

ACT V. OF 1884.

Chotia Nagpur Encumbered Estates
(Amendment) Act.

RECEIVED THE G.-G.'S ASSENT ON THE 26TH FEBRUARY 1884.

*An Act to amend the Chutia Nagpur Encumbered
Estates Act, 1876.*WHEREAS it is expedient to amend the Chutia Nagpur
Encumbered Estates Act, 1876 ; It is hereby enacted as follows :—

Meaning of "section." 1. "Section" in this Act means a section
of the Chutia Nagpur Encumbered Estates
Act, 1876.

Addition to section 2 of Act VI. of 1876 2. To section 2 the following shall be
added, namely :—

[Printed in Vol. II., P 37.]

3 In section 3, for the words "on such publication" the words
"on the publication of an order under sec-
tion 2" shall be substituted.

Addition to section 4 4. To section 4 the following shall be
added, namely :—

[Printed in Vol. II., p. 33.]

Amendment of section 7. 5. In section 7, for the words 'nine
months' the words "six months" shall be
substituted

Amendment of section 12 6. (1) In section 12, for the first clause
the following shall be substituted :—

[Printed in Vol. II., P. 43]

(2) In the same section, for the second clause the following
shall be substituted, namely :—

[Printed in Vol. II., 44.]

(3) After the second clause of the same section the following
shall be inserted, namely :—

[Printed in Vol. II., p. 44.]

Amendment of section 17. 7. In section 17, for the words "not
exceeding twenty years absolute" the words
"or in perpetuity" shall be substituted.

66 LEGAL PRACTITIONER'S ACT AMENDMENT. [1884 : Act IX.

Amendment of section 18 B. In section 18—

(a) *Repealed by Act VII. of 1891, Sch. I.]*

(b) after the words "as may appear expedient" the following shall be inserted, namely :—"or by borrowing money from the Government at such rate of interest as appears reasonable to the Local Government ;" and

(c) for the last clause the following shall be substituted, namely .—

[*Printed in Vol. II., p. 48*]

Addition to section 19 9 In section 19 after clause (a), the following shall be inserted, namely —

[*Printed In Vol. II., p. 49.*]

10. [*Repealed by Act XII. of 1891, Sch. I*]

ACT IX. OF 1884.

Legal Practitioners' Act, 1884

RECEIVED THE G. G.'S ASSENT ON THE 16TH MAY 1884.

An Act to amend the legal Practitioners' Act, 1879, and the Indian Stamp Act, 1879

WHEREAS it is expedient to amend the Legal Practitioners' Act, 1879, in manner in this Act appearing ;

And whereas it is also expedient to amend the Indian Stamp Act, 1879, in so far as it relates to the duty chargeable on the enrolment of legal practitioners ;

It is hereby enacted as follows —

Short title and com- 1. (1) This Act may be called "The
mencement. Legal Practitioners' Act, 1884 ;"*

(2) It shall come into force at once.

Amendment of section 4 of Act XVIII. of 1879 2. In section 4 of the Legal Practitioners' Act, 1879, for the words "as an advocate on the roll of the Chief Court of the Punjab" the words "under section 41 of this Act" shall be substituted.

* Certain words after this repealed by Act X of 1914 have been omitted.

3. To section 13 of the same Act the following proviso shall be added—
 Addition of a proviso to section 13 of same Act.

[*Printed in Vol. II., p. 426.*]

4. In section 14 of the same Act, before the words "any District Magistrate" the words "any Judge of a Court of Small Causes of a Presidency-town" shall be inserted.
 Amendment of section 14 of same Act

5. In section 25 of the same Act, after the words "annexed" the words "and of such description as the Local Government may, from time to time, prescribe" shall be inserted.
 Amendment of section 25 of same Act

6. To the first clause of section 27 of the same Act the following shall be added, namely :—"and in respect of the fees of his adversary's revenue-agent appearing, pleading, or acting under section 10."
 Amendment of section 27 of same Act

7. In section 38 of the same Act for the words, "by the Chief Court of the Punjab" the words under section 41 of this Act" shall be substituted.
 Amendment of section 38 of same Act

8. For section 41 of the same Act the following section shall be substituted, namely :—
 New section substituted for section 41 of same Act

[*Printed in Vol. II., p. 441.*]

9. To the same Act the following section shall be added, namely :—
 New section added to same Act

[*Printed in Vol. II., p. 441.*]

10, (1) [*Repealed by Act II. of 1899, Sch. II.*]

(2) [*Repealed by Act XII. of 1891, Sch. I.*]

ACT XII. OF 1884.

The Agriculturists' Loans Act.*

RECEIVED THE G.-G.'S ASSENT ON THE 24TH JULY 1884

An Act to amend and provide for the extension of the Northern India Takkavi Act, 1879.

Whereas it is expedient to amend the Northern India Takkavi Act, 1879, and provide for its extension to any part of British India; It is hereby enacted as follows:—

Short title. 1. (1) This Act may be called the Agriculturists' Loans Act, 1884; and

Commencement (2) It shall come into force on the first day of August 1884.

Local extent 2. (1) This section and section 3 extend to the whole of British India

(2) The rest of this Act extends in the first instance only to the territories respectively administered by the Governor of Bombay in Council, the Lieutenant Governors of the North-Western Provinces and the Punjab, and the Chief Commissioners of Oudh, the Central Provinces, Assam, and Ajmer

(3) But any other Local Government may, from time to time, by notification in the official Gazette, extend the rest of this Act to the whole or any part of the territories under its administration.

3. (1) On and from the day on which this Act comes into force, the Northern India Takkavi Act, 1879, and sections 4 and 5 of Act No. V. of 1880 Revenue Jurisdiction Act, 1880, shall, except as regards the recovery of advances made before this Act comes into force, and of the interest thereon, be repealed.

(2) All rules made under those Acts shall be deemed to be made under this Act.

4. (1) The Local Government† may from time to time “or in a province for which there is a Board of Revenue or Financial commissioner, such board or Financial commissioner subject to the control of the local Government,”‡ make rules as to loans to be made to owners and occupiers of arable land, for the relief of distress, the purchase of seed or cattle, or any other purpose not specified in the Land Improvement Loans Act, 1883, but connected with agricultural objects.

* The Act has been declared in force in Upper Burma (except the Shan States), by Act XIII of 1896, s. 4

† Certain words after this repealed by Act 4 of 1914 have been omitted.

‡ The words within quotations have been inserted by Act 4 of 1914.

(2) All such rules shall be published in the local official Gazette.

5. Every loan made in accordance with such rules, all interest (if any) chargeable thereon, and costs (if any) incurred in making or recovering the same, shall, when they become due, be recoverable from the person to whom the loan was made, or from any person who has become surety for the repayment thereof, as if they were arrears of land-revenue or costs incurred in recovering the same due by the person to whom the loan was made, or by his surety.

6. When a loan is made under this Act to the members of a village-community, or to any other persons, on such terms that all of them are jointly and severally bound to the Government for the payment of the whole amount payable in respect thereof, and a statement, showing the portion of that amount which, as among themselves, each is bound to contribute, is entered upon the order granting the loan, and is signed, marked, or sealed by each of them or his agent duly authorized in this behalf, and by this officer making the order, that statement shall be conclusive evidence of the portion of that amount which, as among themselves, each of those persons is bound to contribute.

ACT XIX. OF 1884.

Rangoon Water-Works Act, 1884.

RECEIVED THE G.-G.'S ASSENT ON THE 10TH OCTOBER 1884.

An Act to confer powers, and impose duties, on the Municipal Committee for the Town of Rangoon in respect to the construction and maintenance of Water-works and the supply of Water in that Town.

WHEREAS a scheme has been settled and, to some extent, carried out for the construction and maintenance of water-works and the supply of water to the Town of Rangoon by the Municipal Committee for that town ;

And whereas it is necessary for the purposes of the scheme that the Royal Lake at Rangoon, and all existing tanks, cisterns, springs, wells, pumps, reservoirs, conduits, aqueducts, hydrants, stand-pipes, and works, and all lands, bridges, buildings, engines, works, materials, and things connected therewith, or appertaining thereto, should vest in, and be under the control of, the Municipal Committee for that town ;

And whereas it is expedient that powers should be conferred and duties imposed upon the said Municipal Committee with respect to the construction and maintenance of the proposed water-works and the supply of water to the Town of Rangoon, and otherwise in relation thereto, and that all acts already done by the said Municipal Committee, which could have been lawfully done if this Act had been in force, should be validated

It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title and com-
mencement, **1** (1) This Act may be called Rangoon Water-works Act, 1884, and

(2) It shall come into force on such date as the Chief Commissioner may, by notification in the official Gazette, fix in this behalf.

(2) [*Repealed by Act XII. of 1891, Sch I*]

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

(1) "town" means the local area for the time being comprised within the municipal limits of the town of Rangoon :

(2) "street" means any street, road, throughfare, passage, or place over which the public have a right of way; and includes the surface soil and sub-soil of any such street, and the footway and drains of any such street, and any bridge, culvert, or causeway forming part of any such street.

(3) "owner" includes—

(a) the person who is for the time being entitled to the rent of the house or land in respect of which the word is used, and who is not liable to pay rent for that house or land to any other person ;

(b) an agent of that person, and

(c) a trustee for that person.

(4) "house" includes schools, also factories and other buildings in which persons are employed.

(5) "water-works" includes all lakes, streams, tanks, cisterns, springs, wells, pumps, reservoirs, conduits, aqueducts, hydrants, stand-pipes, and works, and all land, bridges, buildings, engines, works, materials, and things for supplying, or used for supplying, water under this Act to the Town of Rangoon.

(6) "the Committee" means the Municipal Committee for the town of Rangoon :

(7) "water-rent" includes any rent, reward, or payment to be made to the Committee in connection with the supply of water under this Act, but does not include the water-tax leviable under the Burma Municipal Act, 1884; and

(8) a "supply of water for domestic purposes" does not include a supply of water for cattle, or for horses, or for washing carriages, where the cattle, horses, or carriages, are kept for sale or hire or by a common carrier, or a supply for any trade, manufacture, or business, or for watering gardens, or for fountains or for any ornamental purpose.

CHAPTER II.

VESTING OF PROPERTY.

3. There shall vest in, and be under the control of, the committee, freed and discharged of and from all manner of rights, titles, privileges, or claims whatsoever of any other person—

Vesting of Royal Lake
and cisterns, &c., in Com-
mittee.

(a) the Royal Lake at Rangoon, and

(b) all existing tanks, cisterns, springs, wells, pumps, reservoirs, conduits, aqueducts, hydrants stand-pipes, and works, used or intended to be used for supplying water to the public in the town, and all land, bridges, buildings, engines, works, materials, and things connected therewith, or appertaining thereto.

Provided as follows:—

(1) Any person may at any time, subject to such rules as the Committee make in this behalf, row, sail, or fish on or in the waters of the Royal Lake

(2) Nothing in this section shall affect the land adjacent to the Royal Lake and known as the Dalhousie Park, but that land shall be preserved as a public park for the use of the public

CHAPTER III

CONSTRUCTION AND MAINTENANCE OF WATER-WORKS.

