clause (i), the following new clauses shall be inserted, namely:—

"(j) where an industrial matter or industrial dispute is referred to a Wage Board for decision, before the date on which the decision comes into operation;

(k) in contravention of the terms of an effective decision of a Wage Board".

21. *Amendment of section 98 of Bom. XI of 1947.*—In sub-section (1) of section 98, in clause (h), for the word "award", the words "effective award" shall be substituted; and after the said clause (h), the following new clauses shall be inserted, namely:—

"(i) where an industrial matter or industrial dispute is referred to a Wage Board for decision, before the date on which the decision comes into operation;

(i) in contravention of the terms of an effective decision of a Wage Board.'

22. *Insertion of new section 106-A in Bom. XI of 1947.*—After section 106 of the said Act, the following new section shall be inserted, namely :—

"106A. *Penalty for failure to appoint members on Joint Committee*—Any employer who fails to appoint members of a Joint Committee to be constituted on an application made by the union within the period specified in the order made under sub-section (1) of section 49 shall, on conviction, be punishable with fine which may extend to fifty rupees and in the case of a continuing failure with an additional fine which may extend to fifty rupees for every day during which such failure continues."

23. *Amendment of section 115 of Bom. XI of 1947*—In the marginal note to section 115 of the said Act, for the words "Labour Court or Industrial Court" the words "Wage Board or Labour Court" shall be substituted and in the said section 115, for the words "Labour Court or the Industrial Court" the words "Wage Board or Labour Court" shall be substituted.

24. *Amendment of section 118 of Bom. XI of 1947.*—In section 118 of the said Act, in sub-sections (1) and (2) after the word "Conciliator" the words "a Wage Board" shall be inserted

25. *Insertion of new section 118A in Bom. XI of 1947.*—After section 118 of the said Act, the following new section shall be inserted, namely :—

"118A. *Offences under section 104 cognizable.*—The offence under section 104 shall be cognizable."

26. *Amendment of section 119 of Bom. XI of 1947.*—In section 119 of the said Act, after the word "Arbitrator" the words "a member of a Wage Board" shall be inserted.

27. *Insertion of new sections 119-A and 119-B in Bom. XI of 1947.*—After section 119 of the said Act the following new sections shall be inserted, namely :—

"119A. *Contempt of Industrial Court, Labour Courts and Wage Boards relating to omission to produce documents, etc.*—(1) If any person—

(a) when ordered by the Industrial Court or a Labour Court or a Wage Board to produce or deliver up any document, being legally bound intentionally omits to do so ; or

(b) when required by the Industrial Court or a Labour Court or a Wage Board to bind himself by an oath or affirmation to state the truth refuses to do so ; or

(c) being legally bound to state the truth on any subject to the Industrial Court or a Labour Court or a Wage Board refuses to answer any question demanded of him touching such subject by such Court or Board ; or

(d) intentionally offers any insult or causes any interruption to the Industrial Court or a Labour Court or a Wage Board at any stage of its judicial proceeding, he shall, on conviction, be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

(2) If any person refuses to sign any statement made by him when required to do so by the Industrial Court or a Labour Court or a Wage Board, he shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

(3) If any offence under sub-section (1) or (2) is committed in the view or presence of the Industrial Court or a Labour Court or a Wage Board, as the case may be, such Court or Wage Board may, after recording the facts constituting the offence and the statement of the accused as provided in the Code of Criminal Procedure, 1898 (V of 1898), forward the case to a magistrate having jurisdiction to try the same and may require security to be given for the appearance of the accused person before such magistrate or, if sufficient security is not given, shall forward such person in custody to such magistrate. The magistrate to whom any case is so forwarded shall proceed to hear the complaint against the accused person in the manner provided in the said Code of Criminal Procedure.

119B. Other kinds of contempts of Industrial Court, Labour Courts and Wage Boards.—(1) If any person commits any act or publishes any writing, which is calculated to improperly influence the Industrial Court, or a Labour Court or a Wage Board or to bring such Court, Board, or a member or a Judge thereof into disrepute or contempt or to lower its or his authority, or to interfere with the lawful process of any such Court or Board such person shall be deemed to be guilty of contempt of such Court or Board, as the case may be.

(2) In the case of contempt of itself the Industrial Court shall record the facts constituting such contempt and make a report in that behalf to the High Court.

(3) In the case of contempt of a Wage Board or a Labour Court, such Board or Court shall record the facts constituting such contempt and make a report in that behalf to the Industrial Court; and thereupon the Industrial Court may, if it considers it expedient to do so, forward the report to the High Court.

(4) When any intimation or report in respect of any contempt is received by the High Court under sub-section (2) or (3), the High Court shall deal with such contempt as if it were contempt of itself and shall have and exercise in respect of it the same jurisdiction, powers and authority in accordance with the same procedure and practice as it has and exercises in respect of contempt of itself."

28 Amendment of section 123 of Bom. XI of 1947.—In sub-section (2) of section 123 of the said Act,—

(i) in clause (m) after the words "the officers" the words "and members of approved unions" shall be inserted;

(ii) in clause (2) for the words, bracket and figure "the manner of nomination of members by the union under sub-section (1)" the following shall be substituted, namely:—

"the number of members of a Joint Committee, the manner of nomination of members, by the union and the manner of giving copies of orders under sub-section (1) and";

(iii) after clause (ah) the following new clauses shall be inserted, namely:—

"(aha) the other industrial matters and disputes under sub-section (1) of section 86C;

(ahb) the rules of procedure to be followed by a Wage Board under section 86E;"

(iv) in clause (al) after the word "Conciliator" the words "a Wage Board" shall be inserted.

The Bombay Borstal Schools (Amendment) Act, 1948.

Received the assent of the Governor General on the 8th April 1948 and is published in the *Bombay Government Gazette*, Part IV, dated the 1st May 1948.

Bombay Act No. XXXIX of 1948

An Act to amend the Bombay Borstal Schools Act, 1929.

WHEREAS it is expedient to amend the Bombay Borstal Schools Act, 1929 (Bom. XVIII of 1929), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Bombay Borstal Schools (Amendment) Act, 1948.

2. *Amendment of section 11 of Bom. XVIII of 1929.*—In sub-section (1) of section 11 of the Bombay Borstal Schools Act, 1929 (Bom. XVIII of 1929), hereinafter called the said Act,—

(i) for the words “passed either before or after the commencement of this Act” the words and figures “passed under any law or undergoing imprisonment under an order made under section 123, of the Code of Criminal Procedure, 1898 (V of 1898), for failure to give security” shall be substituted;

(ii) after the words “his sentence” the words “or of the period of imprisonment which he is liable to undergo for failure to give security, as the case may be”, shall be inserted; and

(iii) after the word “sentenced” the words “or the period of imprisonment which he is liable to undergo for failure to give security, as the case may be”, shall be inserted.

3. *Amendment of section 12 of Bom. XVIII of 1929.*—In sub-section (1) of section 12 of the said Act,—

(i) after the words “to exercise” the words “or to be likely to exercise” shall be inserted; and

(ii) after the words “twenty years of age” the words, figures and brackets “or where a licence granted under section 14 is revoked by the Provincial Government under clause (ii) of the proviso to sub-section (1) of section 15 or is, in the opinion of the Provincial Government, otherwise unsuitable for training in a Borstal school”, shall be inserted.

4. *Amendment of section 13 of Bom. XVIII of 1929.*—In sub-section (2) of section 13 of the said Act, after the words “in British India” the words “or in an Acceding State” shall be inserted.

5. *Amendment of section 13A of Bom. XVIII of 1929.*—In section 13A of the said Act,—

(i) in sub-section (1)—

(a) after the words “British India” the words “or in an Acceding State” shall be inserted;

(b) after the words “the said province” the words “or the Government of the said Acceding State” shall be inserted; and

(ii) in sub-section (2) after the words “British India” the words “or in an Acceding State” shall be inserted.

6. *Insertion of new section 13B in Bom. XVIII of 1929.*—After section 13A of the said Act, the following new section shall be inserted, namely:—

“13B. *Removal of person detained to civil hospital in Province for medical treatment.*—(1) If an offender detained in a Borstal School is suffering from any illness and the Inspector-General is satisfied that it is not possible to render to him proper medical care or treatment in the school, the Inspector-General may provide for the removal of such offender to any civil

hospital in the Province for the purposes of undergoing medical treatment and for his return to the school after such treatment is undergone.

(2) The period during which an offender is absent from a Borstal school under sub-section (1) shall, for the purposes of computing his term of detention in the school, be deemed to be part of that detention."

7. *Amendment of section 14 of Bom. XVIII of 1929.*—After sub-section (1) of section 14 of the said Act, the following new sub-section shall be inserted, namely:—

"(1A) The Inspector-General may, subject to the prescribed conditions, discharge any offender who had been previously granted a licence but whose licence was subsequently revoked under section 15 and grant him a fresh written licence and in such case the provisions of this Act shall apply as if such fresh licence had been granted under sub-section (1)."

8. *Amendment of section 16 of Bom. XVIII of 1929.*—In section 16 of the said Act,

(1) in sub-section (1)—

(i) for the words "and shall, at the request of" the words "and in the case of a request made by" shall be substituted;

(ii) after the words "permitted to live" the words, figures and letters "shall, after considering the report of the Investigating Committee submitted to him under section 17B" shall be inserted; and

(iii) at the end, the following proviso shall be added, namely:—

"Provided that if the Investigating Committee report that the conduct of the offender has been such that he is unfit for detention in a Borstal school, the Inspector-General shall forward the report of the Investigating Committee to the Provincial Government and the Provincial Government may—

(i) direct the Inspector-General to revoke the licence as provided in this sub-section or

(ii) itself revoke the licence and commute the unexpired residue of the term of detention of the offender to a term of imprisonment as provided in section 12."

(2) after sub-section (2) the following new sub-section shall be inserted, namely:—

"(3) On the revocation of a licence under sub-section (2), the period beginning from the date on which the offender removed himself from supervision till the date on which he is arrested shall, subject to the provisions of section 17, be excluded in computing the period for which he has been ordered to be detained in a Borstal school."

9. *Amendment of section 16 of Bom. XVIII of 1929.*—In section 16 of the said Act,—

(1) in sub-section (1) after the word "conduct" the words "or progress" shall be inserted; and

(ii) for sub-section (2), the following shall be substituted, namely:—

"(2) The Provincial Government may, after considering the report of the Investigating Committee forwarded to it under section 17B, direct that the offender who is under supervision in accordance with sub-section (1) shall—

(a) again be detained in a Borstal school for such period as it may think fit, or

(b) if the Investigating Committee report that the conduct of the offender has been such that he is unfit for detention in a Borstal school,

undergo imprisonment of such description and for such period as it may direct :

Provided that the total period of supervision, detention and imprisonment under this section shall not exceed one year.

(3) The provisions of sub-section (a) of section 12 shall apply when an offender is directed to undergo imprisonment under sub-section (2) of this section."

10. *Insertion of new section 17B in Bom. XVIII of 1929.*—After section 17A of the said Act, the following new section shall be inserted, namely—

"17B. *Investigating Committee to investigate into complaints against offenders discharged on probation, etc.*—(1) The Provincial Government may, by notification in the Official Gazette, appoint an Investigating Committee.

(2) The Inspector-General may, by an order in writing, require any offender—

(a) who is discharged on licence under section 14 or who is placed under supervision under section 16, and who is reported by the authority, institution, society or person under whose supervision he has been permitted to live or has been directed to remain, to be of bad behaviour, or

(b) who has broken any of the conditions of the licence granted to him under section 14,

to appear before the Investigating Committee within such time and at such place as may be specified in the order.

(3) The Investigating Committee shall examine the offender and after making such inquiry as it thinks fit into his conduct submit its report to the Inspector-General. If the Investigating Committee report that the conduct of such offender has been such that he is unfit for further detention in a Borstal school and in every case where an offender had been directed to remain under supervision under section 16, the Inspector-General shall forward a copy of the report of the Investigating Committee to the Provincial Government.

(4) The offender shall, during the period of the proceedings under this section, be detained in a Borstal school or in a special ward, or such other suitable part of a prison as the Inspector-General may by general or special order direct.

(5) If the offender fails to appear before the Investigating Committee in accordance with the order made under sub-section (2) or escapes while detained under sub-section (4), he may, on the requisition of the Inspector-General or any officer authorized by him in this behalf, be arrested by any officer of police without warrant and without an order of a Magistrate and brought before the Investigating Committee or sent under custody to the place of detention under sub-section (4), as the case may be.

(6) The period beginning from the date on which the order under sub-section (2) is passed by the Inspector-General and ending with the day on which an order is passed by the Inspector-General under section 15 or by the Provincial Government under section 15 or 16, as the case may be, shall be excluded in computing the total term of his detention in a Borstal school or in computing the period of one year referred to in section 16."

11. *Amendment of section 18 of Bom. XVIII of 1929.*—In section 18 of the said Act, after the words "from a Borstal school" the words "or has escaped from a civil hospital to which he was removed for treatment under section 13B" and after the words "to the Borstal school" the words "or to the civil hospital" shall be inserted.

12. *Amendment of section 19 of Bom. XVIII of 1929.*—In sub-section (2) of section 19 of the said Act, after clause (1) the following new clause shall be inserted, namely :—

“(m) the constitution, procedure, powers and duties of the Investigating-Committee.”

13. *Amendment of section 21 of Bom. XVIII of 1929.*—The proviso to section 21 of the said Act shall be deleted.

The Bombay Town Planning (Amendment) Act, 1948.

Received the assent of the Governor on the 15th November 1948 and is published in the *Bombay Government Gazette*, Part IV, dated the 19th November 1948.

Bombay Act No. LV of 1948.

An Act to amend the Bombay Town Planning Act, 1915.

WHEREAS it is expedient to amend the Bombay Town Planning Act, 1915 (Bom. I of 1915), for the purposes hereinafter appearing ; It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Bombay Town Planning (Amendment) Act, 1948.

2. *Amendment of section 2 of Bom. I of 1915.*—To clause (a) of section 2 of the Bombay Town Planning Act, 1915 (Bom. I of 1915), hereinafter called the said Act, the words and figures “or a panchayat established under the Bombay Village Panchayats Act, 1933 (Bom. VI of 1933)” shall be added.

3. *Amendment of section 9 of Bom. I of 1915.*—In sub-section (1) of section 9 of the said Act, for the words “in any other municipal or notified area” the words “in the area over which any other local authority has jurisdiction” shall be substituted.

4. *Amendment of section 33 of Bom. I of 1915.*—In sub-section (2) of section 33 of the said Act,—

(1) for the words “the City of Bombay” the words “Greater Bombay” shall be substituted ;

(2) the portion beginning with the words “in the district” and ending with the words “the Judicial Commissioner” shall be deleted.

5. *Insertion of new section 51-A in Bom. I of 1915.*—Section 51-A of the said Act shall be re-numbered as section 51-B and after section 51, the following new section shall be inserted, namely :—

“51-A. *Power of Provincial Government to acquire lands included in a town planning scheme.*—(1) If at any time the Provincial Government is of opinion that any land included in a town planning scheme is needed for a public purpose other than that for which it is included in the scheme, it may make a declaration to that effect in the *Official Gazette* in the manner provided in section 6 of the Land Acquisition Act, 1894 (I of 1894). The declaration so published shall, notwithstanding anything contained in the said Act, be deemed to be a declaration duly made under the said section.

(2) On the publication of a declaration under sub-section (1), the Collector shall proceed to take order for the acquisition of the land and the provisions of the Land Acquisition Act, 1894 (I of 1894), shall so far as may be apply to the acquisition of the said land.

(3) In the proceedings under the Land Acquisition Act, 1894 (I of 1894), the local authority concerned shall be deemed to be a person interested in the land acquired and in determining the amount of compensa-

tide to be awarded to the local authority, the Collector or the Court, as the case may be, may take into consideration the value, if any, paid by the local authority for the acquisition of the said land under section 51 or otherwise, and the proportionate cost of the scheme, if any, incurred by the local authority and rendered abortive by reason of the variation of the scheme on account of such acquisition.

(4) On the land vesting in the Crown under section 16 or 17 of the Land Acquisition Act, 1894 (I of 1894), as the case may be, the scheme shall be deemed to have been suitably varied by reason of acquisition of the land.

The Bombay Weights and Measures (Amendment) Act, 1948.

Received the assent of the Governor on the 17th November 1948 and is published in the *Bombay Government Gazette*, Part, IV, dated the 22nd November 1948.

Bombay Act No. LVI of 1948.

An Act to amend the Bombay Weights and Measures Act, 1932.

WHEREAS it is expedient to amend the Bombay Weights and Measures Act, 1932 (Bom. XV of 1932), for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Bombay Weights and Measures (Amendment) Act, 1948.

2. *Amendment of preamble to Bom. XV of 1932.*—In the preamble to the Bombay Weights and Measures Act, 1932 (Bom. XV of 1932), hereinafter referred to as the said Act, after the words "said presidency", the words "and for certain other matters hereinafter appearing" shall be inserted.

3. *Amendment of section 3 of Bom. XV of 1932.*—In section 3 of the said Act, after clause (b), the following new clause shall be inserted, namely:—

"(8A) 'Stamping' includes casting, engraving, etching, branding, or otherwise marking in such manner as to be, so far as practicable, indelible and the expression "stamp" and other expressions relating thereto shall be construed accordingly;"

4. *Insertion of new section 11A in Bom. XV of 1932.*—After section 11 of the said Act, the following new section shall be inserted, namely:—

"11A. *Use of standard weights and measures for particular trades.*—(1) Government may, by notification in the Official Gazette, declare that such standard weights or measures or weighing or measuring instruments shall, notwithstanding anything contained in this Act, be used for such trade or class of trades in such area from such date and subject to such conditions as may be specified in the notification.

(2) On and from the date specified in the notification under sub-section (1), no weight or measure or weighing or measuring instrument other than the one specified in such notification shall be used in such trade or class of trades."

5. *Insertion of new section 12A in Bom. XV of 1932.*—After section 12 of the said Act, the following new section shall be inserted, namely:—

"12A. *Custom for excess or less quantity to be demanded or received void.*—Any custom, usage, practice or method of whatever nature which permits in any trade a seller or a buyer to demand, receive or cause to be

demanded or received any quantity of article in excess of or less than the quantity fixed by the weight or measure by which the contract or dealing for the sale of the said article has been made shall be void."

6. *Amendment of marginal note to section 13 of Bom. XV of 1932.*—For the marginal note to section 13 of the said Act, the following shall be substituted, namely:—

"Denomination."

7. *Insertion of new section 20A in Bom. XV of 1932.*—After section 20 of the said Act, the following new section shall be inserted, namely:—

"20A. *Requiring persons, dealers, etc., to keep books, accounts and records.*—(1) Every person using weights or measures or weighing or measuring instruments for trade shall maintain such records, and

(2) every dealer, repairer or manufacturer in any weights or measures or weighing or measuring instruments shall maintain such books, accounts and records,

relating to weights or measures or weighing or measuring instruments and in such manner as may be prescribed and shall produce them for inspection in such manner as may be prescribed."

8. *Insertion of new section 31A in Bom. XV of 1932.*—After section 31 of the said Act, the following new section shall be inserted, namely:—

"31A. *Penalty for use of weight or measure in contravention of section 11A.*—Whoever uses any weight or measure or weighing or measuring instrument in contravention of any notification issued under section 11A shall, on conviction, be punished with imprisonment of either description which may extend to three months or with fine which may extend to rupees five hundred or with both."

9. *Amendment of section 33 of Bom. XV of 1932.*—In section 33 of the said Act, after the word "sells" the words "or causes to be sold" shall be inserted.

10. *Amendment of section 37 of Bom. XV of 1932.*—In section 37 of the said Act, after the word "delivers" the words "or causes to be sold or delivered" shall be inserted.

11. *Amendment of section 38 of Bom. XV of 1932.*—In sub-section (1) of section 38 of the said Act, after the word "instrument" where it occurs for the first time, the words "or possesses any such counterfeit stamp" shall be inserted.

12. *Insertion of new section 39A in Bom. XV of 1932.*—After section 39 of the said Act, the following new section shall be inserted, namely:—

"39A. *Penalty for demanding or receiving articles in excess of or less than quantity fixed by weight or measure.*—Whoever in contravention of the provisions of section 12A, demands, receives or causes to be demanded or received any quantity of article sold or bought shall, on conviction, be punished with fine which may extend to rupees three hundred."

13. *Amendment of section 41 of Bom. XV of 1932.*—In sub-section (2) of section 41 of the said Act,—

(i) after clause (i), the following new clause shall be inserted, namely:—

"(ii) the books, accounts and records relating to weights or measures or weighing or measuring instruments to be maintained and the manner in which they shall be maintained or produced ;";

(ii) after clause (mm), the following new clause shall be inserted, namely:—

“(mmm) the method of using weight or measure or weighing or measuring instrument generally or for a specified class of trade;”;

(iii) after sub-section (3), the following new sub-section shall be inserted, namely :—

“(4) the rules may provide that any person committing a breach of the same shall, on conviction, be punishable with fine which may extend to rupees one hundred.”

The Indian Tramways (Bombay Amendment) Act, 1948.

Received the assent of the Governor on the 15th October 1948 and is published in the *Bombay Government Gazette*, Part IV, dated the 22nd October 1949.

Bombay Act No. L of 1948.

An Act to amend the Indian Tramways Act, 1886, in its application to the Province of Bombay.

WHEREAS it is expedient to amend the Indian Tramways Act, 1886 (XI of 1886), in its application to the Province of Bombay, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Indian Tramways (Bombay Amendment) Act, 1948.

2. *Amendment of section 7 of Act XI of 1886.*—In sub-section (1) of section 7 of the Indian Tramways Act, 1886 (XI of 1886), hereinafter called the said Act, after the words “public traffic” the words “or private use, as the case may be” shall be inserted.

3. *Amendment of sections 10 and 12 of Act XI of 1886.*—In clause (c) of sub-section (1), and in sub-section (2), of section 10, and in section 12, of the said Act, after the words “public traffic”, the words “or private use” shall be inserted.

4. *Insertion of new section 49 in Act XI of 1886.*—After section 48 of the said Act, the following new section shall be inserted, namely :—

“49. *Application of Act to tramways for private use.*—Notwithstanding anything contained in this Act, the Provincial Government may, by notification in the *Official Gazette*, exempt any tramway, which is not, or when completed will not be, a federal railway, as defined in sub-section (2) of section 311 of the Government of India Act, 1935 (26 Geo. 5, c. 2), and which is constructed and maintained for private use, from the operation of any provisions of this Act or declare that any provisions of this Act shall apply to such tramway with such modifications as may be specified in the notification.”

The Bombay Agricultural Produce Markets (Amendment) Act, 1948.

Received the assent of the Governor on the 18th November 1948 and is published in the *Bombay Government Gazette*, Part IV, dated the 29th November 1948.

Bombay Act No. LVII of 1948.

An Act to amend the Bombay Agricultural Produce Markets Act, 1939.

WHEREAS it is expedient to amend the Bombay Agricultural Produce Markets Act, 1939 (Bom. XXII of 1939), for the purposes hereinafter appearing ; It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Bombay Agricultural Produce Markets (Amendment) Act, 1948.

2. *Amendment of section 2 of Bom. XXII of 1939.*—In sub-section (1)

of section 2 of the Bombay Agricultural Produce Markets Act, 1939 (Bom. XXII of 1939) (hereinafter referred to as the said Act),—

(1) for clause (iv), the following shall be substituted, namely :—

“(iv) ‘Director’ means the Director of Agricultural Marketing and Rural Finance for the Province of Bombay ;”

(2) after clause (ix), the following shall be inserted, namely :—

“(ixa) ‘retail sale’ means a sale of any agricultural produce not exceeding such quantity as a market committee may by bye-laws made under section 27 determine to be retail sale in respect of such agricultural produce ;”

3. *Amendment of section 4 of Bom. XXII of 1939.*—In the Explanation to sub-section (2) of section 4 of the said Act, after the words “for his own private use” the words “or if the agricultural produce is sold by a retail sale to a person who purchases such produce for his own private use” shall be added.