4. Subject to rules to be made under this Act by the Chief Commissioner, the Committee shall cause such mains and pipes to be laid, and such water-works to be constructed, as may be necessary for the supply of pure and wholesome water sufficient for the use of the inhabitants for domestic purposes in all parts of the town;

Duty of Committee to
contract works for supply
of water.

Provided that the Chief Commissioner may, by order in writing, from time to time exempt any part of the town from the provisions of this section, and cancel any such exemption.

5. The Committee shall cause such stand pipes or pumps to be erected, at such intervals as the Chief Commissioner, by rules made under this Act, prescribes, in all the chief streets in those parts of the town in which mains or pipes have been laid under the last foregoing section.

Duty of Committee to erect stand pipes

6. The Committee may, for the purpose of constructing or maintaining any water-works for the supply of water to the town, enter upon any land and take levels of the same, and set out such parts thereof as they think necessary, and dig and break up the soil of the land :

Power for Committee to execute works.

Provided that, in the exercise of these powers, the Committee shall do as little damage as may be, and shall make full compensation to all persons interested for all damage sustained by them through the exercise of these powers, and the amount of such compensation shall be determined as nearly as may be in accordance with the provisions of the Land Acquisition Act, 1894

7. The Committee may open and break up the soil and pavement of the streets, and lay down and place pipes, conduits, and other works and engines, and, from time to time, repair, alter, or remove the same, and do all other acts which the Committee, from time to time, deem necessary for supplying water to the town.

Power for Committee to break up streets.

CHAPTER IV.

SUPPLY OF WATER

A.—Supply of Water for domestic purposes to Occupiers of Houses or Lands.

8. "(1)* Subject to the provisions of this Act, the occupants of a house or land separately assessed to water-tax and situate in a part of the town not exempted under the proviso to section 4 shall be entitled to have, free of further charge, through the communication-pipes constructed as hereinafter provided, a supply to the house or land of pure and wholesome

Right of occupier to certain supply of water for domestic purposes

* This new sub-section (1) has been substituted by Burma Act I. of 1900, s. 2.

water for domestic purposes to the extent during each quarter of either of the following quantities, whichever may be the greater, namely :—

- (a) three thousand gallons for every rupee paid to the committee for water-tax on account of such house or land for such quarter ; or
- (b) a total quantity of four thousand five hundred and fifty gallons irrespective of the amount paid for water-tax for such quarter."

(2) If the committee have reason to believe that the occupier of any house or land consumes more water than he is entitled to have free of further charge under this section, they may provide a water-metre at their own expense, and attach it to such part of the communication-pipes as they think fit.

(3) If the occupier consumes any water over and above the quantity to which he is entitled free of further charge under this section, he shall pay for it at the rate of one rupee for every three thousand gallons, or part of three thousand gallons.*

9. Every occupier of a house or land who is entitled to a supply of water free of further charge under the last foregoing section shall, subject to the provisions of this Act, be entitled to have communication-pipes laid down from the service-pipes of the committee, for bringing into his house or land a reasonable supply of water :

Provided that the Committee may cut off the supply of water to any house or land while the house or land is unoccupied.

10. The communication-pipes leading the water from the service-pipes of the Committee into the house or land of any occupier, and the pipes and works within the house connected therewith, shall be of such character, dimensions, and material as the committee fix and approve, and shall be constructed at the expense of the person requiring them.

11. (1) Before a connection for the supply of water from the service-pipes of the Committee to any house or land is sanctioned by the Committee, the Committee shall cause all the works, pipes, and fittings within the house or land to be inspected by such officer as the Committee appoint in this behalf.

* The words "Three thousand Gallons" have been substituted for the words "fifteen hundred gallons" by Burma Act I of 1900, s. 2, sub s. (2).

(2) The cost of an inspection under this section shall be payable in advance by the person applying for the connection, at such rate as the Committee, at a special meeting, from time to time, direct.

(3) Until the officer has certified that the works, pipes, and fittings have been executed and put up in a satisfactory manner, a connection with the Committee's service-pipes shall not be permitted.

12. (1) The connection with the service-pipes of the Committee, and the laying of communication-pipes under any street, shall be executed by an officer of the Committee authorized in that behalf.

Connection with service-pipes to be executed only by an officer of the Committee.

(2) The expense of making the connection shall be payable in advance by the person applying for the same, at such rate as the Committee, at a special meeting, from time to time direct.

13. (1) The officer authorized in that behalf by the Committee may, between the hours of seven in the forenoon and five in the afternoon, enter into or on any house or land supplied with water as aforesaid in order to examine all pipes, works, and fittings connected with the supply of water, and to ascertain if there is any waste or misuse of the water.

Power for officer of Committee to enter premises.

(2) If any such officer at any such time is refused admittance into any such house or land for the purposes aforesaid, or is prevented from making such examination as aforesaid, the Committee may forthwith turn off or cut off the water from the house or land.

* 14. (1) If any pipes, works or fittings connected with the supply of water to any house or land are at any time found on examination by any officer of the Committee authorized in that behalf to be out of repair to such an extent as to cause any waste of water, the Committee may, after expiry of twenty-four hours from the service of notice in writing to this effect on the owner or occupier,—

Power for Committee to turn off water or effect repairs when pipes, &c., are out of repair.

(a) cause the water to be turned off or cut off from the house or land, or

(b) in addition to or instead of so turning off or cutting off the water, repair such pipes, works or fittings so as to obviate such waste of water,

* Section 14 has been substituted by Burma Act II of 1907.

and may recover the expense incurred for either or both such turning off or cutting off the water and such repairs from the owner or occupier of the house or land.

(2) If any expense are recovered by the committee under subsection (1) from an occupier or owner who would, under the provisions of sections 26 and 28 or of a special contract be entitled to require the owner or occupier (as the case may be) to effect the repairs, the person from whom such expenses are recovered may recover the same from the owner or occupier so bound to execute the repairs and (if he is an occupier) may deduct the same from any rent due by him from the owner."

B.—Supply for gratuitous use in Stand-pipes.

15. The Committee shall cause a sufficient quantity of pure and wholesome water to be supplied for the gratuitous use of the inhabitants of the town for domestic purposes in the stand-pipes to be erected by the Committee under section 5.

Duty of Committee to supply water for gratuitous use in stand-pipes.

C.—Supply of water for extinguishing Fires, and cleansing Sewers and Streets.

16. The Committee shall fix and renew, and keep in effective order, such fire-plugs in such of the mains and other pipes laid by them, and shall deposit keys of the fire-plugs at such places as the Chief Commissioner, by rules made under this Act, directs.

Duty of Committee to fix fire-plugs in mains.

17. In all the mains and pipes to which any fire-plug is fixed, the Committee shall provide, and keep constantly laid on, unless prevented by unusual drought or other unavoidable accident, a sufficient supply of water for use with fire-engines, for cleansing the sewers and drains, and for cleansing and watering the streets.

Duty of Committee to supply water for cleansing sewers and drains.

D.—Supply of Water for other than domestic purposes.

18. (1) The Committee may, from time to time, supply any person with water by measurement for other than domestic purposes, for such remuneration and on such terms any conditions as shall be agreed on between the Committee and the person :

Supply for other than domestic purposes.

Provided that—

(a) notwithstanding any such agreement, a person shall not be entitled to such a supply whenever and as long as the Committee are of opinion that the supply would interfere with the proper supply of water for domestic purposes under this Act ; and

- (b) the Committee shall not be liable, in the absence of express stipulation under any such agreement, to any forfeiture, penalty, or damages for not supplying the water if the want of the supply arises from unusual drought or other unavoidable cause or accident.

(2) When any such agreement has been entered into by the Committee with any person, the Committee may, subject to such charges or rates as may have been fixed by the Committee at a special meeting, lay down, or allow to be laid down, the necessary communication pipes and works, of such dimensions and character as may be fixed by the Committee, for supplying the person with water in accordance with the terms of the agreement.

E.—Pressure of Water supplied.

19. From such a day as the Chief Commissioner by notice in the local official Gazette, directs in this behalf, the supply of water in the mains and pipes which the Committee are required to lay under this Act shall be laid on at such pressure as the Chief Commissioner, by rules made under this Act, prescribes.

CHAPTER.

RECIPROCAL RIGHTS OF OWNERS AND OCCUPERS TO SUPPLY OF WATER TO HOUSES.

20. (1) Any occupier holding direct from the owner of a house may, by notice in writing signed by him, require the owner of the house to construct all such works as may be necessary for bringing into the house a supply of water for domestic purposes.

(2) Every notice under this section shall contain an undertaking on the part of the occupier to pay interest at the rate of one per centum per mensem, calculated from the date of the completion of the works, on the cost of the works during the residue of his term of occupation.

(3) If the house, or the land attached thereto, does not abut upon a street in which there is a supply-main, the occupier shall undertake to pay the cost of connecting the house with the nearest supply-main.

21. (1). If the owner does not, within three months from the service of the notice mentioned in the last Power for occupier to make works in default of owner. foregoing section, cause such works as aforesaid to be completed, the occupier may cause the works to be completed, and may, by way of additional remedy, deduct the cost of the works from the rent payable by him in respect of the house :

Provided that the occupier shall not recover on account of the cost—

- (a) a sum exceeding the amount of six months' rent ; or
- (b) where the house or the land attached thereto does not abut upon a street in which there is a supply-main, the cost of connecting the house with a supply-main.

(2) The deduction which an occupier is authorized to make under this section shall be made by six equal monthly instalments.

(3) Interest on each instalment shall be payable to the owner by the occupier at the rate of one per centum per mensem from the time when it is deducted.

22. The works shall not be deemed sufficient for bringing into the house a supply of water for domestic purposes unless the following taps, with the necessary works in connection therewith, are provided, namely :—

- (a) two taps in the house
- (b) one tap in the cook-room of, or other building attached to, the house, and
- (c) one tap in or near the stables or other out-houses belonging to the house :

Provided, that if the annual rent of the house with the buildings and land attached thereto is less than three hundred rupees, it shall be sufficient to provide one tap only, together with the necessary works in connection therewith, within the house and the buildings and land attached thereto.

23. Works for introducing a supply of water to a house shall not be commenced by the owner without Estimates and specification of work to be sent. sending a specification and estimate of the cost thereof to the occupier, nor by the occupier without sending such a specification and estimate to the owner.

24. If there is any difference between the owner and the occupier respecting the cost or the sufficiency of the proposed works, either the owner or the occupier may refer the difference to the Committee.

and the written award of any officer authorized by the Committee in this behalf shall be final and binding on the owner and the occupier.

25. There shall be payable by the person making a reference to the Committee under the last foregoing section a fee (not exceeding ten rupees) at the rate of two rupees for every hundred rupees of the monthly rent of the house in respect of the water supply to which the difference has arisen.

26. (1) The owner of any house or land shall keep all works connected with the supply of water to the house or land in substantial repair.

(2) If the owner fails to put any such works in substantial repair after being requested by the occupier to do so, the occupier may cause the necessary repairs to be made, and may, by way of additional remedy, deduct the cost of the repairs from the rent payable by him in respect of the house or land.

27. Any owner to whom any sum is payable under section 20 or section 21 may recover the sum from the person liable to pay it as if it were rent payable by that person for the house in respect of which the expenses have been incurred.

Saving of contracts between owners and occupiers.

28. Nothing in this chapter shall affect any contract in writing between the owner and occupier of any house or land.

CHAPTER VI.

RULES.