4. *Amendment of section 6 of Bom. XXII of 1939.*—In section 6 of the said Act,—

(i) in sub-section (3), after the words “two years” the words “from the date of the first general meeting of the market committee” shall be inserted ;

(ii) to sub-section (5), the words “and another member to be its vice-chairman” shall be added.

5. *Amendment of section 26 of Bom. XXII of 1939.*—In sub-section (2) of section 26 of the said Act,—

(i) in clause (b), after the word “exercised” the words “and the duties to be performed” shall be inserted ;

(ii) in clause (c),—

(a) after the word “chairman” the words “and the vice-chairman” shall be inserted, and

(b) for the word “his” the word “their” shall be substituted ;

(iii) in clause (d), after the word “chairman” the words, “vice-chairman” shall be inserted ;

(iv) for clause (e), the following shall be substituted, namely :—

“(e) the management of the market, maximum fees which may be levied by the market committee in respect of agricultural produce bought and sold by persons holding a licence under the Act in the market area ;”

(v) in clause (f),—

(a) for the words “brokers, weighmen, measurers and surveyors” the words “traders, commission agents, brokers, weighmen, measurers, surveyors, warehousemen and other persons operating in the market” shall be substituted,

(b) the words “and the conditions subject to which the licensees shall carry on their business” shall be deleted ;

(vi) in clause (s), for the words “or dalals” the words, “commission agents or traders” shall be substituted ;

(vii) after clause (v), the following shall be inserted, namely :—

“(w) the manner in which auctions of agricultural produce shall be conducted and bids made and accepted in any markets ;

(x) the recovery and disposal of fees leviable by or under the Act.”

6. *Insertion of new section 29A in Bom. XXII of 1939.*—After section 29 of the said Act, the following new section shall be inserted, namely :—

“29A. *Validation of acts of Director.*—Notwithstanding anything contained in this Act, all reports submitted under sub-section (3) of section 4

and sanctions given to bye-laws under sub-section (1) of section 27 and all things done by or on behalf of the Director of Agricultural Marketing and Rural Finance for the Province of Bombay purporting to act in exercise of the powers as the Director before the date on which the Bombay Agricultural Produce Markets (Amendment) Act, 1948 (Bom. LVII of 1948), came into force, shall be deemed to be and always to have been validly submitted, given or done, as the case may be, as required by or under this Act and shall not be deemed to be invalid or called in question merely on the ground that such report was submitted or sanction was given or thing was done by or on behalf of the said Director of Agricultural Marketing and Rural Finance before the said date."

The Press and Registration of Books (Bombay Amendment) Act, 1948.

Received the assent of the Governor-General on the 24th November 1948 and is published in the *Bombay Government Gazette*, Part IV, dated the 3rd December 1948.

Bombay Act No. LXI of 1948.

An Act to amend the Press and Registration of Books Act, 1867, in its application to the Province of Bombay.

WHEREAS it is expedient to amend the Press and Registration of Books Act, 1867 (XXV of 1867), in its application to the Province of Bombay, for the purposes hereinafter appearing; It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Press and Registration of Books (Bombay Amendment) Act, 1948.

2. *Amendment of section 9 of Act XXV of 1867.*—In section 9 of the Press and Registration of Books Act, 1867 (XXV of 1867) (hereinafter called the said Act),—

(a) to the marginal note, the words "and to notified libraries" shall be added; and

(b) after the first paragraph, the following new paragraph shall be inserted, namely :—

"Such number of copies of the book not exceeding five shall also be delivered by the printer, free of expense, to such public libraries as the Provincial Government may, by notification in the Official Gazette, from time to time specify, within one calendar month after the day on which any such book shall first be delivered out of the press."

3. *Amendment of section 10 of Act XXV of 1867.*—In section 10 of the said Act, after the word "officer" the words "or the person in charge of the library, as the case may be," shall be inserted.

4. *Amendment of section 16 of Act XXV of 1867.*—In section 16 of the said Act,—

(a) after the words "in this behalf" the words "or on the application of the person in charge of the library to whom a copy of the book should have been delivered," shall be inserted; and

(b) for the word "second" the word "third" shall be substituted.

The Indian Forest (Bombay Amendment) Act, 1948.

Received the assent of the Governor on the 26th November 1948 and is published in the *Bombay Government Gazette*, Part IV, dated the 4th December 1948.

Bombay Act No. LXII of 1948.

An Act to amend the Indian Forest Act, 1927, in its application to the Province of Bombay.

WHEREAS it is expedient to amend the Indian Forest Act, 1927 (XVI of 1927), in its application to the Province of Bombay, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Indian Forest (Bombay Amendment) Act, 1948.

2. *Amendment of section 28 of Act XVI of 1927.*—In section 28 of the Indian Forest Act, 1927 (XVI of 1927) (hereinafter called the said Act),—

(i) in sub-section (1), after the words “reserved forest” the words “or called a protected forest” shall be inserted; and

(ii) in sub-section (3),—

(a) after the word “reserved” the words “or protected” shall be inserted; and

(b) after the words “village forests” the words “according as the forests assigned are reserved or protected forests” shall be inserted.

3. *Insertion of new section 34A in, and amendment of section 35 of, Act XVI of 1927.*—(1) For sub-section (1) of section 35 of the said Act, the following shall be substituted, namely:—

“34A. *Interpretation.*—For the purposes of this Chapter ‘forest’ includes any land containing trees and shrubs, pasture lands and any other land whatsoever which the Provincial Government may, by notification in the Official Gazette, declare to be a forest.

35. (1) The Provincial Government may, by notification in the Official Gazette,—

(i) regulate or prohibit in any forest—

(a) the breaking up or clearing of the land for cultivation;

(b) the pasturing of cattle;

(c) the firing or clearing of the vegetation;

(d) the girdling, tapping or burning of any tree or the stripping off the bark or leaves from any tree;

(e) the lopping and pollarding of trees;

(f) the cutting, sawing, conversion and removal of trees and timber;

or

(g) the quarrying of stone or the burning of lime or charcoal or the collection or removal of any forest produce or its subjection to any manufacturing process;

(ii) regulate in any forest the regeneration of forests and their protection from fire;

when such regulation or prohibition appears necessary for any of the following purposes:—

(a) for the conservation of trees and forests;

(b) for the preservation and improvement of soil or the reclamation of saline or water-logged land, the prevention of landslips or of the formation of ravines and torrents or the protection of land against erosion, or the deposit thereon of sand, stones or gravel;

- (c) for the improvement of grazing ;
- (d) for the maintenance of a water supply in springs, rivers and tanks ;
- (e) for the maintenance, increase and distribution of the supply of fodder, leaf manure, timber or fuel ;
- (f) for the maintenance of reservoirs or irrigation works and hydro-electric works ;
- (g) for protection against storms, winds, rolling stones, floods and drought ;
- (h) for the protection of roads, bridges, railways and other lines of communication ; and
- (i) for the preservation of the public health."
- (2) In sub-section (2) of section 35 of the said Act for the words "in or upon any forest or wasteland" the words "in any forest" shall be substituted.
- (3) In sub-section (3) of section 35 of the said Act the words "or land" shall be deleted.
- 4. *Amendment of section 36 of Act XVI of 1927.*— In section 36 of the said Act—
 - (i) the words "or land" wherever they occur shall be deleted ;
 - (ii) in sub-section (1), after the word "reserved" the words "or protected" shall be inserted.
- 5. *Amendment of section 37 of Act XVI of 1927.*— In section 37 of the said Act—
 - (i) in sub-section (1) the words "or land" shall be deleted ;
 - (ii) sub-section (2) shall be deleted.

The Bombay District Police and the City of Bombay Police (Second Amendment) Act, 1948.

Received the assent of the Governor on the 28th November 1948 and is published in the *Bombay Government Gazette*, Part IV, dated the 6th December 1948.

Bombay Act No. LXIII of 1948.

An Act to amend the Bombay District Police Act, 1890, and the City of Bombay Police Act, 1902.

WHEREAS it is expedient to amend the Bombay District Police Act, 1890 (Bom. IV of 1890), and the City of Bombay Police Act, 1902 (Bom. IV of 1902), for the purposes hereinafter appearing ; It is hereby enacted as follows :—

1. *Short title.*— This Act may be called the Bombay District Police and the City of Bombay Police (Second Amendment) Act, 1948.

2. *Amendment of section 46 of, and insertion of new section 79A in Bom. IV of 1890.*— In the Bombay District Police Act, 1890 (Bom. IV of 1890),—

(1) in section 46—

(a) in sub-section (4) for the words and figures beginning with the words and figures "under Chapter XII" and ending with the figures "1930", the following shall be substituted, namely :—

"under—

(i) Chapter XII, XVI or XVII of the Indian Penal Code (XLV of 1861),

- (ii) section 43 of the Bombay Abkari Act, 1878 (Bom. 1878).
- (iii) section 9 of the Opium Act, 1878 (I of 1878),
- (iv) Chapter III of the Dangerous Drugs Act, 1930 (II of 1930), or
- (v) section 4 or 12A of the Bombay Prevention of Gambling Act, 1887 (Bom. IV of 1887);

(b) in sub-section (6) —

(i) after the word "who" the words and figures "has been twice convicted of an offence under section 6, 9 or 22 of the Bombay Beggars Act, 1945 (Bom. XXIII of 1945), or under the Bombay Prevention of Prostitution Act, 1923 (Bom. XI of 1921), or who"; and

(ii) after the figures "1930," the words and figures "or section 4 or 12A of the Bombay Prevention of Gambling Act, 1887 (Bom. IV of 1887)," shall be inserted;

(2) after section 79 the following new section shall be inserted, namely:—

"79A. *Suspension and revocation of licences.*— Any licence granted under the provisions of this Act may at any time be suspended or revoked by the District Magistrate, if any of its conditions or restrictions is infringed or evaded by the person to whom it has been granted, or if such person is convicted of any offence in any matter to which such licence relates.

Explanation.— For the purpose of this section any such infringement or evasion by, or conviction of, a servant or other agent acting on behalf of a person to whom the licence has been granted shall be deemed to be infringement or evasion by, or as the case may be, conviction of, the person to whom the licence has been granted."

3. *Amendment of sections 27, 33 and 127 of Bom. IV of 1902.*— In the City of Bombay Police Act, 1902 (Bom. IV of 1902),—

(1) in sub-section (2A) of section 27 for the words and figures beginning with the words and figures "under Chapter XII" and ending with the figures "1930," the following shall be substituted, namely:—

"under—

(i) Chapter XII, XVI or XVII of the Indian Penal Code (XLV of 1860),

(ii) section 43 of the Bombay Abkari Act, 1878 (Bom. V of 1878),

(iii) section 9 of the Opium Act, 1878 (I of 1878),

(iv) Chapter III of the Dangerous Drugs Act, 1930 (II of 1930), or

(v) section 4 or 12A of the Bombay Prevention of Gambling Act, 1887 (Bom. IV of 1887).";

(2) in clause (i) of section 33—

(i) for the words, brackets and figures "clause (i) or (ii) of section 127" the words, brackets, figures and letter "clause (i), (ia) or (ii) of section 127" shall be substituted;

(ii) for the words "occupation of a street" the words "occupation of, or sale or exposure for sale of any goods on, any street or portion thereof" shall be substituted;

(3) in section 127—

(i) in clause (1) the brackets and letter "(b)" shall be deleted; and

(ii) after clause (i) the following shall be inserted, namely:—

"(ia) for any contravention of a rule made under clause (b) of section 22,—

(a) if the rule contravened prohibits the sale or exposure for sale of any goods on any street or portion thereof so as to cause obstruction to traffic or inconvenience to the public, be punished—

(i) for the first offence, with imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees or with both, and

(ii) for a subsequent offence, with imprisonment for a term which may extend to six months and with fine which may extend to five hundred rupees ; and

(b) if the rule contravened is any other rule, be punished with fine which may extend to fifty rupees ;”.

The Bombay Shops and Establishments Act, 1948.

Received the assent of the Governor-General on the 3rd January, 1949 and is published in the *Bombay Government Gazette*, Part IV, dated the 11th January 1949.

Bombay Act No. LXXIX of 1948.

An Act to consolidate and amend the law relating to the regulation of conditions of work and employment in shops, commercial establishments, residential hotels, restaurants, eating houses, theatres, other places of public amusement or entertainment and other establishments.