29. The Chief Commissioner may, from time to time, make rules consistent with this Act—

Power for Chief Commissioner to make rules.

- (a) to prescribe the size and nature of the mains and pipes to be laid and the water-works to be constructed by the Committee for the supply of water under this Act;
- (b) to prescribe the size and nature of the stand-pipes or pumps to be erected by the Committee under this Act, and the intervals at which they must be erected;
- (c) to prescribe the mains or pipes in which fire-plugs are to be fixed, and the places at which keys of the fire-plugs are to be deposited, by the Committee under this Act;

(d) to prescribe the pressure at which the water supplied by the Committee under this Act is to be laid on either generally or at specified times; and

(e) generally to define and regulate the powers and duties of the Committee under this Act.

Power for Committee to make rules.

30. (1) The Committee may, from time to time, at a special meeting, make rules consistent with this Act—

(a) for regulating, rowing, sailing, and fishing on or in the Royal Lake, and

(b) for preventing the waste or misuse of water supplied by them, and for defining the nature of the pipes, casks, cisterns, and other apparatus to be used by every person supplied by them with water.

(2) In making a rule under this section the Committee may direct that a breach of it shall be punishable with fine which may extend to fifty rupees, and, when the breach is a continuing one, with a further fine of five rupees for every day after the first during which the breach continues.

(3) If any person, having or requiring a supply of water from the Committee, fails to comply with any rules made under clause (b) of this section, the Committee may refuse to supply water to him, and may cut off the water supplied to him, unless and until the rules are complied with :

Provided that the stopping or cutting off the supply of water shall not relieve any person from any penalties or liabilities which he has otherwise incurred.

31. (1) The Chief Commissioner or Committee shall, before making any rules under section 29 or section 30, publish a draft of the proposed rules for the information of persons interested.

Procedure for making rules,

(2) The publication shall be made—

(a) in the case of rules under section 29, in such manner as in the opinion of the Chief Commissioner, is sufficient; and

(b) in the case of rules under section 30, in such manner as the Chief Commissioner, by order, directs.

(3) A notice shall be published with the draft rules specifying a date as or after which the draft shall be taken into consideration.

(4) The Chief Commissioner or Committee shall, before making the rules, receive and consider any objection or suggestion which is made by any person with respect to the draft before the date so specified.

32. Every rule made under section 29 or section 30 shall be published in the local official Gazette in English and in such other language or languages as the Chief Commissioner directs, and such publication shall be cogclusive evidence that the rule has been made as required by section 31.

CHAPTER VII.

ARREARS AND OFFENCES.

33. All arrears of water-rents under this Act may be recovered, on application to such Revenue-officer as the Local Government may appoint in this behalf, as if they were arrears of land-revenue.*

Power for Committee to turn off water on neglect to pay water-tax or water-rent.

34. If any person supplied with water neglects to pay—

(a) the water-tax leviable under the Burma Municipal Act, 1884, or

(b) any water-rent payable by him to the Committee,

the Committee may turn off or cut off the water from the house or land in respect of which the water-tax or water-rent is payable, by cutting off the pipe to the house or land, or by such other means as the Committee think fit, and may recover in manner provided by the last foregoing section the expense of turning off or cutting off the water from the person :

Provided that the stopping or cutting off the supply of water shall not relieve any person from any penalties or liabilities which he has otherwise incurred.

35. If any person unlawfully obstructs the flow of, flushes, draws off, diverts, or takes, water from any water-works belonging to, or under the management or control of, the Committee, or from any water or streams by which these water-works are supplied, or wastes any water supplied to him under this Act, he shall be punished with fine which may extend to one hundred rupees.

Penalty for obstructing, diverting or wasting water.

36. If any person —

(a) uses for other than domestic purposes any water supplied under this Act for domestic purposes ; or

* See Act II. of 1876, ss. 45 to 51,

(b) where water is supplied under section 18 for a specified purpose, uses that water for any other purpose.

he shall be punished with fine which may extend to fifty rupees, without prejudice to the right of the Committee to recover from him the price of the water misused.

Penalties for causing the water of the Committee to be fouled. &c.

37, (1) If any person—

- (a) bathes in, at, or upon any water works, or washes, throws, or causes to enter therein, any dog or other animal, or
- (b) throws any rubbish, dirt, filth, or other noisome thing into any water-works, or washes or cleanses therein any cloth, wool, leather, or skin of any animal, or any clothes or other thing, or
- (c) causes the water of any sink, sewer, or drain, or of any steam-engine or boiler, or any other filthy water belonging to him or under his control, to turn or be brought into any water-works, or does any other act whereby the water in any water works is fouled, or likely to be fouled.

he shall, for every such offence, be punished with fine which may extend to one hundred rupees, and to ten rupees, in addition for each day (if more than one) during which the offence continues.

38 Prosecutions under this Act, or the rules made under this Act, may be instituted by the Committee or any person authorized by them in this behalf, and not otherwise.

ACT II. OF 1885.

RECEIVED THE G.-G.'S ASSENT ON THE 30TH JANUARY
1885.

An Act to amend the Negotiable Instruments Act, 1881.

Whereas it is expedient to amend the Negotiable instruments Act, 1881, in manner hereinafter appearing ; it is hereby enacted as follows :—

Short title. **1.** This Act may be called the Negotiable Instruments Act, 1885.

2. In the fourth paragraph of section 7 of the Negotiable Instruments Act, 1881, for the words, "When acceptance is refused, and the bill is protested for non-acceptance," the following shall be substituted, namely, "When a bill of exchange has been noted or protested for non-acceptance, or for better security."

Amendment of section 7.
Act XXVI of 1881.

3. After section 45 of the same Act the following shall be inserted :—

New section inserted
after section 45 of the same
Act.

"45A. [*Printed in Vol. II. p. 535.*]

4. To section 61, and the first paragraph of section 64, of the same Act, the following shall be added :—

Addition to sections 61
and 64 of the same Act

"Where authorized by agreement or usage, a presentment through the post-office by means of a registered letter is sufficient."

5. To section 101 of the same Act the following shall be added :—

Addition to section 101 of
the same Act

"A notary public may make the demand mentioned in clause (c) of this section either in person or by his clerk, or, where authorized by agreement or usage, by registered letter."

6. After section 104 of the same Act the following shall be inserted :—

Section inserted after section
104 of the same Act.

" 104A. [*Printed in Vol. II., p. 651.*]

7. [*Repealed by Act XII. of 1891, Sch. I.*]

Amendment of section 109
of same Act

8. In the same Act, section 109—

(a) for the words, "in the presence of a notary public subscribe the bill with his own hand, and," the following shall be substituted, namely : "by writing on the bill under his hand."*

(b) [*Repealed by Act XII. of 1891, Sch. I.*]

Amendment of section
113 of same Act.

9. In the same Act, section 113, after the words, "the person so paying," the words, "or his agent in that behalf," shall be inserted.

New chapter added to
same Act.

10. After Chapter XVI. of the same Act, the following shall be inserted :—

CHAPTER XVII.

NOTARIES PUBLIC.

[*Printed in Vol. II., p. 658.*]

In s. 8. cl (a), the last word "and," being repealed by Act XII. of 1891, Sch. I., has been omitted.

ACT III. OF 1885.**The Transfer of Property (Amendment)
Act, 1885.**

RECEIVED THE G.-G.'S ASSENT ON THE 30TH JANUARY 1885.

An Act to amend the Transfer of Property Act, 1882 ;

WHEREAS it is expedient to amend the Transfer of Property Act, 1882 ; It is hereby enacted as follows :—

Amendment of section 1
of Act IV. of 1882 1. For the fifth clause of section 1 of the
said Act the following shall be substituted,
namely —

[*Printed in Vol. II., p. 694.*]

2. The following clause shall be deemed to have been added
Addition to same section. to first section of the said Act from the
date on which it came into force, namely :—

[*Printed in Vol. II., p. 694.*]

Addition to section 4 of
same Act. 3 To section 4 of the said Act the follow-
shall be added, namely :—

[*Printed in Vol. II., p. 700.*]

Addition to section 6 of
same Act 4. To section 6 of the said Act the follow-
ing clause shall be added :—

(1) [*Printed in Vol. II., p. 701.*]

Amendment of section 69
of same Act

5. In section 69 of the said Act—

(a) after the words, "is valid in the following cases," the
words, "and in no others," shall be inserted ; and

(b) after the words, "Hindu, Muhammadan, or Buddhist," in
both places where they occur, there shall be inserted
the words, "or a member of any other race, sect, tribe,
or class from time to time specified in this behalf by
the Local Government, with the previous sanction of
the Governor-General in Council, in the local official
Gazette."

ACT VII. OF 1885.**The Panch Mahals Laws Act.**

RECEIVED THE G.-G.'S ASSENT ON THE 20TH FEBRUARY 1885.

An Act to amend the Law in force in the Panch Mahals.

WHEREAS it is expedient that the law in force in the territory comprised in the Panch Mahals should, on and from the first day of May 1885, be the same as the law in force in the district of Karia, in the Bombay Presidency ; and that the said territory should, on and from that day, cease to be a scheduled district under the Scheduled District Act, 1874, and the Laws Local Extent Act, 1874 ; It is hereby enacted as follows :—

Short title. 1 This Act may be called the Panch Mahals Laws Act, 1885.

2. (1) Save and except the enactments specified in the schedule hereto annexed, all enactments, which, Laws of Karia to apply. on the first day of May 1885, are in force in the district of Karia, and not in the Panch mahals, shall be deemed to come into force in the Panch Mahals on that day.

(2) All enactments, which on that day are in force in the Panch Mahals, and not in the district of Karia, Other laws repealed. shall be deemed to be repealed on and from that day in the Panch Mahals

3. All proceedings commenced before any authority in the Panch Mahals before the first day of May Pending proceedings. 1885, and still pending on that day, shall be disposed of by such authority as the Local Government may direct, and, save as aforesaid, shall be carried on as if this Act had not been passed.

4 On and from the first day of May 1885, Territory to cease to be scheduled district. the Panch Mahals shall cease to be a scheduled district.*

* The residue of. s. 4, repealed by Act XII. of 1891, Sch. I., has been omitted.

THE SCHEDULE.

ENACTMENTS EXCEPTED FROM THE OPERATION OF SECTION 2.

Acts of the Governor-General in Council.

Number and year	Title.	Extent of exception.
VIII. of 1870 ...	For the prevention of the murder of female infants	The whole.
XXI. of 1881 ..	To amend to law providing for the relief of Thakurs in the districts of Broach and Kaira.	The whole.

Acts of the Governor of Bombay in Council.

Number and year.	Title	Extent of exception.
V. of 1862 ...	For the preservation of the Bhagdari and Narwadari Tenures.	The whole
V. of 1879 ...	To consolidate and amend the law relating to Revenue-officers and the Land-revenue in the Presidency of Bombay.	Section 85 " and sub-section (3) of section 58"*

* The words within quotations have been substituted by Bombay Act I of 1910.

ACT IX. OF 1885.

The Excise and Sea-Customs Law Amendment Act, 1885.*

RECEIVED THE G.-G.'S ASSENT ON THE 29TH MAY, 1885.

An Act † to amend ‡ the Bengal Excise Act, 1878, and the Sea Customs Act, 1878.

Whereas it is expedient † to amend ‡ section 18 of the Bengal Excise Act, 1878, and sections 145, 149, and 207 of the Sea Customs Act, 1878, in manner hereinafter appearing; It is hereby enacted as follows:—

1. [*Repealed by Act XII. of 1891, Sch. I.*]

2. ‡ [*Repealed by Act XII of 1896.*]

3. In section 18 of the Bengal Excise Act, 1878, for the words, "at the rate leviable under any Tariff Act for the time being in force," the words, "at such rate as the Local Government may, from time to time, fix in respect of such spirituous liquor," shall be substituted, but nothing in this section shall affect any Act passed after this Act comes into force by the Lieutenant-Governor of Bengal in Council.

Amendment of section 18
of Bengal Act VII of 1878

4. [*Repealed by Act I of 1903.*]

5. (1) In section 145 of the Sea Customs Act, 1878, after the word "shall" the words "except when provision is made by any enactment for the time being in force for its being immediately deposited in a licensed warehouse" shall be inserted.

Amendment of sections
145 and 149 of Act VIII
of 1878

(2) In section 149 of the same Act, after the words "or to a warehouse licensed under any enactment for the time being in force" shall be inserted.

6. In section 207 of the same Act, for the word "respectively" the words "or any like body hereafter created for any other port" shall be substituted.

Amendment of section
207 of the same Act.

* This title was given by Act XIV of 1897.

† In the title and preamble, certain words, repealed by Act XII. of 1891, Sch. I., have been omitted.

‡ Portions relating to Act XXII. of 1881, have been omitted, as repealed by XII. of 1896.

ACT X. OF 1885.

RECEIVED THE G.-G.'S ASSENT ON THE 12TH JUNE 1885.

An Act to amend the Oudh Estates Act, 1869.

WHEREAS it is expedient to amend the Oudh Estates Act, 1869; It is hereby enacted as follows :—

1. Subject to the saving in section 2 of this Act, for the definition of "registered" in section 2 of the said Act there shall be deemed to have been substituted from the date of the passing of the said Act the following definition, namely :—

Amendment of definition of "registered" in section 2 of Act I. of 1869.

"Registered."

"Registered" means—

"(a) in the case of a will, registered according to the law for the time being in force relating to the registration of assurances, or deposited with a Registrar according to the law for the time being in force relating to the deposit of wills; and

"(b) in the case of any other instrument, registered according to the law for the time being in force relating to the registration of assurances."

2. Nothing in section 1 shall affect any will—

(a) declared by a judicial decision pronounced before the passing of this Act to be invalid on the ground that it was not registered in accordance with the provisions of the said Act; or

(b) of which the validity is, at the time of the passing of this Act, being questioned on that ground in a suit commenced before the twenty-third day of October 1884.

ACT XIII. OF 1885.***Indian Telegraph Act.**

RECEIVED THE G.-G.'S ASSENT ON THE 22ND JULY 1885.

An Act to amend the law relating to Telegraphs in India.

WHEREAS it is expedient to amend the law relating to Telegraphs in India; It is hereby enacted as follows :—

Preamble.

PART I.**PRELIMINARY**

Short title. 1. (1) This Act may be called "The Indian Telegraph Act, 1885."

Local extent "(2) It extends to the whole of British India, including the Sonthal Parganas and the pargana of spite and it applies also to—

(a) all native Indian subjects of His Majesty in any place within and beyond British India,

(b) all other British subjects within the territories of any Native state in India, and

(c) all servants of the King, whether British subjects or not within the territories of any Native State of India."†

* Commencement (3) It shall come into force on the first day of October 1885

Repeal and savings. 2. The Indian Telegraph Act, 1876, is hereby repealed.

But all licenses granted and rules made under that Act, or any Act thereby repealed, and now in force, shall, so far as they could be granted or made under this Act, be deemed to have been respectively granted and made hereunder.

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

(1) "Telegraph" means an electric, galvanic, or magnetic

* This Act has been declared in force in Upper Burma (except the Shan States) by the Upper Burma Laws Act (XX of 1886), s. 6 (1), see now s. 4 and the First Schedule to the Burma Laws Act (XIII. of 1898) by which Act XX of 1886 has been repealed; and in the Santhal Pargunnahs Settlement Regulation (III of 1872), s. 3, as amended by the Santhal Pargunnahs Laws Regulation (III. of 1899), s. 3; and British Baluchistan, see s. 3 and schedule to the British Baluchistan Laws Regulation II. of 1912, in Angul Districts by Reg. III. of 1913, s. 3, in the Arakan Hill District by Reg. I. of 1916 s. 2.

† The words within quotations have been substituted by Act 7 of 1914.

telegraph, and includes appliances and apparatus for making transmitting or receiving" telegraphic, telephonic, or other communications by means of electricity, galvanism, or magnetism :

(2) "Telegraph-officer" means any person employed either permanently or temporarily in connection with a telegraph establishment, maintained, or worked by the Government or by a person licensed under this Act .

(3) "Message" means any communication sent by telegraph, or given to a telegraph-officer to be sent by telegraph or to be delivered .

(4) "Telegraph-line" means a wire or wires used for the purpose of a telegraph, with any casing, coating, tube, or pipe enclosing the same, and any appliances and apparatus connected therewith for the purpose of fixing or insulating the same :

(5) "Post" means a post, pole, standard, stay, strut, or other above-ground contrivance for carrying, suspending, or supporting a telegraph line :

(6) "Telegraph-authority" means the Director-General of "Posts and Telegraphs, and includes any officer empowered by him to perform all or any of the functions of the telegraph authority under this Act

(7) "Local authority" means any municipal committee, district board, body of port commissioners, or other authority legally entitled to, or entrusted by the Government with, the control or management of any municipal or local fund.

PART II.

PRIVILEGES AND POWERS OF THE GOVERNMENT.

Exclusive privilege in respect of telegraphs and power to grant licenses 4. (1) Within British India, the Governor-General in Council shall have the exclusive privilege of establishing, maintaining, and working telegraphs .

Provided that the Governor-General in Council may grant a license, on such conditions and in consideration of such payments as he thinks fit, to any person to establish, maintain, or work a telegraph within any part of British India.

† "Provided further that the Governor-General in Council may, by rules made under this Act and published in the *Gazette* of India, permit, subject to such restrictions and conditions as he thinks fit, the establishment, maintenance and working—

The words within quotations have been added by Act 14 of 1914.

The word within quotations have been added by Act VII of 1914

(a) of wireless telegraphs on ships within Indian territorial waters, and

(b) of telegraphs other than wireless telegraphs within any port of British India.

(2) The Governor-General in Council may, by*notification in the *Gazette of India*, delegate to the telegraph authority all or any of his powers under the first proviso to sub-section (1)

The exercise by the telegraph authority of any power so delegated shall be subject to such restrictions and conditions as the Governor-General in Council may, by the notification, think fit to impose."

5. (1) On the occurrence of any public emergency, or in the interest of the public safety, the Governor-General in Council or a Local Government, or any officer specially authorized in this behalf by the Governor-General in Council, may—

Power for Government to take possession of licensed telegraphs, and to order interception of messages.

(a) take temporary possession of any telegraph established, maintained, or worked by any person licensed under this Act, or

(b) order that any message or class of message to or from any person, or class of persons, or relating to any particular subject, brought for transmission by, or transmitted, or received by, any telegraph, shall not be transmitted, or shall be intercepted, or detained, or shall be disclosed to the Government or an officer thereof mentioned in the order.

(2) If any doubt arises as to the existence of a public emergency, or whether any Act done under sub-section (1) was in the interest of the public safety, a certificate signed by a Secretary to the Government of India or, to the Local Government shall be conclusive proof on the point,

6. Any Railway Company, on being required so to do by the Governor-General in Council, shall permit the Government to establish and maintain a telegraph upon any part of the land of the Company, and shall give every reasonable facility for working the same.

Power to establish telegraph on land of Railway Company.

7. (1) The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, make rules* consistent with this Act for the conduct of all or any telegraphs

Power to make rules for the conduct of telegraph

* For rules framed under this section, see *Gazette of India*, 1897, Pt. I., P. 559, and *ibid*, 1898, Pt. I., p. 139.

established, maintained, or worked by the Government or by persons licensed under this Act.

(2) Rules under this section may provide for all or any of the following, among other matters, that is to say :—

- (a) the rates at which, and the other conditions and restrictions subject to which, messages shall be transmitted ;
- (b) the precautions to be taken for preventing the improper interception or disclosure of messages ;
- (c) the period for which, and the conditions subject to which, telegrams and other documents belonging to, or being in the custody of telegraph-officers shall be preserved , and
- (d) the fees to be charged for searching for telegrams or other documents, in the custody of any telegraph-officer.

(3) When making rules for the conduct of any telegraph established, maintained, or worked by any person licensed under this Act, the Governor-General in Council may, by the rules, prescribe fines for any breach of the same :

Provided that the fines so prescribed shall not exceed the the following limits, namely —

- (i) when the person licensed under this Act is punishable for the breach, one thousand rupees ; and, in the case of a continuing breach, a further fine of two hundred rupees for every day after the first during the whole or any part of which the breach continues ;
- (ii) when a servant of the person so licensed, or any other person, is punishable for the breach, one-fourth of the amounts specified in clause (i).

8 The Governor General in Council may, at any time, revoke any license granted under section 4, on the breach of any of the conditions therein contained, or in default of payment of any consideration payable thereunder.

9. The Secretary of State for India in Council shall not be responsible for any loss or damage which may occur in consequence of any telegraph-officer failing in his duty with respect to the receipt, transmission, or delivery of any message ; and no such officer shall be responsible for any such loss or damage, unless he causes the same negligently, or maliciously, or fraudulently.

Government not responsible for loss or damage.

PART III

POWER TO PLACE TELEGRAPH LINES AND POSTS.

Power for telegraph authority to place and maintain telegraph-lines and posts.

10* The telegraph-authority may, from time to time, place and maintain a telegraph-line under, over, along, or across, and posts in or upon, any immoveable property.

Provided that—

- (a) the telegraph-authority shall not exercise the powers conferred by this section except for the purpose of a telegraph established or maintained by the government, or to be so established or maintained,
- (b) the Government shall not acquire any right other than that of user only in the property under, over, along, across, in, or upon which the telegraph-authority places any telegraph-line or post,
- (c) except as hereinafter provided, the telegraph-authority shall not exercise those powers in respect of any property vested in or under the control or management of any local authority, without the permission of that authority, and
- (d) in the exercise of the powers conferred by this section, the telegraph-authority shall do as little damage as possible, and, when it has exercised those powers in respect of any property other than that referred to in clause (c), shall pay full compensation to all persons interested for any damage sustained by them by reason of the exercise of those powers.

11. The telegraph-authority may, at any time, for the purpose of examining, repairing, altering, or removing any telegraph-line or post, enter on the property under, over, along, across, in, or upon which the line or post has been placed.

Power to enter on property in order to repair or remove telegraph lines or posts.

Provisions applicable to Property vested in or under the Control or Management of Local Authorities.

12. Any permission given by a local authority under section 10, clause (c), may be given subject to such reasonable conditions as that authority thinks fit to impose, as to the payment of any expenses to which the authority will necessarily be put in consequence of exercise of the powers con-

Power for local authority to give permission under section 10, clause (c), subject to conditions.