WHEREAS it is expedient to consolidate and amend the law relating to the regulation of conditions of work and employment in shops, commercial establishments, residential hotels, restaurants, eating houses, theatres, other places of public amusement or entertainment and other establishments and for certain other purposes hereinafter specified ; It is hereby enacted as follows :—

CHAPTER I.

Preliminary.

1. *Short title, extent and operation.*—(1) This Act may be called the Bombay Shops and Establishments Act, 1948.

(2) It extends to the whole of the Province of Bombay.

(3) It shall in the first instance come into force in the local areas specified in Schedule I.

(4) The Provincial Government shall by notification published in the *Official Gazette* direct that all or any of the provisions of this Act shall come into force in such other local areas having a population of twenty-five thousand and more as may be specified in the notification.

(5) The Provincial Government may also by a like notification direct that all or any of the provisions of this Act shall come into force in such local areas having population less than twenty-five thousand as may be specified in the notification.

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

(1) “Apprentice” means a person who is employed, whether on payment of wages or not, for the purpose of being trained in any trade, craft or employment in any establishment ;

(2) “Child” means a person who has not completed his twelfth year ;

(3) “Closed” means not open for the service of any customer or open to any business connected with the establishment ;

(4) “Commercial establishment” means an establishment which carries on any business, trade or profession or any work in connection with, or incidental or ancillary to any business, trade or profession and includes a society registered under the Societies Registration Act, 1860 (XXI of 1860), and a charitable or other trust, whether registered or not,

which carries on any business, trade or profession or work in connection with or incidental or ancillary thereto but does not include a factory, shop, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment ;

(5) "Day" means the period of twenty-four hours beginning at midnight :

Provided that in the case of an employee whose hours of work extend beyond midnight, day means the period of twenty-four hours beginning when such employment commences irrespective of midnight ;

(6) "Employee" means a person wholly or principally employed in, and in connection with, any establishment and includes an apprentice but does not include a member of the employer's family ;

(7) "Employer" means a person owning or having ultimate control over the affairs of an establishment ;

(8) "Establishment" means a shop, commercial establishment, residential hotel, restaurant, eating house, theatre, or other place of public amusement or entertainment to which this Act applies and includes such other establishment as the Provincial Government may, by notification in the *Official Gazette*, declare to be an establishment for the purposes of this Act ;

(9) "Factory" means any premises which is a factory within the meaning of clause (j) of section 2 of the Factories Act, 1934 (XXV of 1934), or which is declared to be a factory under section 5 of the said Act ;

(10) "Goods" includes all materials, commodities and articles ;

(11) "Holiday" means a day on which an establishment shall remain closed or on which an employee shall be given a holiday under the provisions of this Act ;

(12) "Inspector" means an Inspector appointed under section 48 ;

(13) "Leave" means leave provided for in Chapter VII of this Act ;

(14) "Local area" means any area or combination of areas to which this Act applies ;

(15) "Local authority" means a municipality constituted under the City of Bombay Municipal Act 1888 (Bom. III of 1888), the Bombay District Municipal Act, 1901 (B. m. III of 1901), or the Bombay Municipal Boroughs Act, 1925 (Bom. XVIII of 1925), or a local board constituted under the Bombay Local Boards Act, 1923 (Bom. VI of 1923) ;

(16) "Manager" means a person declared to be a manager under section 7 ;

(17) "Member of the family of an employer" means the husband, wife, son, daughter, father, mother, brother or sister of an employer who lives with and is dependent on such employer ;

(18) "Opened" means opened for the service of any customer ;

(19) "Period of work" means the time during which an employee is at the disposal of the employer ;

(20) "Prescribed" means prescribed by rules made under this Act ;

(21) "Prescribed authority" means the authority prescribed under the rules made under this Act ;

(22) "Register of establishments" means a register maintained for the registration of establishments under this Act ;

(23) "Registration certificate" means a certificate showing the registration of an establishment ;

(24) "Residential hotel" means any premises used for the reception

of guests and travellers desirous of dwelling or sleeping therein and includes a club ;

(25) "Restaurant or eating house" means any premises in which is carried on wholly or principally the business of the supply of meals or refreshments to the public or a class of the public for consumption on the premises ;

(26) "Schedule" means a Schedule appended to this Act ;

(27) "Shop" means any premises where goods are sold, either by retail or wholesale or where services are rendered to customers, and includes an office, a store room, godown, warehouse or work place, whether in the same premises or otherwise, used in connection with such trade or business but does not include a factory, a commercial establishment, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment ;

(28) "Spread over" means the period between the commencement and the termination of the work of an employee on any day ;

(29) "Theatre" includes any premises intended principally or wholly for the exhibition of pictures or other optical effects by means of a cinematograph or other suitable apparatus or for dramatic performances or for any other public amusement or entertainment ;

(30) "Wages" means wages as defined in the Payment of Wages Act, 1936 (IV of 1936) ;

(31) "Week" means the period of seven days beginning at midnight of Saturday ;

(32) "Year" means a year commencing on the first day of April ;

(33) "Young person" means a person who is not a child and has not completed his seventeenth year.

3. *Reference to time of day.*—References to the time of day in this Act are references to Indian standard time which is five and a half hours ahead of Greenwich mean time.

4. *Exemptions.*—Notwithstanding anything contained in this Act, the provisions of this Act mentioned in the third column of Schedule II shall not apply to the establishments, employees and other persons mentioned against them in the second column of the said Schedule :

Provided that the Provincial Government may, by notification published in the *Official Gazette*, add to, omit or alter any of the entries of the said Schedule and on the publication of such notification, the entries in either column of the said Schedule shall be deemed to be amended accordingly.

5. *Application of Act to other establishments and persons.*—(1) Notwithstanding anything contained in this Act, the Provincial Government may, by notification in the *Official Gazette*, declare any establishment or class of establishments to which, or any person or class of persons to whom this Act or any of the provisions thereof does not for the time being apply, to be an establishment or class of establishments or a person or class of persons to which or whom this Act or any provisions thereof with such modifications or adaptations as may in the opinion of the Provincial Government be necessary shall apply from such date as may be specified in the notification.

(2) On such declaration under sub-section (1), any such establishment or class of such establishments or such person or class of persons shall be deemed to be an establishment or class of establishments to which, or to be an employee or class of employees to whom, this Act applies and all

or any of the provisions of this Act with such adaptation or modification as may be specified in such declaration, shall apply to such establishment or class of establishments or to such employee or class of employees.

6. *Suspension of all or any of the provisions of this Act.*—The Provincial Government may, by notification in the Official Gazette, suspend the operation of all or any of the provisions of this Act for such period and subject to such conditions as it deems fit on account of any holidays or occasions.

CHAPTER II.

Registration of Establishments.

7. *Registration of establishments.*—(1) Within the period specified in sub-section (4), the employer of every establishment shall send to the Inspector of the local area concerned a statement, in a prescribed form together with such fees as may be prescribed, containing—

- (a) the name of the employer and the manager, if any;
- (b) the postal address of the establishment;
- (c) the name, if any, of the establishment;
- (d) the category of the establishment, i. e., whether it is a shop, commercial establishment, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment; and
- (e) such other particulars as may be prescribed.

(2) On receipt of the statement and the fees, the Inspector shall, on being satisfied about the correctness of the statement, register the establishment in the register of establishments in such manner as may be prescribed and shall issue, in a prescribed form, a registration certificate to the employer. The registration certificate shall be prominently displayed at the establishment.

(3) In the event of any doubt or difference of opinion between an employer and the Inspector as to the category to which an establishment should belong, the Inspector shall refer the matter to the prescribed authority which shall, after such inquiry as it thinks proper, decide the category of such establishment and its decision shall be final for the purposes of this Act.

(4) Within thirty days from the date mentioned in column 2 below in respect of an establishment mentioned in column 1, the statement together with fees shall be sent to the Inspector under sub-section (1):—

1 Establishments.	2 Date from which the period of 30 days to commence.
(i) Establishments existing in local areas mentioned in Schedule I on the date on which this Act comes into force.	The date on which this Act comes into force.
(ii) Establishments existing in local areas on the date on which this section comes into force.	The date on which this section comes into force in the local area.
(iii) New establishments in local areas mentioned in Schedule I and other local areas in which this section has come into force.	The date on which the establishment commences its work.

8. *Change to be communicated to Inspector.*—It shall be the duty of an employer to notify to the Inspector, in a prescribed form, any change in respect of any information contained in his statement under section 7

within seven days, after the change has taken place. The Inspector shall, on receiving such notice and the prescribed fees and on being satisfied about its correctness, make the change in the register of establishments in accordance with such notice and shall amend the registration certificate or issue a fresh registration certificate, if necessary.

9. *Closing of establishment to be communicated to Inspector.*—The employer shall, within ten days on his closing the establishment, notify to the Inspector in writing accordingly. The Inspector shall, on receiving the information and being satisfied about its correctness, remove such establishment from the register of establishments and cancel the registration certificate.

CHAPTER III.

Shops and Commercial Establishments.

10. *Opening hours of shops.*—(1) No shop—

(a) dealing wholly in milk, vegetables, fruits, fish, meat, bread or any other goods notified by the Provincial Government, shall on any day be opened earlier than 5 a. m. ;

(b) dealing in goods other than those specified in clause (a) of this sub-section, shall on any day be opened earlier than 7-0 a. m.

(2) Subject to the provisions of sub-section (1), the Provincial Government may fix later opening hours for different classes of shops or for different areas or for different periods of the year.

11. *Closing hours of shops.*—(1) Notwithstanding anything contained in any other enactment for the time being in force, no shop—

(a) dealing in goods other than those specified in clause (b) of this sub-section, shall on any day be closed later than 8-30 p. m.;

(b) dealing in *pan*, *bidi*, cigarettes, matches and other ancillary articles shall on any day be closed later than 11-0 p. m.

Provided that any customer who was being served or was waiting to be served at such closing hour in any shop may be served in such shop during the quarter of an hour immediately following such hour.

(2) Subject to the provisions of sub-section (1), the Provincial Government may fix earlier closing hours for different classes of shops or for different areas or for different periods of the year.

12. *Hawking prohibited before opening and after closing hours of shops.*—(1) No person shall carry on in or adjacent to a street or a public place the sale of any goods before the opening and after the closing hours fixed under sections 10 and 11 for the shops dealing in the same class of goods in the locality in which such street or public place is situate.

(2) Any person contravening the provisions of sub-section (1) shall be liable to have his goods seized by an Inspector :

Provided that the goods so seized shall be returned to him on his depositing rupees twenty-five as security for his appearance in Court.

13. *Opening and closing hours of commercial establishments.*—(1) No commercial establishment shall on any day be opened earlier than 8-30 a. m. and closed later than 8-30 p. m.

(2) Subject to the provisions of sub-section (1), the Provincial Government may fix later opening or earlier closing hours for different classes of commercial establishments or for different areas or for different periods of the year.

14. *Daily and weekly hours of work in shops and commercial establishments.*—(1) Subject to the provisions of this Act, no employee shall be

required or allowed to work in any shop or commercial establishment for more than nine hours in any day and forty-eight hours in any week.

(2) Any employee may be required or allowed to work in a shop or commercial establishment for any period in excess of the limit fixed under sub-section (1), if such period does not exceed three hours in any week.

(3) On not more than six days in a year which the Provincial Government may fix by rules made in this behalf, for purposes of making of accounts, stock taking, settlements or other prescribed occasions, any employee may be required or allowed to work in a shop or commercial establishment in excess of the period fixed under sub-section (1), if such excess period does not exceed twenty-four hours.

15. *Interval for rest in shops and commercial establishments.*—No employee shall be required or allowed to work in any shop or commercial establishment for more than five hours in any day unless he has had an interval for rest of at least one hour.

16. *Spread-over in shops.*—The spread-over of an employee in a shop shall not exceed eleven hours in any day :

Provided that in cases where any shop is on any day entirely closed for a continuous period of not less than three hours, the spread-over shall not exceed twelve hours in that day :

Provided also that where an employee works on any day in accordance with the provisions of sub-section (2) of section 14, the spread-over shall not exceed fourteen hours in any such day and where he works on any day in accordance with the provisions of sub-section (3) of the said section, the spread-over shall not exceed sixteen hours in any such day.

17. *Spread-over in commercial establishments.*—The spread-over of an employee in a commercial establishment shall not exceed eleven hours in any day :

Provided that the Provincial Government may increase the spread-over period subject to such conditions as it may impose either generally or in the case of a particular commercial establishment or class or classes of commercial establishments.

18. *Holidays in a week in shops and commercial establishments.*—(1) Every shop and commercial establishment shall remain closed on one day of the week. The employer shall fix such day at the beginning of the year, notify it to the Inspector and specify it in a notice prominently displayed in a conspicuous place in the shop or commercial establishment. The employer shall not alter such day more often than once in three months, shall notify the alteration to the Inspector and make the necessary change in the notice in the shop or commercial establishment.

(2) It shall not be lawful for an employer to call an employee at, or for an employee to go to, his shop or commercial establishment or any other place for any work in connection with the business of his shop or commercial establishment on a day on which such shop or commercial establishment remains closed.

(3) No deduction shall be made from the wages of any employee in a shop or commercial establishment on account of any day on which it has remained closed under this section. If an employee is employed on a daily wage, he shall none the less be paid his daily wage for the day on which such shop or commercial establishment remains closed.

CHAPTER IV.

Residential Hotels, Restaurants and Eating Houses.

19. Opening and closing hours of restaurants and eating houses.—(1) Notwithstanding anything contained in any other enactment for the time being in force, no restaurant or eating house shall on any day be opened earlier than 5 a. m. and closed later than 11 p. m. for service :

Provided that an employee in such restaurant or eating house may be required to commence work not earlier than 4-30 a. m. and shall not be required to work later than 11-10 p. m.:

Provided also that any customer who was being served or waiting to be served at the closing hour of such restaurant or eating house may be served in such restaurant or eating house during the quarter of an hour immediately following such hour.

(2) Subject to the provisions of sub-section (1), the Provincial Government may fix later opening or earlier closing hours for different restaurants or eating houses or for different areas or for different periods of the year

(3) Notwithstanding anything contained in this section or any other enactment for the time being in force, on not more than ten days in a year on festive or special occasions, the Provincial Government may, by notification in the *Official Gazette*, fix such opening and closing hours for different restaurants or eating houses or for different areas, as it thinks proper.

20. Restaurants and eating houses not to sell goods of the kind sold in shops before the opening and after the closing hours of shops.— Before and after the hours fixed for the opening and closing of shops under sections 10 and 11, no goods of the kind sold in such shops shall be sold in any restaurant or eating house except for consumption on premises.

21. Daily hours of work in residential hotels, restaurants and eating houses.— (1) Except on the days that may be notified under sub-section (3) of section 19, no employee shall be required or allowed to work in any residential hotel, restaurant or eating house for more than nine hours in any day.

(2) On the days which may be notified under sub-section (3) of section 19, any employee may be required or allowed to work in a residential hotel, restaurant or eating house in excess of the period fixed under sub-section (1), if such excess period does not exceed three hours in any day.

22. Interval for rest.— No employee shall be required or allowed to work in any residential hotel, restaurant or eating house for more than five hours in any day unless he has had an interval for rest of at least one hour.

23. Spread-over.— The spread-over of an employee in a residential hotel, restaurant or eating house shall not exceed fourteen hours :

Provided that the Provincial Government may increase the spread-over period subject to such conditions as it may impose on the days that may be notified under sub-section (3) of section 19.

24. Holidays in a week.— (1) Every employee in a residential hotel, restaurant or eating house shall be given at least one day in a week as a holiday :

Provided that nothing in this sub-section shall apply to an employee whose total period of employment in any week is less than six days.

(2) It shall not be lawful for an employer to call an employee at, or

for an employee to go to, his residential hotel, restaurant or eating house or any other place for any work in connection with the business of his residential hotel, restaurant or eating house on a day on which such employee has a holiday.

(3) No deduction shall be made from the wages of any employee in a residential hotel restaurant or eating house on account of any holiday given to him under sub-section (1). If an employee is employed on a daily wage, he shall none the less be paid his daily wage for a holiday.

25. Employer to furnish identity card to employee—The employer shall furnish every employee in a residential hotel, restaurant or eating house an identity card which shall be produced by the employee on demand by an Inspector. Such card shall contain the following and such other particulars as may be prescribed, namely :—

- (a) the name of employer ;
- (b) the name, if any, and the postal address, of the establishment ;
- (c) the name and age of the employee ;
- (d) the hours of work, the interval for rest and the holiday, of the employee.

CHAPTER V.

Theatres or other Places of Public Amusement or Entertainment.

26. Closing hours of theatres or other places of public amusement or entertainment.—Notwithstanding anything contained in any other enactment for the time being in force, no theatre or other place of public amusement or entertainment shall, on any day, be closed later than twelve midnight.

27. Theatres or other places of public amusement or entertainment not to sell goods of the kind sold in shops after the closing hours of shops.—After the hour fixed for the closing of shops under section 11, no goods of the kind sold in a shop shall be sold in any theatre or other place of public amusement or entertainment except for consumption on premises.

28. Daily hours of work in theatres or other places of public amusement or entertainment—No employee shall be required or allowed to work in any theatre or other place of public amusement or entertainment for more than nine hours in any day.

29. Interval for rest.—No employee shall be required or allowed to work in any theatre or other place of public amusement or entertainment for more than five hours in any day unless he has had an interval for rest of at least one hour.

30. Spread-over.—The spread-over of an employee in a theatre or other place of public amusement or entertainment shall not exceed eleven hours in any day.

Provided that the Provincial Government may increase the spread-over period subject to such conditions as it may impose either generally or in the case of a particular theatre or other place of public amusement or entertainment.

31. Holidays in a week.—(1) Every employee in a theatre or other place of public amusement or entertainment shall be given at least one day in a week as a holiday :

Provided that nothing in this sub-section shall apply to an employee whose total period of employment in any week is less than six days.

(2) It shall not be lawful for an employer to call an employee at, or

for an employee to go to, his theatre or other place of public amusement or entertainment or any other place for any work in connection with the business of his theatre or place of public amusement or entertainment on a day on which such employee has a holiday.

(3) No deduction shall be made from the wages of an employee in a theatre or other place of public amusement or entertainment on account of any holiday given to him under sub-section (1). If an employee is employed on a daily wage, he shall none the less be paid his daily wage for the holiday given to him.

CHAPTER VI.

Employment of Children, Young Persons and Women.

32. *No child to work in any establishment*—No child shall be required or allowed to work whether as an employee or otherwise in any establishment, notwithstanding that such child is a member of the family of the employer.

33. *Young persons and women to work between 6 a. m. and 7 p. m.*—No young person or women shall be required or allowed to work whether as an employee or otherwise in any establishment before 6 a. m. and after 7 p. m., notwithstanding that such young person or woman is a member of the family of the employer.

34. *Daily hours of work for young persons*—(1) Notwithstanding anything contained in this Act no young person shall be required or allowed to work, whether as an employee or otherwise, in any establishment for more than six hours in any day.

(2) No young person shall be required or allowed to work whether as an employee or otherwise in any establishment for more than three hours in any day unless he has had an interval for rest of at least half an hour.

CHAPTER VII.

Leave with pay and Payment of Wages.

35. *Leaves.*—(1) Every employee who has worked for not less than two hundred and seventy days during a year, shall be allowed, during the subsequent year, leave, consecutive or otherwise, for a period of not less than fourteen days, inclusive of the day or days during the period of such leave on which, a shop or commercial establishment remains closed under sub-section (1) of section 13 or he is entitled to a holiday under sub-section (1) of section 24 or section 31 :

Provided that such leave may be accumulated up to a maximum period of twenty-eight days.

(2) If an employee entitled to leave under sub-section (1) is discharged by his employer before he has been allowed the leave, or if, having applied for and having been refused the leave, he quits his employment before he has been allowed the leave, the employer shall pay him the amount payable under section 36 in respect of the leave.

(3) If an employee entitled to leave under sub-section (1) is refused the leave, he may give intimation to the Inspector or other officer authorised in this behalf by the Provincial Government regarding such refusal. The Inspector shall enter such intimation in a register kept in such form as may be prescribed.

36. *Pay during leave.*—Every employee shall be paid for the period

of his leave at a rate equivalent to the daily average of his wages for the days on which he actually worked during the preceding three months, exclusive of any earnings in respect of overtime.

37. *Payment when to be made.*—An employee who has been allowed leave under section 35 shall, before his leave begins, be paid half the total amount due to him for the period of such leave.

38. *Application and amendment of the Payment of Wages Act.*—(1) Notwithstanding anything contained in the Payment of Wages Act, 1936 (IV of 1936), herein referred to as "the said Act", the Provincial Government may, by notification published in the *Official Gazette*, direct that subject to the provisions of sub-section (2), the said Act shall apply to all or any class of establishments or to all or any class of employees to which or whom this Act for the time being applies.

(2) On the application of the provisions of the said Act to any establishment or to any employees under sub-section (1), the Inspector appointed under this Act shall be deemed to be the Inspector for the purpose of the enforcement of the provisions of the said Act within the local limits of his jurisdiction.

CHAPTER VIII.

Health and Safety.

39. *Cleanliness.*—The premises of every establishment shall be kept clean and free from effluvia arising from any drain or privy or other nuisance and shall be cleaned at such times and by such methods as may be prescribed. These methods may include lime washing, colour washing, painting, varnishing, disinfecting and deodorising.

40. *Ventilation.*—The premises of every establishment shall be ventilated in accordance with such standards and by such methods as may be prescribed.

41. *Lighting.*—(1) The premises of every establishment shall be sufficiently lighted during all working hours.

(2) If it appears to an Inspector that the premises of any establishment within his jurisdiction are not sufficiently lighted, he may serve on the employer an order in writing specifying the measures which in his opinion should be adopted and requiring them to be carried out before a specified date.

42. *Precautions against fire.*—In every establishment except such establishment or class of establishments as may be prescribed, such precautions against fire shall be taken as may be prescribed.

CHAPTER IX.

Enforcement and Inspection.

43. *Powers and duties of local authorities.*—Save as otherwise provided in this Act, it shall be the duty of every local authority to enforce, within the area subject to its jurisdiction, the provisions of this Act, subject to such supervision of the Provincial Government as may be prescribed.

Provided that the local authority may by order direct that the said duty of enforcing the provisions of this Act shall be discharged, in such circumstances and subject to such conditions if any as may be specified in the order, by its Chief Executive Officer or any other officer subordinate to it :

Provided also that in respect of the areas not subject to the jurisdiction of any local authority, it shall be the duty of the Provincial Government to enforce the said provisions.

44. Power to make by-laws.—A local authority empowered under section 43 to enforce the provisions of this Act may, with the previous sanction of the Provincial Government, make by-laws not inconsistent with the provisions of the Act, or the rules or orders made by the Provincial Government thereunder, for the purpose of carrying out the provisions of this Act.

45. Delegation.—(1) The Provincial Government may by order direct that any of its functions under any of the provisions mentioned below shall, in such circumstances and subject to such conditions, if any, as may be specified in the order, be exercised or discharged by any local authority or any officer subordinate to it, namely :—

Sub-section (2) of section 11, sub-section (2) of section 13, section 17, sub-sections (2) and (3) of section 19, section 23 and section 30.

(2) Nothing in this Act shall derogate from the right of the Provincial Government to exercise any or all the functions hereby delegated to any local authority or officer subordinate to it.

46. Power of Provincial Government to provide for performance of duties on default by local authority.—(1) If any local authority makes default in the performance of any duty imposed by or under this Act, the Provincial Government may appoint some person to perform it and may direct that the expense of performing it with a reasonable remuneration to the person appointed to perform it shall be paid forthwith by the local authority.

(2) If the expense and remuneration are not so paid, the Provincial Government may, notwithstanding anything contained in any law relating to the municipal fund or local fund or any other law for the time being in force, make an order directing the bank in which any moneys of the local authority are deposited or the person in charge of the local Government Treasury or of any other place of security in which the moneys of the local authority are deposited to pay such expense and remuneration from such moneys as may be standing to the credit of the local authority in such bank or may be in the hands of such person or as may from time to time be received from or on behalf of the local authority by way of deposit by such bank or person; and such bank or person shall be bound to obey such order. Every payment made pursuant to such order shall be a sufficient discharge to such bank or person from all liability to the local authority in respect of any sum or sums so paid by it or him out of the moneys of the local authority so deposited with such bank or person.