* For power of Governor-General in Council to confer upon any public officer any of the powers of the telegraph-authority with respect to the placing of lines and posts, see Act XIII. of 1887, s. 6.

ferred by that section, or as to the time or mode of execution of any work, or as to any other thing connected with or relative to any work under taken by the telegraph-authority under those powers.

13. When, under the foregoing provisions of this Act, a telegraph-line or post has been placed by the telegraph-authority under, over, along, across, in, or upon any property vested in or under the control or management of a local authority, and the local authority, having regard to circumstances which have arisen since the telegraph-line or post was so placed, considers it expedient that it should be removed, or that its position should be altered, the local authority may require the telegraph-authority to remove it or alter its position, as the case may be.

14. The telegraph-authority may, for the purpose of exercising the powers conferred upon it by this Act in respect of any property vested in or under the control or management of a local authority, alter the position thereunder of any pipe (not being a main) for the supply of gas or water, or of any drain (not being a main drain)

Provided that—

(a) when the telegraph-authority desires to alter the position of any such pipe or drain, it shall give reasonable notice of its intention to do so, specifying the time at which it will begin to do so, to the local authority, and, when the pipe or drain is not under the control of the local authority, to the person under whose control the pipe or drain is,

(b) a local authority or person receiving notice under clause (a) may send a person to superintend the work, and the telegraph-authority shall execute the work to the reasonable satisfaction of the person so sent.

15. (1) If any dispute arises between the telegraph-authority and a local authority in consequence of the local authority refusing the permission referred to in section 10, clause (c), or prescribing any condition under section 12 or in consequence of the telegraph-authority omitting to comply with a requisition made under section 13, or otherwise in respect of the exercise of the powers conferred by this Act, it shall be determined by such officer as the Local Government may appoint either generally or specially in this behalf.

(2) An appeal from the determination of the officer so appointed shall lie to the Local Government, and the order of the Local Government shall be final.

Provisions applicable to other Property.

Exercise of powers conferred by section 10, and disputes as to compensation, in case of property other than that of a local authority.

ercise them,

(2) If, after the making of an order under sub-section (1), any person resists the exercise of those powers, or, having control over the property, does not give all facilities for their being exercised, he shall be deemed to have committed an offence under section 188 of the Indian Penal Code

(3) If any dispute arises concerning the sufficiency of the compensation to be paid under section 10, clause (d), it shall, on application for that purpose by either of the disputing parties to the District Judge within whose jurisdiction the property is situate; be determined by him

(4) If any dispute arises as to the persons entitled to receive compensation, or as to the proportions in which the persons interested are entitled to share in it, the telegraph authority may pay into the Court of the District Judge such amount as he deems sufficient, or, where all the disputing parties have in writing admitted the amount tendered to be sufficient, or the amount has been determined under sub-section (3), that amount, and the District Judge, after giving notice to the parties, and hearing such of them as desire to be heard, shall determine the persons entitled to receive the compensation, or, as the case may be, the proportions in which the persons interested are entitled to share in it.

(5) Every determination of a dispute by a District Judge under sub-section (3) or sub-section (4) shall be final :

Provided that nothing in this sub-section shall affect the right of any person to recover by suit the whole or any part of any compensation paid by the telegraph-authority from the person who has received the same,

17. (1) When, under the foregoing provisions of this Act, a telegraph-line or post has been placed by the telegraph authority under, over, along, across, in, or upon any property not being property vested in or under the control or management of a local authority, and any person entitled to do so desires to deal with that property in such a manner as to render it necessary or convenient that the telegraph-line or post should be removed to another part thereof, or to a higher or lower level, or altered in form, he may require the telegraph-authority to remove or alter the line or post accordingly

Removal or alteration of telegraph-line or post on property other than that of a local authority.

Provided that, if compensation has been paid under section 10, clause (d), he shall, when making the requisition, tender to the telegraph-authority the amount requisite to defray the expense of the removal or alteration, or half of the amount paid as compensation, whichever may be the smaller sum.

(2) If the telegraph-authority omits to comply with the requisition, the person making it may apply to the District Magistrate within whose jurisdiction the property is situate to order the removal or alteration.

(3) A District Magistrate receiving an application under sub-section (2) may, in his discretion, reject the same, or make an order, absolutely or subject to conditions, for the removal of the telegraph-line or post to any other part of the property, or to a higher or lower level, or for the alteration of its form, and the order so made shall be final.

Provisions applicable to all Property.

18. (1) If any tree standing or lying near a telegraph-line interrupts, or is likely to interrupt, telegraphic communication, a Magistrate of the first or second class may, on the application of the telegraph-authority, cause the tree to be removed or dealt with in such other way as he deems fit.

(2) When disposing of an application under sub-section (1), the Magistrate shall, in the case of any tree in existence before telegraph-line was placed, award to the persons interested in the tree such compensation as he thinks reasonable, and the award shall be final.

19. Every telegraph-line or post placed before the passing of this Act under, over, along, across, in, or upon any property for the purposes of a telegraph established or maintained by the Government, shall be deemed to have been placed in exercise of the powers conferred by, and after observance of all the requirements of, this Act.

19A * (1) Any person desiring to deal in the legal exercise of a right with any property in such a manner as is likely to cause damage to a telegraph line or post which has been duly placed in accordance with the provisions of this Act, or to interrupt or interfere with telegraphic communication, shall give not less than one month's notice in writing of the intended exercise of such right to the telegraph authority, or to any telegraph officer whom the telegraph authority may empower in this behalf.

(2) If any such person without having complied with the provisions of sub-section (1) deals with any property in such a manner as is likely to cause damage to any telegraph line or post, or to interrupt or interfere with telegraphic communication, a Magistrate of the first or second class may, on the application of the telegraph authority, order such person to abstain from dealing with such property in such manner for a period not exceeding one month from the date of his order and forthwith to take such action with regard to such property as may be in the opinion of the Magistrate necessary to remedy or prevent such damage, interruption or interference during such period.

(3) A person dealing with any property in the manner referred to in sub-section (1) with the *bona fide* intention of averting imminent danger of personal injury to himself or any other human being shall be deemed to have complied with the provisions of the said sub-sections if he gives such notice of the intended exercise of the right as in the circumstances possible, or where no such previous notice can be given without incurring the imminent danger referred to above, if he forth with gives notice of the actual exercise of such right to the authority or officer specified in the said sub-section.

19B.* The Governor General in Council may, by notification in the Gazette of India, confer upon any licensee under section 4, in respect of the extent of his licence and subject to any conditions and restrictions which the Governor General in council may think fit to impose and to the provisions of this Part, all or any of the powers which the telegraph authority possesses under this Part with regard to a telegraph established or maintained by the Government or to be so established or maintained

Provided that the notice prescribed in section 19A shall always be given to the telegraph authority or officer empowered to receive notice under section 19A (1).

20,† (1) If any person establishes, maintains or works a telegraph within British India in contravention of the provisions of section 4 or otherwise than as permitted by rules made under that section he shall be punished, if the telegraph is a wireless telegraph, with imprisonment which may extend to three years or with fine, or with both, and, in any other case, with a fine which may extend to one thousand rupees.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, offences under this section in respect of a

* See note under page 96

† Section 20 has been substituted by Act VII of 1914

wireless telegraph shall, for the purposes of the said Code, be bailable and non-cognizable.

(3) When any person is convicted of an offence punishable under this section, the Court before which he is convicted may direct that the telegraph in respect of which the offence has been committed, or any part of such telegraph, be forfeited to His Majesty.

PART IV.

PENALTIES.

20A.* If the holder of a licence granted under section 4 contravenes any condition contained in his licence, he shall be punished with fine which may extend to one thousand rupees, or with a further fine which may extend to five hundred rupees for every week during which the breach of the condition continues.

21. If any person, knowing or having reason to believe that a telegraph has been established or is maintained or worked in contravention of this Act, transmits or receives any message by such telegraph, or performs any service incidental thereto, or delivers any message for transmission by such telegraph, or accepts delivery of any message sent thereby, he shall be punished with fine which may extend to fifty rupees.

22. If a Railway Company, or an officer of a Railway Company, neglects or refuses to comply with the provisions of section 6, it or he shall be punished with fine which may extend to one thousand rupees for every day during which the neglect or refusal continues.

Intrusion into signal-room, trespass in telegraph office, or obstruction.

23. If any person—

- (a) without permission of competent authority, enters the signal-room of a telegraph-office of the Government, or of a person licensed under this Act, or
- (b) enters a fenced enclosure round such a telegraph-office in contravention of any rule or notice not to do so or
- (c) refuses to quit such room or enclosure on being requested to do so by any officer or servant employed therein, or
- (d) wilfully obstructs or impedes any such officer or servant in the performance of his duty,

* Section 20A has been added by Act 7 of 1914.

he shall be punished with fine which may extend to five hundred rupees.

24. If any person does any of the acts mentioned in section 23 with the intention of unlawfully learning the contents of any message, or of committing any offence punishable under this Act, he may (in addition to the fine with which he is punishable under section 23) be punished with imprisonment for a term which may extend to one year.

Unlawfully attempting to learn contents of messages
Intentionally damaging or tampering with telegraphs.

25. If any person, intending—

- (a) to prevent or obstruct the transmission or delivery of any message, or
- (b) to intercept, or to acquaint himself with, the contents of any message, or
- (c) to commit mischief,

damages, removes, tampers with, or touches any battery, machinery, telegraph-line, post, or other thing whatever, being part of, or used in or about, any telegraph, or in the working thereof,

he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

25A.* If, in any case not provided for by section 25, any person deals with any property and thereby wilfully or negligently damages any telegraph line or post duly placed on such property in accordance with the provisions of this Act, he shall be liable to pay the telegraph authority such expenses (if any) as may be incurred in making good such damage, and shall also, if the telegraphic communication is by reason of the damage so caused interrupted be punishable with a fine which may extend to one thousand rupees

Injury to or interference with a telegraph line or post
Provided that the provisions of this section shall not apply where such damage or interruption is caused by a person dealing with any property in the legal exercise of a right, if he has complied with the provisions of section 19A (1)

Telegraph officer or other official making away with or altering, or unlawfully intercepting or disclosing, messages, or divulging purport of signals

26. If any telegraph officer, or any person, not being a telegraph-officer, but having official duties connected with any office which is used as a telegraph-office,—

- (a) wilfully secretes, makes away with, or alters, any message which he has received for transmission or delivery, or

* Section 25A has been added by Act VII of 1914.

(b) wilfully, and otherwise than in obedience to an order of the Governor-General in Council, or of a Local Government, or of an officer specially authorized by the Governor-General in Council to make the order, omits to transmit, or intercepts or detains, any message or any part thereof, or otherwise than in pursuance of his official duty, or in obedience to the direction of a competent Court, discloses the contents, or any part of the contents, of any message, to any person not entitled to receive the same, or

(c) divulges the purport of any telegraphic signal to any person not entitled to become acquainted with the same,

he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both

27. If any telegraph-officer transmits by telegraph any message on which the charge prescribed by the Government, or by a person licensed under this Act, as the case may be, has not been paid, intending thereby to defraud the Government or that person, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

28. If any telegraph-officer, or any person not being a telegraph-officer, but having official duties connected with any office which is used as a telegraph-office, is guilty of any act of drunkenness, carelessness, or other misconduct, whereby the correct transmission or the delivery of any message is impeded or delayed, or if any telegraph-officer loiters or delays in the transmission or delivery of any message, he shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

29 If any person transmits or causes to be transmitted by telegraph a message which he knows to be false or fabricated, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

29A.* If any person, without dealing due authority,—

(a) makes or issues any document of a nature reasonably calculated to cause it to be believed that the document has been issued by or under the authority of, the Director General of "Posts" and Telegraphs, or†

* Sections 25 A and 29 A have been added by Act 7 of 1914.