47. Expenses of local authority to be paid out of its fund.—Notwithstanding anything contained in any enactment in regard to any municipal or local fund, all expenses incurred by a municipality or a local board under and for the purposes of this Act shall be paid out of the municipal or local fund, as the case may be.

48. Appointments of Inspectors.—(1) Every local authority shall appoint a sufficient number of persons with the prescribed qualifications as Inspectors for the area subject to its jurisdiction as it may deem fit for the purpose of carrying out the provisions of this Act.

(2) In areas which are not subject to the jurisdiction of any local authority, the Provincial Government shall appoint Inspectors with the prescribed qualifications.

49. Powers and duties of Inspectors.—Subject to any rules made by the Provincial Government in this behalf, an Inspector may, within the local limits for which he is appointed,—

(a) enter, at all reasonable times and with such assistants, if any, being persons in the service of the Crown or of any local authority as he

thinks fit, any place which is or which he has reason to believe is an establishment ;

(b) make such examination of the premises and of any prescribed registers, records and notices, and take on the spot or otherwise evidence of any persons as he may deem necessary, for carrying out the purposes of this Act ; and

(c) exercise such other powers as may be necessary for carrying out the purposes of this Act :

Provided that no one shall be required under this section to answer any question or give any evidence tending to criminate himself.

50. *Inspectors to be public servants.*—Every Inspector appointed under section 48 shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

51. *Employer to produce registers, records, etc., for inspection.*—Every employer shall on demand produce for inspection of an Inspector all registers, records and notices required to be kept under and for the purposes of this Act.

CHAPTER X.

Offences and Penalties.

52. *Contravention of certain provisions and offences.*—(a) If any employer fails to send to the Inspector a statement within the period specified in section 7 or to notify a change within the period specified in section 8 or to notify the closing of his establishment under section 9 ; or

(b) if in any establishment there is any contravention of any of the provisions of section 10, 11, 13, 18, 19, 20, 26, 27, 39, 40, 41 or 42 or any orders made thereunder ; or

(c) if in any establishment any person is required or allowed to work in contravention of section 14, 15, 16, 17, 21, 22, 23, 24, 28, 29, 30 or 31 ; or

(d) if in any establishment a child or young person or woman is required or allowed to work in contravention of section 32, 33 or 34 ; or

(e) if any employer contravenes the provisions of section 51, 62 or 65 ; or

(f) if in any establishment there is any contravention of any section, rule or order for which no specific punishment is provided in this Act, the employer and the manager shall, on conviction, each be punished with fine which shall not be less than twenty-five rupees and which may extend to two hundred and fifty rupees.

53. *Contravention of section 12*—If any person contravenes the provisions of section 12, he shall, on conviction, be punished with fine which shall not be less than ten rupees and which may extend to fifty rupees.

54. *Employee contravening sections 18 (2), 24, 31 and 65.*—If an employee contravenes the provisions of sub-section (2) of sections 18, 24, 31 or 65, he shall, on conviction, be punished with fine which shall not be less than ten rupees and which may extend to fifty rupees.

55. *False entries by employer and manager.*—If any employer or manager with intent to deceive makes, or causes or allows to be made, in any register, record or notice prescribed to be maintained under the provisions of this Act or the rules made thereunder, an entry which, to his knowledge, is false in any material particular, or wilfully omits, or causes or allows to be omitted, from any such register, record or notice, an entry which is required to be made therein under the provisions of this Act or the rules made thereunder, or maintains or causes or allows to be main-

tained, more than one set of any register, record or notice except the office copy of such notice, or sends, or causes or allows to be sent, to an Inspector, any statement, information or notice prescribed to be sent under the provisions of this Act or the rules made thereunder, which, to his knowledge, is false in any material particular, he shall, on conviction, be punished with fine which shall not be less than fifty rupees and which may extend to two hundred and fifty rupees ;

Provided that if both the employer and the manager are convicted, the aggregate of the fine in respect of the same contravention shall not exceed two hundred and fifty rupees.

56. Enhanced penalty in certain cases after previous conviction.— If any employer and manager who have been convicted of any offence under subsection (1) of section 10, 11, 13, 14, 18, 19, 24, 31 or 34 or under subsection (2) or (3) of section 14 or under section 55 or under section 21, 26, 28, 32, 33, 51, 57, 62 or 65, are again guilty of an offence involving a contravention of the same provision, they shall each be punished on the second conviction with fine which shall not be less than fifty rupees and which may extend to five hundred rupees ; and if they are again so guilty, they shall each be punished on the third or any subsequent conviction with fine which shall not be less than seventy-five rupees and which may extend to seven hundred and fifty rupees :

Provided that if both the employer and the manager are convicted, the aggregate of the fine in respect of the same contravention shall not exceed five hundred rupees on second conviction and seven hundred and fifty rupees on third or any subsequent conviction :

Provided further that, for the purposes of this section, no cognisance shall be taken of any conviction made more than two years before the commission of the offence which is being punished :

Provided also that the Court, if it is satisfied that there are exceptional circumstances warranting such a course, may, after recording its reasons in writing impose a smaller fine than is required by this section.

57. Penalty for obstructing Inspector.— Whoever wilfully obstructs an Inspector in the exercise of any power under section 49, or conceals or prevents any employee in an establishment from appearing before or being examined by an Inspector shall, on conviction, be punished with fine which shall not be less than twenty-five rupees and which may extend to two hundred and fifty rupees.

58. Determination of employer for the purposes of this Act.— (1) Where the owner of an establishment is a firm or other association of individuals, any one of the individual partners or members thereof may be prosecuted and punished under this Act for any offence for which an employer in an establishment is punishable :

Provided that the firm or association may give notice to the Inspector that it has nominated one of its members who is resident in the Province to be the employer for the purposes of this Act and such individual shall so long as he is so resident be deemed to be the employer for the purposes of this Act, until further notice cancelling the nomination is received by the Inspector or until he ceases to be a partner or member of the firm or association.

(2) Where the owner of an establishment is a company, any one of the directors thereof, or in the case of a private company, any one of the share holders thereof, may be prosecuted and punished under this Act

for any offence for which the employer in the establishment is punishable :

Provided that the company may give notice to the Inspector that it has nominated a director, or, in the case of a private company, a shareholder who is resident in the Province to be the employer in the establishment for the purposes of this Act, and such director or shareholder shall so long as he is so resident be deemed to be the employer in the establishment for the purposes of this Act, until further notice cancelling his nomination is received by the Inspector or until he ceases to be a director or shareholder.

59. *Exemption of employer or manager from liability in certain cases.*—

(1) Where the employer or manager of an establishment is charged with an offence against this Act or the rules or orders made thereunder, he shall be entitled upon complaint duly made by him to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the employer or manager of the establishment proves to the satisfaction of the Court—

(a) that he has used due diligence to enforce the execution of this Act, and

(b) that the said other person committed the offence in question without his knowledge, consent or connivance, that other person shall be convicted of the offence and shall be liable to the like fine as if he were the employer or manager, and the employer or manager shall be discharged from any liability under this Act.

(2) When it is made to appear to the satisfaction of the Inspector at any time prior to the institution of the proceedings—

(a) that the employer or manager of the establishment has used all due diligence to enforce the execution of this Act,

(b) by what person the offence has been committed, and

(c) that it has been committed without the knowledge, consent or connivance of the employer or manager, and in contravention of his orders, the Inspector shall proceed against the person whom he believes to be the actual offender without first proceeding, against the employer or manager of the establishment, and such person shall be liable to the like fine as if he were the employer or manager.

60. *Cognisance of offences.*— (1) No prosecution under this Act or the rules or orders made thereunder shall be instituted except by an Inspector and except with the previous sanction of the Provincial Government or the local authority, as the case may be.

(2) No court inferior to that of a Presidency Magistrate or a Magistrate of a Second Class shall try any offence against this Act or any rule or order made thereunder.

61. *Limitation of prosecutions.*— No Court shall take cognisance of any offence under this Act or any rule or order made thereunder, unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

CHAPTER XI.

Miscellaneous and Supplemental.

62. *Maintenance of registers and records and display of notices.*— Subject to the general or special orders of the Provincial Government, an employer shall maintain such registers and records and display on the premises of his establishment such notices as may be prescribed. All such

registers and records shall be kept on the premises of the establishment to which they relate.

63. Wages for overtime work.—(1) Where an employee in any establishment other than a residential hotel, restaurant or eating house, is required to work in excess of the limit of hours of work, he shall be entitled, in respect of the overtime work, to wages at the rate of one and a half times his ordinary rate of wages.

(2) Where an employee in a residential hotel, restaurant or eating house, is required to work in excess of the limit of hours of work, he shall be entitled, in respect of the overtime work, to wages at the rate of twice his ordinary rate of wages.

Explanation.—For the purposes of this section the expression “limit of hours of work” shall mean—

(a) in the case of employees in shops and commercial establishments, nine hours in any day and forty-eight hours in any week ;

(b) in the case of employees in residential hotels, restaurants, eating houses, theatres or other places of public amusement or entertainment, nine hours in any day ; and

(c) in the case of employees in any other establishment, such hours as may be prescribed.

64. Evidence as to age.—(1) When an act or omission would, if a person were under or over a certain age, be an offence punishable under this Act, and such person is in the opinion of the Court apparently under or over such age, the burden shall be on the accused to prove that such person is not under or over such age.

(2) A declaration in writing by a registered medical practitioner relating to an employee that he has personally examined him and believes him to be under or over the age set forth in such declaration shall, for the purposes of this Act, be admissible as evidence of the age of the employee.

Explanation.—For the purposes of this section, a registered medical practitioner shall have the same meaning as in the Factories Act, 1924 (XXV of 1924).

65. Restriction on double employment on a holiday or during leave.—No employee shall work in any establishment, nor shall any employer knowingly permit an employee to work in any establishment, on a day on which the employee is given a holiday or is on leave in accordance with the provisions of this Act.

66. Notice of dismissal.—No employer shall dispense with the services of an employee who has been in his continuous employment for not less than three months, without giving such person at least fourteen days notice in writing or wages in lieu of such notice :

Provided that such notice shall not be necessary where the services of such employee are dispensed with for misconduct.

67. Rules.—(1) The Provincial Government may make rules to carry out the purposes of the Act.

(2) In particular and without prejudice to the generality of the foregoing provision, such rules may be made for all or any of the following matters, namely :—

(a) the appointment of prescribed authority under clause (21) of section 2 ;

(b) the period for which, the conditions subject to which and the

holidays and occasions on which, the operation of the provisions of this Act may be suspended under section 6 ;

(c) the form of submitting a statement, the fees and other particulars under sub-section (1), the manner in which the registration of establishments is to be made and the form of registration certificate under sub-section (2), of section 7 ; and the form for notifying a change and the fees under section 8 ;

(d) fixing six days in a year for additional overtime under sub-section (3) of section 14 ;

(e) fixing ten days in a year for overtime under sub-section (3) of section 19 ;

(f) further particulars to be prescribed for an identity card under section 25 ;

(g) the form of register for entering refusal of leave to be kept under section 35 ;

(h) fixing times and methods for cleaning the establishments under section 39 ; fixing standards and methods for ventilation under section 40 ; and prescribing such establishments as are to be exempted from the provisions of, and precautions against fire to be taken under, section 42 ;

(i) the supervision which the Provincial Government shall exercise over local authorities under section 43 ;

(j) the qualifications of Inspectors appointed under section 48 and their powers and duties under section 49 ;

(k) the registers and records to be maintained and the notices to be displayed under section 62 ;

(l) the limit of hours of work under clause (c) of the *Explanation* to section 63 ;

(m) any other matter which is or may be prescribed.

(n) The rules made under this section shall be subject to the condition of previous publication and, when so made, shall be deemed to be part of this Act.