† Words within quotations have been added by Act 14 of 1914.

(b) makes on any document any mark in intimation of, or similar to, or purporting to be, any stamp or mark of any Telegraph office under the Director General of "Post" and Telegraphs, or a mark of a nature reasonably calculated to cause it to be believed that the document so marked has been issued by, or under the authority of, the Director General of "Posts and" Telegraphs, he shall be punished with fine which may extend to fifty rupees.

30. If any person fraudulently retains, or wilfully secretes, Retaining a message delivered by mistake makes away with, or detains a message, which ought to have been delivered to some other person, or, being required by a telegraph officer to deliver up any such message, neglects or refuses to do so, he shall be punished with imprisonment for a term which may extend to two years, or with fine or with both

31. A telegraph-officer shall be deemed a public servant within the meaning of sections 161, 162, 163, Bribery 164 and 165 of the Indian Penal Code ; and in the definition of "legal remuneration" contained in the said section 161, the word "Government" shall, for the purposes of this Act, be deemed to include a person licensed under this Act.

32. Whoever attempts to commit any offence punishable Attempts to commit offences under this Act shall be punished with the punishment herein provided for the offence.

PART V.

SUPPLEMENTAL PROVISIONS

33 (1) Whenever it appears to the local Government that any act causing or likely to cause wrongful damage to any telegraph is repeatedly and maliciously committed in any place, and that the employment of an additional police-force in that place is thereby rendered necessary, the Local Government may send such additional police-force as it thinks fit, to the place, and employ the same therein so long as, in the opinion of that Government, the necessity of doing so continues.

(2) The inhabitants of the place shall be charged with the cost of the additional police-force, and the District Magistrate shall, subject to the orders of the Local Government, assess the proportion in which the cost shall be paid by the inhabitants according to his judgment of their respective means.

(3) All moneys payable under sub-section (2) shall be recoverable either under the warrant of a Magistrate by distress and sale of the moveable property of the defaulter within the local limits of his jurisdiction, or by suit in any competent Court.

* Vide note † in page 100.

(4) The Local Government may, by order in writing, define the limits of any place for the purposes of this section.

34* (1) This Act, in its application to the presidency-towns, shall be read as if for the words "District Magistrate" in section 16, sub-section (1), and section 27, sub-sections (2) and (3), for the words "Magistrate of the first or second class" in section 18, sub-section (1), "and section 19A, sub-section (2),"† and for the word "Magistrate" in section 18, sub-section (2) there had been enacted the words "Commissioner of Police," and for the words "District Judge" in section 16, sub-sections (3), (4), and (5), the words "Chief Judge of the Court of Small Causes."

(2) Section 16, in its application to the town of Rangoon, shall be read as if, for the words "District Judge," wherever they occur in that section, there had been enacted the words "Judge of the Court of Small Causes"

(3) The fee in respect of an application to the Chief Judge of a Presidency Court of Small Causes under sub-section (3) of section 16 shall be the same as would be payable under the Court-fees Act, 1870, in respect of such an application to a District Judge beyond the limits of a presidency town, and fees for summonses and other processes in proceedings before the Chief Judge under sub-section (3) or sub-section (4) of that section shall be payable according to the scale set forth in the fourth schedule to the Presidency Small Cause Courts Act, 1882.

* S. 34 has been added by Act XI. of 1888

† The words within quotations have been inserted by Act VII of 1914.

ACT XVIII. OF 1885.***The Land Acquisition (Mines) Act.**

RECEIVED THE G.-G.'S ASSENT ON THE 16TH OCTOBER 1885.

An Act to provide for cases in which Mines or Minerals are situate under land, which it is desired to acquire under the Land Acquisition Act, 1870. †

WHEREAS it is expedient to provide for cases in which mines or minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870 ; †

Short title commence-
ment, and local extent.

1. (1) This Act may be called "The land Acquisition (Mines) Act 1885 ;" and

(2) It shall come into force at once.

(3) It extends, in the first instance, to the territories administered by the Governor of Madras in Council and the Lieutenant-Governor of Bengal, but any other Local Government may, from time to time, by notification in the official Gazette, extend this Act to the whole or any specified part of the territories under its administration.

Saving for mineral rights
of the Government.

2. Except as expressly provided by this Act, nothing in this Act shall affect the right of the Government to any mines or

minerals.

3. (1) When the Local Government makes a declaration under section 6 ‡ of the Land Acquisition Act, 1870, that land is needed for a public purpose or for a company, it may, if it thinks fit, insert in the declaration a statement that the mines of coal, ironstone, slate, or other minerals lying under the land or any particular portion of the land, except only such parts of the mines or minerals as it may be necessary to dig or carry away or use in the construction or the work for the purpose of which the land is being acquired, are not needed.

(2) When a statement as aforesaid has not been inserted in the declaration made in respect of any land under section 6 ‡ of the Land Acquisition Act, 1870, and the Collector is of opinion that the provisions of this Act ought to be applied to the land he may abstain from tendering compensation under section 11 §

* Declared in force in—

(1) The Santhal Parganas (see Reg. III of 1872, s. 3, as amended by Reg. III of 1886)

(2) Angul and the Khondmals (see Reg. I. of 1894, s. 3)

† See now Act I. of 1894.

‡ Corresponding with s. 3 of Act I of 1894

§ Corresponding with s. 11 of Act I of 1894

of the said Land Acquisition Act in respect of the mines, and may—

(a) when he makes an award under section 14* of that Act, insert such a statement in his award ;

(b) when he makes a reference to the Court under section 15† of that Act, insert such a statement in his reference ; or

(c) when he takes possession of the land under section 17‡ of that Act, publish such a statement in such manner as the "Local Government"§ from time to time, prescribe.

(3) If any such statement is inserted in the declaration, award, or reference, or published as aforesaid the mines of coal, ironstone, slate or other minerals under the land or portion of the land specified in the statement, except as aforesaid, shall not vest in the Government when the land so vests under the said Act.

4. If the person for the time being immediately entitled to

work or get any mines or minerals lying under any land so acquired is desirous of working or getting the same, he shall give the Local Government notice in writing of his intention so to do sixty days before the commencement of working.

5. (1) At any time or times after the receipt of a notice under the last-foregoing section, and whether before or after the expiration of the said period of sixty days, the Local Government may cause the mines or minerals to be inspected by a person appointed by it for the purpose ; and,

(2) if it appears to the Local Government that the working or getting of the mines or minerals, or any part thereof, is likely to cause damage to the surface of the land or any works thereon, the Local Government may publish, || a declaration of its willingness, either—

(a) to pay compensation for the mines or minerals still unworked or ungotten, or that part thereof, to all persons having an interest in the same, or

(b) to pay compensation to all such persons in consideration of those mines or minerals, or that part thereof, being worked or gotten in such manner and subject to such restrictions as the Local Government may in its declaration specify.

* Corresponding with s. 12 of Act I of 1894

† Corresponding with s. 18 of Act I. of 1894

‡ Corresponding with s. 17 of Act I of 1894.

§ The words within quotations have been added by Act 38 of 1920.

|| Certain words after this have been omitted by Act 38 of 1920.

(3) If the declaration mentioned in case (a) is made, then those mines or minerals, or that part thereof, shall not thereafter be worked or gotten by any person.

(4) If the declaration mentioned in case (b) is made, then those mines or minerals, or that part thereof, shall not thereafter be worked or gotten by any person save in the manner and subject to the restrictions specified by the Local Government.

(5) " Every declaration made under this section shall be published in such manner as the Local Government may direct."*

6. When the working or getting of any mines or minerals has been prevented or restricted under section 5, the persons interested in those mines or minerals, and the amounts of compensation payable to them respectively, shall subject to all necessary modifications, be ascertained in the manner provided by the Land Acquisition Act, 1870,† for ascertaining the persons interested in the land to be acquired under that Act, and the amounts of compensation payable to them, respectively.

Mode of determining persons interested and amount of compensation.

7. (1) If, before the expiration of the said sixty days, the Local Government does not publish a declaration as provided in section 5, the owner lessee, or occupier of the mines, may, unless and until such a declaration is subsequently made, work the mines or any part thereof in a manner proper and necessary for the beneficial working thereof, and according to the usual manner of working such mines in the local area where the same are situate.

If Local Government does not offer to pay compensation, mines may be worked in a proper manner.

(2) If any damage or obstruction is caused to the surface of the land or any works thereon by improper working of the mines, the owner, lessee, or occupier of the mines, shall at once, at his own expense, repair the damage, or remove the obstruction, as the case may require.

(3) If the repair or removal is not at once effected, or, if the Local Government so thinks fit, without waiting for the same to be effected by the owner, lessee, or occupier, the Local Government may execute the same, and recover from the owner, lessee, or occupier the expense occasioned thereby.

8. If the working of any mines is prevented or restricted under section 5, the respective owners, lessees, and occupiers of the mines, if their mines extend so as to lie on both sides of the mines the working

Mining communications.

* The words within quotations have been added by Act 38 of 1920

† See now Act I. of 1894

‡ Certain words after this have been omitted by Act 38 of 1920.

of which is prevented or restricted, may cut and make such and so many airways, headways, gateways, or water-levels through the mines, measures, or strata, the working whereof is prevented or restricted, as may be requisite to enable them to ventilate, drain, and work their said mines ; but no such airway, headway, gateway, or water-level shall be of greater dimensions or section than may be prescribed by the Governor-General in Council in this behalf, and, where no dimensions are so prescribed, not greater than eight feet wide and eight feet high, nor shall the same be cut or made upon any part of the surface or works, or so as to injure the same, or to interfere with the use thereof.

9. The Local Government shall, from time to time, pay^{to the owner, lessee, or occupier of any such mines extending so as to lie on both sides of the mines, the working of which is prevented or restricted, all such additional expenses and losses as may be incurred by him by reason of the severance of the lands lying over those mines, or of the continuous working of those mines being interrupted as aforesaid, or by reason of the same being worked in such manner and under such restrictions as not to prejudice or injure the surface or works, and for any minerals not acquired by the Local Government which cannot be obtained by reason of the action taken under the foregoing sections, and if any dispute or question arises between the Local Government and the owner, lessee, or occupier as aforesaid, touching the amount of those losses or expenses, the same shall be settled as nearly as may be in the manner provided for the settlement of questions touching the amount of compensation payable under the Land Acquisition Act, 1870.*}

10. If any loss or damage is sustained by the owner or occupier of the lands lying over any such mines, the working whereof has been so prevented or restricted as aforesaid (and not being the owner, lessee, or occupier of those mines,) by reason of the making of any such airway or other works as aforesaid, which, or any like work it would not have been necessary to make but for the working of the mines having been so prevented or restricted as aforesaid, the Local Government shall pay full compensation to that owner or occupier of the surface lands for the loss or damage so sustained by him.