68. *Protection to persons acting under this Act.*—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

69. *Rights and privileges under other law, etc., not affected.*—Nothing in this Act shall affect any rights or privileges which an employee in any establishment is entitled to at the date this Act comes into force in a local area, under any other law, contract, custom or usage applicable to such establishment or any award, settlement or agreement binding on the employer and the employee in such establishment, if such rights or privileges are more favourable to him than those to which he would be entitled under this Act.

70. *Persons employed in factory to be governed by Factories Act and not by this Act.*—Nothing in this Act shall be deemed to apply to any person employed in or within the precincts of a factory and the provisions of the Factories Act, 1934 (XXV of 1934), shall, notwithstanding anything in the said Act, apply to such person.

71. *Submission of annual report, etc.*—It shall be the duty of every local authority to submit, within three months after the close of the year, to the Provincial Government a report on the working of the Act within the local area under its jurisdiction during such year. It shall also submit to it from time to time such annual or periodical returns as may be required,

72. Repeal of Bombay Shops and Establishments Act, 1939.—On and from the date of the commencement of this Act, the Bombay Shops and Establishments Act, 1939 (XXIV of 1939), shall be repealed :

Provided that—

(a) every appointment, order, rule, by-law, regulation, notification or notice made, issued or given under the provisions of the Act so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been made, issued or given under the provisions of this Act, unless and until superseded by any appointment, order, rule, by-law, regulation, notification or notice made, issued or given under this Act ;

(b) any proceeding relating to the trial of any offence punishable under the provisions of the Act so repealed shall be continued and completed as if the said Act had not been repealed but had continued in operation and any penalty imposed on such proceedings shall be recovered under the Act so repealed.

SCHEDULE I.

Section 1 (3).

Local areas.

1. The City of Bombay.
2. The Ahmedabad Municipal Borough and Cantonment.
3. The Poona City and Suburban Municipal Boroughs.
4. The Poona Cantonment.
5. The Sholapur Municipal Borough.
6. The Barsi Municipal Borough.
7. The Nasik Municipal Borough.
8. The Godhra Municipal Area.
9. The Surat Municipal Borough.
10. The Kalvan Municipal Area.
11. The Bandra Municipal Area.
12. The Parle-Andheri Municipal Borough.
13. The Ghatkopar-Kirol Municipal Area.
14. The Panvel Municipal Area.
15. The Kurla Municipal Area.
16. The Bulsar Municipal Area.
17. The Malegaon Municipal Area.
18. The Dhulia Municipal Area.
19. The Thana Municipal Borough.
20. The Nadiad Municipal Borough.
21. The Baramati Municipal Area.
22. The Dohad Municipal Area.
23. The Amalner Municipal Borough.
24. The Yeola Municipal Area.
25. The Kapadvanj Municipal Area.
26. The Pandharpur Municipal Borough.
27. The Bhusawal Municipal Borough.
28. The Jalgaon Municipal Borough.
29. The Satara Municipal Borough.
30. The Ratnagiri Municipal Area.
31. The Ahmednagar Municipal Borough.
32. The Chalisgaon Municipal Borough.
33. The Belgaum Municipal Borough.
34. The Bijapur Municipal Borough.

35. The Dharwar Municipal Borough.
36. The Mahad Municipal Area.
37. The Ankleshwar Municipal Area.
38. The Uran Municipal Area.
39. The Broach Municipal Area.
40. The Gadag Municipal Area.
41. The Hubli Municipal Borough.
42. The Bhiwandi Municipal Area.

SCHEDULE II.

(Section 4.)

Exemptions.

Serial No. 1	Establishments, employees or other persons. 2	Provisions of the Act. 3
<i>I. Establishments.</i>		
1.	Offices of the Central Government	.. All provisions.
2.	Offices of the Provincial Government	... Do.
3.	Offices of local authorities	... Do.
4.	Offices of the Bombay Port Trust	... Do.
5.	Offices of any Railway administration	... Do.
6.	Bazaars or fairs for the sale of goods for charitable or other purposes from which no profit is derived	... Do.
<i>II. Employees and other persons.</i>		
7.	Employees exclusively working in an establishment as clearing or forwarding clerks responsible for the despatch of goods by rail or other means of transport and for customs formalities.	Sections 10, 11, 13 to 18 (both inclusive).
8.	Employees exclusively employed in any establishment in the collection, delivery or conveyance of goods outside the premises of any establishment.	Do.
9.	Employees in such chemists' or druggists' establishments as are approved by the Provincial Government or the prescribed authority by a general or special order in this behalf.	Do.
10.	Employees employed for the purpose of attending upon the sick, infirm, destitute or mentally unfit.	Do.
11.	Employees in any establishment wholly or principally engaged in the sale of ice, aerated waters or funeral requisites.	Do.
12.	Travellers, canvassers and such other employees who are declared by the Provincial Government by notification published in the <i>Official Gazette</i> in this behalf to be employees whose work is inherently intermittent.	Do.
13.	Employees in stalls and refreshment rooms at railway stations, docks, wharves and airports.	Section 19.
14.	Employees working in any establishment as watchmen, care-takers and messengers.	Sections 10, 11, 13 to 19 (both inclusive), 22 to 24 (both inclusive), 26, 28 to 31 (both inclusive).

Serial No.	Establishments, employees or other persons.	Provisions of the Act.
1	2	3
15.	The members of an employer's family	Sections 14 to 17 (both inclusive), 21 to 24 (both inclusive), 28 to 31 (both inclusive).
16.	A person occupying position of management or an employee engaged in a confidential capacity : Provided that the number of such persons in any establishment shall not exceed ten per cent. of the total number of employees therein, any fraction being rounded up to the next higher integer.	Do.

The Bombay Irrigation (Amendment) Act, 1948.

Received the assent of the Governor on the 29th November 1948 and is published in the *Bombay Government Gazette*, Part IV, dated the 6th December 1948.

Bombay Act No. LXIV of 1948.

An Act to amend the Bombay Irrigation Act, 1879.

WHEREAS it is expedient to amend the Bombay Irrigation Act, 1879 (Bom. VII of 1879), for the purposes hereinafter appearing ; It is hereby enacted as follows : -

1. *Short title.*—This Act may be called the Bombay Irrigation (Amendment) Act, 1948.

2. *Substitution of new section for section 57 of Bom VII of 1879.*—For section 57 of the Bombay Irrigation Act, 1879 (Bom. VII of 1879), the following shall be substituted, namely :—

“57. *Payment and recovery of water rate and other dues.*—(1) Every water rate leviable or charged under this Act shall be payable in such instalments and on such dates and to such officers as shall from time to time be determined under the orders of the Provincial Government or of any Commissioner empowered by the Provincial Government in this behalf.

(2) Any such rate or the instalment thereof which is not paid on the date when it becomes due shall be deemed an arrear of land revenue due on account of the land for the use of which canal water was supplied or which was benefited by percolation or leakage from any canal and shall be recoverable as such arrear by any of the methods specified in section 150 of the Bombay Land Revenue Code, 1879 (Bom. V of 1879), including the forfeiture of the said land.

(3) Any rent payable to the owner of a water course by a person authorised to use such water-course may be paid in such instalments and on such dates as the canal officer duly empowered to act under section 23 shall direct and no more of such rent shall at any time be payable to the owner thereof than is actually recovered from the person liable to pay.

(4) (a) Any other sum due to the Provincial Government or to a Canal-officer under the provisions of this Act whether on behalf of the Provincial Government or any other person under Part III of this Act which is not paid when demanded shall, and

(b) any rent or instalment thereof payable to the owner of a water-course, which is not paid when it becomes due may, on behalf of the owner

be recoverable as arrears of land revenue in accordance with the provisions of the Bombay Land Revenue Code, 1879 (Rom. V of 1879).

The Bombay Public Trusts Registration (Amendment) Act, 1948.

Received the assent of the Governor General on the 7th December 1948 and is published in the *Bombay Government Gazette*, Part IV, dated the 15th December 1948.

Bombay Act No. LXV of 1948.

An Act to amend the Bombay Public Trusts Registration Act, 1935.

WHEREAS it is expedient to amend the Bombay Public Trusts Registration Act, 1935 (Bombay XXV of 1935), for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. *Short title*—This Act may be called the Bombay Public Trusts Registration (Amendment) Act, 1948.

2. *Amendment of section 2 of Bom. XXV of 1935*—In sub-section (3) of section 2 of the Bombay Public Trusts Registration Act, 1935 (Bom. XXV of 1935), after the word “applies” the words “or which are administered by local authorities”, shall be added.

The Poona City and Poona Suburban Municipal Boroughs (Appointment of Municipal Commissioner) Act, 1948.

Received the assent of the Governor-General on the 6th January, 1949 and is published in the *Bombay Government Gazette*, Part IV, dated the 13th January 1949.

Bombay Act No. LXXX of 1948.

An Act to provide for the appointment of a Municipal Commissioner for the Poona City Municipal and the Poona Suburban Municipal Boroughs with a view to ensuring more efficient and suitable municipal administration for the Greater Poona region.

WHEREAS for the purpose of ensuring more efficient and suitable municipal administration for the Greater Poona region, it is necessary to take steps for the early establishment of a Municipal Corporation for the region; and whereas to this end it is necessary and expedient to provide for the appointment of a Municipal Commissioner for the executive administration of municipal affairs in the Poona City Municipal Borough and the Poona Suburban Municipal Borough and for certain other purposes hereinafter appearing; It is hereby enacted as follows:—

1. *Short title, commencement and extent*—(1) This Act may be called the Poona City and Poona Suburban Municipal Boroughs (Appointment of Municipal Commissioner) Act, 1948.

(2) It shall come into operation on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint.

(3) It shall extend to the Poona City and Poona Suburban Municipal Boroughs.

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

(1) “the Municipality” means the Poona City Borough Municipal or the Poona Suburban Borough Municipality, as the case may be

(2) “the Municipal Commissioner” means the Municipal Commissioner for the Poona City and Poona Suburban Municipal Boroughs appointed under section 3 and includes an acting Municipal Commissioner appointed under section 6;

(3) "the principal Act" means the Bombay Municipal Boroughs Act, 1925 ;

(4) words and expressions used in this Act but not defined shall have the meanings assigned to them in the principal Act.

3. *Appointment of Municipal Commissioner.*—(1) The Provincial Government shall appoint for the Poona City Municipal Borough and the Poona Suburban Municipal Borough a Municipal Commissioner who shall be designated "the Municipal Commissioner for the Poona City and Poona Suburban Municipal Boroughs".

(2) The Municipal Commissioner shall hold office for such period as the Provincial Government may from time to time determine.

(3) The Municipal Commissioner may at any time, if he holds a lien on the service of the Crown, be recalled to such service after consultation with the Poona City Borough Municipality and the Poona Suburban Borough Municipality and may otherwise at any time be removed from office by the Provincial Government for capacity, misconduct or neglect of duty.

4. *Salary, etc., of Municipal Commissioner.*—(1) The Municipal Commissioner shall receive from the Poona City Borough Municipality and the Poona Suburban Borough Municipality such monthly salary and allowances as the Provincial Government may from time to time determine.

(2) The proportionate share of the salary and allowances of the Municipal Commissioner payable by the Poona City Borough Municipality and the Poona Suburban Borough Municipality respectively shall be determined and shall be paid to the Municipal Commissioner from the respective municipal funds of the said municipalities in accordance with such ratio as may from time to time be prescribed by the Commissioner by order in writing.

(3) The Municipal Commissioner shall devote his whole time and attention to the duties of his office as prescribed in this Act or in any other law for the time being in force, and shall not engage in any other profession, trade or business whatsoever :

Provided that he may, with the sanction of the Commissioner given after consultation with the Poona City Borough Municipality and the Poona Suburban Borough Municipality, serve on any committee constituted for the purpose of any local inquiry for the furtherance of any object of local importance or interest :

Provided also that the Provincial Government may direct the Municipal Commissioner to perform such duties and functions in connection with preliminary steps to be taken for the establishment of a Municipal Corporation for the Poona City and Poona Suburban Municipal Boroughs and contiguous areas as may in its opinion be necessary.

(4) When a salaried servant of the Crown is appointed as the Municipal Commissioner, the Poona City Borough Municipality and the Poona Suburban Borough Municipality shall, unless specially exempted wholly or in part from liability by the Provincial Government, make such contribution from the respective municipal funds of the said municipalities to his pension, leave and other allowances as may be required by the conditions of his service under the Crown to be made by him or on his behalf, the proportionate share payable by each Municipality being determined in accordance with the ratio prescribed for the time being under sub-section (2).

(5) When a person other than a salaried servant of the Crown is appointed as the Municipal Commissioner, the Commissioner may, in con-

sultation with the Poona City Borough Municipality and the Poona Suburban Borough Municipality, sanction of the payment of such pension or gratuity or of such compassionate allowance to his family on his death by each Municipality from its municipal fund as may be specified by order in writing.

5. *Leave of absence.*—(1) The Provincial Government may from time to time after consultation with the Poona City Borough Municipality and the Poona Suburban Borough Municipality grant leave of absence to the Municipal Commissioner for such period as it thinks fit.

(2) The allowance to be paid to the Municipal Commissioner while absent on leave shall be such amount, not exceeding his salary, as shall be fixed by the Provincial Government and shall, unless the Municipal Commissioner is a salaried servant of the Crown, be paid by the said municipalities from their respective municipal funds, the share payable by each being determined in accordance with the ratio for the time being prescribed under sub-section (2) of section 4. If the Municipal Commissioner is a salaried servant of the Crown, the amount of such allowance shall be regulated by the rules for the time being in force relating to the leave allowance of salaried servants of the Crown of his class.

6. *Appointment of substitute during absence of Municipal Commissioner.*—During the absence on leave, or other temporary vacancy in the office of the Municipal Commissioner, the Provincial Government may appoint a fit person to act as the Municipal Commissioner and every person so appointed shall exercise the powers and perform the duties of the Municipal Commissioner under this Act or any other law for the time being in force and shall be subject to all the liabilities, restrictions and conditions to which the Municipal Commissioner is liable.

7. *Municipal Commissioner to be deemed to be officer of Municipality for certain purposes.*—The Municipal Commissioner shall, for the purposes of sub-section (2) of section 12 and sections 54, 55 and 56 of the principal Act, be deemed to be an officer of the Municipality.

8. *Power of Municipalities to require returns, reports or production of documents.*—The Poona City Borough Municipality or the Poona Suburban Borough Municipality may require the Municipal Commissioner to furnish it with any return, statement, estimate, statistics or other information regarding any matter appertaining to the municipal government of the Poona City Municipal Borough or the Poona Suburban Municipal Borough, as the case may be, or a report on any such matter or a copy of any document in his charge and the Municipal Commissioner shall comply with every such requisition without unreasonable delay.

9. *Powers and duties of Municipal Commissioner.*—(1) The executive power for the purposes of carrying out the provisions of the principal Act in the Poona City Municipal Borough and the Poona Suburban Municipal Borough shall vest in the Municipal Commissioner, subject, wherever it is in this Act expressly so directed, to the approval or sanction of the Municipality concerned or the standing committee concerned, and subject to all other restrictions, limitations and conditions imposed by this Act. For the purpose of discharging his functions the Municipal Commissioner shall to the exclusion of every other authority, except as hereinafter otherwise provided, exercise all the powers specifically conferred on and perform all the functions assigned to the Chief Officer of a Borough Municipality by or under the principal Act and shall also make such requisitions by written notice, give such written consent or permission, issue such

orders and prohibitions, exercise such powers and perform all such duties as may be exercised, performed, made, given or issued by or on behalf of the Municipality or the standing committee under any of the provisions contained in the following sections and sub-sections of the principal Act, namely :—

section 28, sub-section (1), clause (e), so far as service of a special notice is concerned,
section 66, second proviso,
section 67,
section 81, sub-sections (3) and (4),
section 82,
section 86,
section 91,
section 97,
section 99,
section 114,
section 115,
section 116,
section 117,
section 119,
section 120,
section 126,
section 127,
section 128,
section 137,
section 140,
section 142,
section 146,
section 162, sub-section (2),
section 163,
section 165,
section 165A,
section 171,
section 172, sub-section (3),
section 178,
section 179, in respect of the powers conferred on the Municipality,
section 180,
section 182,
section 183,
section 184, in respect of the powers conferred on the Municipality
section 186,
section 187,
section 194,
section 195,
section 200 :

Provided that—

(a) the powers conferred by sections 91, 114 and 146 shall not be exercised by the Municipal Commissioner except with the previous approval, or in accordance with the general or special orders, of the Municipality concerned and the powers conferred by the second proviso to section 66, sections 67 and 116 and the proviso to sub-section (1) of section 194 shall

not be exercised by the Municipal Commissioner except with the previous approval of the standing committee concerned ;

(b) the Municipal Commissioner shall not, except with the previous approval of the standing committee concerned, direct a prosecution or other proceedings to be taken for the punishment of any person who contravenes the provisions of section 55 or sub-section (3) of section 118 ;

(c) property, whether moveable or immovable, vested in or belonging to or otherwise held by the Municipality concerned shall not be deemed to vest in or to belong to or otherwise to be held by the Municipal Commissioner.

(2) The Municipality concerned may delegate to the Municipal Commissioner any of its powers not specified in sub-section (1) except the powers conferred on it by or under the principal Act to make rules or by-laws and to authorise the president, vice-president, a committee or a councillor to do anything.

10. *Powers of Municipal Commissioner in emergency.*—Notwithstanding any provision contained in this Act or in the principal Act, the Municipal Commissioner may in cases of emergency direct the execution or stoppage of any work or the doing of any act which requires the sanction of the Municipality and the immediate execution or doing of which is, in his opinion, necessary for the health or safety of the public, and may direct that the expense of executing such work or doing such act shall be paid from the municipal fund :

Provided that—

(a) he shall not act under this section in contravention of any order of the Municipality concerned prohibiting the execution of any particular work or the doing of any particular act, and

(b) he shall report forthwith the action taken under this section and the reason therefor to the standing committee concerned at its next meeting.

11. *Municipal Commissioner deemed to be authorised in certain matters although not expressly so authorised.*—The Municipal Commissioner shall be deemed to have been authorised by the Municipality concerned to exercise such powers or do such things as any officer of the Municipality has been authorised to exercise or do by the Municipality under the principal Act or any other law for the time being in force notwithstanding that the Municipality has not expressly so authorised him.

12. *No appeal to lie against orders of Municipal Commissioner except in certain cases.*—No appeal shall lie to the Municipality concerned in respect of any order passed or anything done by the Municipal Commissioner in the exercise of the powers conferred on him by or under this Act except in the case of an order passed or anything done by him under any of the following provisions of the principal Act, namely :—

Section 119, sub-sections (1) and (2),

Section 126, sub-section (1),

Section 132, sub-section (2),

Section 162, sub-section (2),

Section 186, sub-section (1).

13. *Powers of Municipal Commissioner to appoint, grant leave, punish and dismiss.*—(1) The Municipal Commissioner shall have, independently of such powers as may be delegated to him by the Municipality concerned in this behalf, exclusive power without the sanction of the Municipality—

(a) to appoint, subject to the rules for the time being in force under the principal Act in so far as such rules are not inconsistent with the provisions of this Act, a fit person to any post under the Municipality the monthly salary for which does not exceed two hundred rupees, other than to the post of health officer, engineer, chief accountant, secretary or auditor ;

(b) to grant, subject to the rules as aforesaid, leave of absence to the holder of any post to which he has power to appoint, and to appoint a fit person to act for such holder during such absence ;

(c) to fine, reduce, suspend, discharge, remove from office or dismiss the holder of any post to which he has power to appoint and, subject to the provisions of the rules as aforesaid, any other municipal officer or servant, not being the health officer, engineer, chief accountant, secretary or auditor :

Provided that no holder of a post the monthly salary for which exceeds one hundred rupees shall be discharged, removed from office or dismissed without the previous approval of the standing committee concerned.

(2) All officers and servants of the Municipality shall be subordinate to the Municipal Commissioner.

14. *Punishment for person disobeying lawful direction given by Municipal Commissioner.*—Whoever disobeys or fails to comply with a lawful direction given by the Municipal Commissioner in any matter shall be punishable in the same manner as a person who disobeys or fails to comply with a lawful direction given by the Municipality concerned in the same matter.

15. *Termination of appointment of Chief Officers and appointment, functions and salaries of Assistant Municipal Commissioners.*—(1) With effect from the date of the coming into operation of this Act, the Chief Officers of the Poona City Borough Municipality and the Poona Suburban Borough Municipality shall vacate their offices but shall be deemed to have been appointed with effect from the said date as Assistant Municipal Commissioners for the Poona City Municipal Borough and the Poona Suburban Municipal Borough respectively.

(2) The Assistant Municipal Commissioners so deemed to have been appointed shall be subordinate to the Municipal Commissioner and, subject to his orders, shall exercise such of the powers and perform such of the duties of the Municipal Commissioner in the Poona City Municipal Borough and the Poona Suburban Municipal Borough respectively as the Municipal Commissioner shall from time to time depute to each of them :

Provided that—

(a) the Municipal Commissioner shall inform the Municipality concerned of the powers and duties which he from time to time deputes to the Assistant Municipal Commissioner ;

(b) all acts and things performed and done by the Assistant Municipal Commissioners during the tenure of their office and in virtue thereof shall for all purposes be deemed to have been performed and done by the Municipal Commissioner.

(3) The Assistant Municipal Commissioners deemed to have been appointed under sub-section (1) shall not be removed from office or suspended unless by the votes of at least two-thirds of the whole number of councillors of the Municipality concerned and shall not be punishable with fine.

(4) Each Assistant Municipal Commissioner shall receive from the municipal fund of the Municipality concerned such monthly salary and allowances, not lower than the salary and allowances drawn by him immediately prior to the coming into operation of this Act, as the Municipality concerned shall from time to time with the approval of the Commissioner determine.

(5) The Assistant Municipal Commissioners shall, except as otherwise provided in this section, be subject to the same liabilities, restrictions and conditions to which the Municipal Commissioner is subject.

16. Leave of absence of Assistant Municipal Commissioners and acting appointments.—(1) Leave of absence may be granted from time to time by the Municipality concerned to the Assistant Municipal Commissioner.

(2) The allowance to be paid to the Assistant Municipal Commissioner whilst so absent on leave shall be of such amount, not exceeding the amount of the salary of the Assistant Municipal Commissioner, as shall be fixed by the Municipality concerned.

(3) During the absence on leave or other temporary vacancy in the office of the Assistant Municipal Commissioner, the Municipality concerned may appoint a fit person to act as Assistant Municipal Commissioner and every person so appointed shall exercise the powers and perform the duties conferred and imposed on the person for whom he is appointed to act and shall be subject to all the liabilities, restrictions and conditions to which the said person is liable and receive from the municipal fund of the Municipality concerned such monthly salary not exceeding that prescribed under sub-section (4) of section 15 as the Municipality concerned shall determine.

17. Certain provisions of principal Act to operate in modified form or not to operate in Poona City Municipal Borough and Poona Suburban Municipal Borough.—With effect from the date of the coming into operation of this Act—

(1) section 8 of the principal Act shall apply in the Poona City Municipal Borough and the Poona Suburban Municipal Borough as if for the words "its Chief Officer" the words "the Municipal Commissioner" had been substituted;

(2) clauses (c) and (d) of section 31, sub-section (1) of section 123 and sub-section (2) of section 131 of the principal Act shall ~~cease to~~ operate in the Poona City Municipal Borough and the Poona Suburban Municipal Borough; and

(3) sections 129, 132, 133, 134, 135 and 136 of the principal Act shall apply in the Poona City Municipal Borough and the Poona Suburban Municipal Borough as if the words "subject to the control of the standing committee" wherever they occur and the words "subject as aforesaid" where they occur in section 136 had been deleted.

18. Power of Municipal Commissioner to direct location of Municipal offices in either Borough.—It shall be lawful for the Municipal Commissioner to direct the location of any office of either Municipality within the limits of either the Poona City Municipal Borough or the Poona Suburban Municipal Borough.

19. Saving in respect of subsisting contracts, pending proceedings, appeals, suits, appointments, licences, orders, &c.—(1) All contracts made by the Chief Officers of the Poona City Borough Municipality and the Poona Suburban Borough Municipality subsisting on the date immediately preceding the date of the coming into operation of this Act shall be deemed