11. For better ascertaining whether any mines lying under land acquired in accordance with the provisions of this Act are being worked, or have been worked, or are likely to be worked so as to damage the land or the works thereon, an officer appointed for this purpose by the Local Government

Local Government to pay compensation for injury done to mines.

And also for injury arising from any airway or other work.

Power to officer of Local Government to enter and inspect the working of mines.

* See now Act I of 1894.

may, after giving twenty-four hours' notice in writing, enter into and return from any such mines or the works connected therewith; and for that purpose the officer so appointed may make use of any apparatus or machinery belonging to the owner, lessee, or occupier of the mines, and use all necessary means for discovering the distance from any part of the land acquired to the parts of the mines which have been, are being, or are about to be worked.

12. If any owner, lessee, or occupier of any such mines or works, refuses to allow inspection, or refuses to allow any officer appointed by the Local Government for that purpose to enter into and inspect any such mines or works in manner aforesaid, he shall be punished with fine which may extend to two hundred rupees

13. If it appears that any such mines have been worked contrary to the provisions of this Act, the Local Government may, if it thinks fit, give notice to the owner, lessee or occupier thereof to construct such works and to adopt such means as may be necessary or proper for making safe the land acquired and the works thereon, and preventing injury thereto, and if, after such notice, any such owner, lessee, or occupier does not forthwith proceed to construct the works necessary for making safe the land acquired and the works thereon, the Local Government may itself construct the works, and recover the expense thereof from the owner, lessee, or occupier.

14. When a statement under section 3 has been made regarding any land, and the land has been acquired by the Government, and has been transferred to, or has vested by operation of law in, a local authority or company, then sections 4 to 13, both inclusive shall be read as if for the words "the Local Government," wherever they occur "except in section 5, sub section (5) and section 8"* the words, "the local authority or company, as the case may be, which has acquired the land," were substituted.

15. (1) This Act shall apply to any land for the acquisition whereof proceedings under the Land Acquisition Act, 1870,† are pending at the time when this Act comes into force, unless before that time the Collector has made, in respect of the land, an award under

* The words within quotations, have been substituted by Act 38 of 1920

† See now Act I. of 1894.

section 14 * or a reference to the Court under section 15 † of that Act, or has taken possession of the land under section 17 ‡ of the same.

(2) When the Collector has, before the said time, made an award or reference in respect of any such land, or taken possession thereof as aforesaid, and all the persons interested in the land, or entitled under the Land Acquisition Act, 1870, § to act for persons so interested, who have attended or may attend in the course of the proceedings under sections 11 to 15, || both inclusive, of the Land Acquisition Act, 1870 § consent in writing to the application of this Act to the land, the Collector may, by an order in writing direct that it shall apply, and thereupon it shall be deemed to have applied, from the commencement of the proceedings, and the Collector shall be deemed, as the case may be, to have inserted in his award or reference, or to have published in the prescribed manner, when he took possession, the statement mentioned in section 3 of this Act.

Definition of local authority and company

16. In this Act—

- (a) "local authority" means any municipal committee, district board, body of port commissioners, or other authority legally entitled to, or entrusted by the Government with, the control or management of any municipal or local fund, and
- (b) "company" means a company registered under any of the enactments relating to companies from time to time in force in British India, or formed in pursuance of an Act of Parliament, or by Royal Charter or Letters Patent

17. This Act shall, for the purposes of all enactments for the time being in force, be read with, and taken as part of, the Land Acquisition Act, 1870 §

* Corresponding with s 12 of Act I. of 1894

† Corresponding with s 18 of Act I. of 1894

‡ Corresponding with s 17 of Act I. of 1894

§ See now Act I. of 1891

|| S 11 corresponds with s. 11 of Act I. of 1894

S 12 " " s. 13 " " " " "

S 13 " " s. 15 " " " " "

S. 14 " " s. 12 " " " " "

S 15 " " s. 18 " " " " "

ACT XXI. OF 1885.

The Madras Civil Courts Act, 1885.

RECEIVED THE G.G.'S ASSENT ON THE 26TH. OCTOBER 1885.

An Act to amend the Madras Civil Courts Act, 1873.

WHEREAS it is expedient to amend the Madras Civil Courts Act, 1873; It is hereby enacted as follows —

1 (1) This Act may be called the Madras Civil Courts Act, 1885,

Short title and commencement

(2) It shall come into force at once.

2 To section 5 of the Madras Civil Courts Act, 1873, the following shall be added, namely :—

Addition to section 5 of Act III of 1873.

"The places fixed for any Court under this section shall be deemed to be within the local jurisdiction of that Court."

3. To section 11 of the same Act the following shall be added, namely :—

Addition to section 11 of the same Act.

"If the High Court assigns the same local jurisdiction to two or more District Munsifs, it shall declare which of them shall be deemed the Principal District Munsif, and the other or others shall be called Additional District Munsifs, and shall take cognizance only of such suits and applications as may, by special or general order in this behalf, be directed by the Direct Judge."

4. (a) In section 22 of the same Act, before the words "be final," and

Amendment of sections 22 and 23 of the same Act

(b) in section 23 of the same Act, as amended by Act XIX. of 1877, before the words "be suspended or removed,"

the words "subject to the control of the High Court" shall be inserted.

Amendment of section 28 of the same Act.

5. In section 28 of the same Act—

(a) before the words "Subordinate Judge," in both places where they occur the words "District or" shall be inserted :

(b) after the words "rupees fifty," the words "or on the recommendation of the High Court up to any amount not exceeding rupees two hundred" shall be inserted.

The word 'and' after thing has been repealed by Act 17 of 1914.

ACT III. OF 1886.

The Northern India Ferries Act, 1878*

RECEIVED THE G.-G.'S ASSENT ON THE 29TH JANUARY 1886

An Act to amend the Northern India Ferries Act, 1878.

WHEREAS it is expedient to amend the Northern India Ferries Act, 1878 ; It is hereby enacted as follows :—

Substitution of new section for section 8, and Amendment of section 12 and 15.

1. (1) For section 8 the following shall be substituted, namely —

[*Printed in Vol. II., 354.*]

(2) For section 12, clause (b) the following shall be substituted, namely :—

[*Printed in Vol II., p. 356*]

(3) In the third paragraph of section 15, for the word "auction" the word "lease" shall be substituted.

Amendment of section 13 and substitution of new section for section 26.

2. (1) For the first paragraph of section 13 the following shall be substituted, namely :—

[*Printed in Vol. II., p. 356.*]

(2) In the second proviso to the said section, after the word "boats" the words "which do not ply for hire or" shall be inserted.

(3) For section 26 the following shall be substituted, namely :—

Printed in Vol II., 361.

ACT IV. OF 1886.

The Indian Contract Act (1872) Amendment Act, 1886.

RECEIVED THE G.-G.'S ASSENT ON THE 29TH JANUARY 1886.

An Act to amend section 265 of the Indian Contract Act, 1872

WHEREAS it is expedient to amend section 265 of the Indian Contract Act, 1872 ; It is hereby enacted as follows :—

New section substituted for section 265, Indian Contract Act.

1. For section 265 of the said Act the following shall be substituted, namely :—

(*Printed in Vol. I., p. 1185*)

2. *Repealed by Act XII. of 1891, Sch. I.)*

* This title was given by Act V of 1897.

ACT V. OF 1886.**The Mirzapur Stone Mahal Act, 1886.**

RECEIVED THE G.-G.'S ASSENT ON THE 29TH JANUARY 1886.

An Act to declare and amend the law relating to the Stone Mahal in the district of Mirzapur in the North-Western Provinces.

WHEREAS it is expedient to declare and amend the law relating to the Stone Mahal in the district of Mirzapur in the North Western Provinces ; it is hereby enacted as follows :—

Preliminary.

Short title and commencement. **1.** (1) This Act may be called the Mirzapur Stone Mahal Act, 1886 ; and

(2) It shall come into force on such day as the Local Government, by notification in the official Gazette, appoints.

(3) (*Repealed by Act XII. of 1891, Sch. I.*)

2. (*Repealed by Act XII. of 1891, Sch. I.*)

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

(1) "the district" means the whole of the area comprised in the district of Mirzapur as constituted at the time of the passing of this Act, except the lands described in the schedule to this Act :—

(2) "Collector" means the Collector of the Mirzapur district, and includes an Assistant Collector of the first class empowered by him to perform any of the functions of the Collector under this Act.

(3) "Commissioner" means the Commissioner of the Benares Division.

(4) "Board" means the Board of Revenue of the North-Western provinces :—

(5) "quarry" means to take from the surface as well as to extract from a quarry :—

(6) "transport" means to remove from one place to another within the district :

(7) "proprietor" includes an assignee of land-revenue and any person claiming under a proprietor or exercising any of the rights of a proprietor.

Rights of the Government and the Public.

4. The Government is entitled to levy duty on all stone quarried in the district.

Right of the Government to levy duty.

5. No proprietor of any land in any part of the district is entitled to impose any prohibition, or restriction, or to demand or receive any sum by way of rent premium, duty, or price, in respect of the opening of a quarry, or the quarrying of stone, in the land, or in respect of the storing of stone at the quarry, or the transport of stone over the land, or, save as may be provided by rules made under this Act,

Prohibition of levy of duty by proprietors

to receive from any person any compensation whatever in respect of any of the matters aforesaid.

6. (1) Subject to the rules made under this Act, any person is entitled to open a quarry, or quarry stone, in any land in any part of the district, and to store the stone at the quarry, and to transport it over any land.

Right of the public to quarry stone

(2) A person may, so far as the rules made under this Act permit, acquire an exclusive right to open a quarry, or quarry stone, within certain local limits in any part of the district, and may retain the right so long as those rules permit

(3) If a dispute as to the right referred to in sub-section (1), to open a quarry or quarry stone, in any land, or as to the existence of or mode of exercising an exclusive right referred to in sub-section (2), to open a quarry, or quarry stone, within certain local limits, arises between any persons, or if a dispute as to the right to store stone on, or transport stone over, any land arises between the person claiming to store or transport the stone, and the proprietor of the land, it shall, on application for that purpose by either of the disputing parties to the Collector, be decided by him.

(4) A Civil Court shall not take cognizance of any such dispute, or in any suit or proceeding whatever make any decree or order whereby any party to the dispute may be bound with respect to the subject-matter thereof either directly or indirectly.

Rules.

7. (1) The Local Government may from time to time, make rules consistent with this Act to regulate within the whole or any specified part of the district all or any of the following matters :—

Power to make rules.

(a) the quarrying of stone, and the places where stone may be quarried ;

- (b) conflicting claims to exercise the right of opening a quarry or quarrying stone ;
- (c) the conditions on the fulfilment of which a person is to acquire an exclusive right of opening a quarry, or quarrying stone, within certain local limits, and how that right may cease to exist ,
- (d) the compensation to be paid for injury caused to crops or arable land by the quarrying, storing, or transport of stone, and the authority by which the compensation is to be determined ,
- (e) the transport of stone ,
- (f) the storing of stone ;
- (g) the classification of stones, the rate or rates of duty to be paid in respect of each class of stone to the Government or to a farmer to whom the Government has leased the duties leviable thereon, and the time when, the place where, and the persons by whom, the duty is to be paid ;
- (h) the exemptions from, or reductions of, duty to be allowed, the conditions to attach to those exemptions or reductions, and the consequences to ensue on the breach of any of those conditions,
- (i) the custody and disposal of stone confiscated or seized under this Act ; and
- (j) generally for carrying out the purposes of this Act.

(2) In making a rule under this section the Local Government may direct that a breach of it shall be punishable with fine which may extend to one hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to ten rupees for every day after the first during which the breach continues.

8. (1) The Local Government shall, before making any rules under section 7, publish a draft of the proposed rules for the information of persons interested.

(2) the publication shall be made in such manner as, in the opinion of the Local Government, is sufficient.

(3) A notice shall be published with the draft specifying a date at or after which the draft will be taken into consideration.

(4) The Local Government shall, before making the rules, receive and consider any objection or suggestion which is made by any person with respect to the draft before the date so specified.

9. Every rule made under section 7 shall be published in the official Gazette in English and in such other language or languages as the Local Government directs, and that publication shall be conclusive proof that the rule has been made as required by section 8.

10. If a rule made under section 7, sub-section (1), clause (g), alters the rate of duty to be paid in respect of any class of stone, it shall not have effect till the expiration of one year from the date on which it is published.

Offences.

11. If any person evades, or attempts to evade, or abets the evasion of, the payment of any duty payable under a rule made under section 7, sub-section (1), clause (g), he shall be punished with fine which may extend to two hundred rupees and twenty times the duty payable on the stone in respect of which the offence was committed, and the Court convicting him may further order the confiscation of the stone.

12. The burden of proving that duty has been paid on stone in respect of which a prosecution for an offence under section 11 has been instituted shall lie on the accused person.

13. A prosecution for an offence under section 11 or against a rule made under section 7 shall not be instituted after the expiration of six months from the commission of the offence.

14. Nothing in this Act shall prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence under section 11, or against a rule made under section 7, or from being liable under that other law to any other or higher punishment or penalty than that provided by section 11 or a rule made under section 7.

Provided that a person shall not be punished twice for the same offence.

Arrest, Seizure, and Search.

15. (1) Any officer whom the Collector, with the previous sanction of the Commissioner, may empower in this behalf may—

(a) proceed, in respect of an offence under section 11 or against a rule made under section 7 which in his

presence a person commits, or is accused of committing, in the same manner as a police-officer may proceed, under section 57 of the Code of Criminal Procedure, 1882, in respect of a non-cognizable offence which in his presence a person commits or is accused of committing, and

- (b) seize any stone in respect of which he has reason to believe that an offence under section 11 or against a rule made under section 7 has been committed, and, if the stone is being transported, use, for the removal thereof to the nearest place appointed for the custody of stone seized under this Act, any animals and conveyances used in transporting it.

(2) The powers conferred by this section may be exercised as well beyond as within the limits of the district, and if in the exercise of those powers a person is arrested or stone is seized beyond those limits, then, notwithstanding anything in this Act, the person arrested shall be liable to be dealt with, and the stone seized to be disposed of, in the same manner as if he had been arrested, or it had been seized, within those limits.

16. (1) A Magistrate may issue his warrant for the search, after sunrise and before sunset, of any building, vessel, or place in which he has reason to believe that stone in respect of which an offence under section 11 or against a rule made under section 7 has been committed is kept or concealed, and for the seizure of any stone found there.

(2) The provisions of the Code of Criminal Procedure, 1882 relating to searches under that Code, shall, so far as the same are applicable, apply to searches under this section.

Recovery of Duty.

17. An arrear of duty payable to the Government under a rule made under section 7, sub section (1), clause (g), and an arrear due from a farmer of duties payable on stone, may be recovered from the person primarily liable to pay the same to the Government, or from his surety (if any), as if it were an arrear of land-revenue.

Appeal and Revision.

18. (1) Decisions and orders passed under this Act, or any rule thereunder, by an Assistant Collector whether as Collector or otherwise, shall be appealable to the Collector of the Mirzapur district

in the manner provided by the law for the time being in force in the district respecting appeals from the orders of an Assistant Collector to the Collector in matters pertaining to land-revenue.

(2) Decisions and orders passed by the Collector of the Mirzapur district under this Act or any rule thereunder, shall be appealable to the Commissioner in the manner provided by the law aforesaid respecting appeals from the orders of the Collector to the Commissioner.

(3) The board may revise any decision or order passed under this Act, or any rule thereunder, by an Assistant Collector whether as Collector or otherwise or by the Collector of the Mirzapur district, or under sub-section (2) by the Commissioner.

Miscellaneous

19. [Repealed by Act XII. of 1891, Sch. I]

20. (1) Notwithstanding anything hereinbefore contained but subject to any rules which the Local Government may from time to time make to regulate the enjoyment of the privilege hereby conferred, the inhabitants of the tract south of the Vindhya range of hills shall be exempt from the payment of duty on stones quarried by them within the limits of that tract for their own use, within those limits.

(2) The Local Government may, from time to time, by notification in the official Gazette, define the limits of the said tract for the purposes of this section.

THE SCHEDULE.

LANDS EXCLUDED FROM THE AREA COMPRISED IN THE DISTRICT OF MIRZAPUR.

(See section 3, sub-section (1).)

Pargana or tappa.	Village.	Remarks.
Kantit	Bajtha	...
	Baghaura Rajman	...
	Pali	...
	Sumatia	...
	Barha Khurd	...
	Basaura	...
	Chak Kothara	...
	Chak Madari	...
	Dogauli	...
	Rasauli	...
	Kothara	...
Upraudh	Ghunguti	...
	Hargarh	...
	Nain Katari	...
	Durjanipur	...
	Deohat	...
	Mahuat	...
	Maheshpur	...
	Katra Lahoria Dih	...
	Bhainsaur	...
	Mahagarh	...
		...

These villages were transferred from the Allahabad district in 1840

These villages were transferred from the Allahabad district in 1861.

ACT VI. OF 1886.

The Births, Deaths, and Marriages Registration Act, 1886.

RECEIVED THE G.-G.'S ASSENT ON THE 8TH MARCH 1886.

An Act to provide for the voluntary Registration of certain Births and Deaths, for the establishment of General Registry Offices for keeping Registers of certain Births, Deaths, and Marriages, and for certain other purposes.

WHEREAS it is expedient to provide for the voluntary registration of births and deaths among certain classes of persons, for the more effectual registration of those births and deaths, and of the marriages registered under Act III. of 1872, or the Indian Christian Marriage Act, 1872, and of certain marriages registered under the Parsi Marriage and Divorce Act, 1865, and for the establishment of general registry offices for keeping registers of those births, deaths, and Marriages,

And whereas it is also expedient to provide for the authentication and custody of certain existing registers made otherwise than in the performance of a duty specially enjoined by the law of the country in which the registers were kept, and to declare that copies of the entries in those registers shall be admissible in evidence;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title and commencement.

1. (1) This Act may be called the Births, Deaths, and Marriages Registration Act, 1886, and

(2) It shall come into force on such day as the Governor-General in Council, by notification in the *Gazette of India*, directs.

(3) [*Repealed by Act XII. , Sch. I.*]

2. This Act extends to the whole of British India, and applies also, within the dominions of Princes and States in India in alliance with Her Majesty, to British subjects in those dominions.

Definitions

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

“sign” includes mark, when the person making the mark is unable to write his name:

“prescribed” means prescribed by a rule made by the Governor-General in Council under this Act: and

“Registrar of Births and Deaths” means a Registrar of Births and Deaths appointed under this Act.

4. Nothing in this Act, or in any rule made under this Act, shall affect any law heretofore or hereafter passed providing for the registration of births and deaths within particular local areas.

5. All powers conferred by this Act may be exercised from time to time as occasion requires

CHAPTER II

GENERAL REGISTRY OFFICES OF BIRTHS, DEATHS AND MARRIAGES.

Establishment of general registry officers and appointment of Registrars-General.

6 (1) Each Local Government—

(a) shall establish a general registry office for keeping such certified copies of registers of births and deaths registered under this Act, or marriages registered under Act III of 1872 (*to provide a form of marriage in certain cases*) or the Indian Christian Marriage Act, 1872, or, beyond the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Bombay, under the Parsi Marriage and Divorce Act, 1865, as may be sent to it under this Act or under any of the three last-mentioned Acts as amended by this Act; and

(b) may appoint to the charge of that office an officer, to be called the Registrar-General of Births, Deaths, and Marriages, for the territories under its administration:

(2) Provided that the Governor of Bombay in Council may, with the previous sanction of the Governor General in Council, establish two general registry offices, and appoint two Registrars-General of Births, Deaths, and Marriages for the territories under his administration: one of such general registry offices, and of such Registrars-General, being established and appointed for Sindhs, and the other for the other territories under the administration of the Governor of Bombay in Council.

7. Each Registrar-General of Births, Deaths, and Marriages, shall cause indexes of all the certified copies of registers sent to his office under this Act, or under Act III. of 1872, the Indian Christian Marriage Act, 1872 or the Parsi Marriage and Divorce Act, 1865, as amended by this Act, to be made and kept in his office in the prescribed form.

8. Subject to the payment of the prescribed fees, the indexes so made shall be, at all reasonable times, open to inspection by any person applying to inspect them, and copies of entries in the certified copies of the registers to which the indexes relate shall be given to all persons applying for them.

9. A copy of an entry given under the last foregoing section shall be certified by the Registrar-General of Births, Deaths, and Marriages, or by an officer authorized in this behalf by the Local Government, and shall be admissible in evidence for the purpose of proving the birth, death, or marriage to which the entry relates.

10. Each Registrar-General of Births, Deaths, and Marriages, shall exercise a general superintendence over the Registrars of Births and Deaths in the territories for which he is appointed.

CHAPTER III.

REGISTRATION OF BIRTHS AND DEATHS.

A.—Application of this Chapter.

11 (1) The persons whose births and deaths shall, in the first instance, be registrable under this chapter, are the following, namely:—

- (a) in British India, the members of every race, sect, or tribe to which the Indian Succession Act, 1865, applies, and in respect of which an order under s. 332 of that Act is not for the time being in force, and all persons professing the Christian religion;
- (b) in the dominions of Princes and States in India in alliance with Her Majesty, British subjects being members of a like race, sect, or tribe, or professing the Christian religion;

(2) But the Local Government, by notification in the official Gazette, may with the previous approval of the Governor-General in Council, extend the operation of this chapter to any other class of persons either generally or in any local area.

B.—Registration Establishment.

12. The Local Government may appoint, either by name, or by virtue of their office, so many persons as it thinks necessary to be Registrars of Births and Deaths for such local areas within the territories under its administration as it may define, and, if it sees fit, for any class of persons within any part of those territories,

13. The Governor-General in Council may, by notification in the *Gazette of India*, appoint, either by name or by virtue of their office, so may person as he thinks necessary to be Registrars of Births and Deaths for such local areas within the dominions of any Prince or State in India in alliance with Her Majesty as he may define, and, if he sees fit, for any class of persons within any part of those dominions.

Power for Governor-General in Council to appoint Registrars for Native States.

* "Provided that the powers and functions exercisable by the Governor-General in Council under this section shall, in the case of any such dominions which are within the political charge of a Local Government be exercised by that Local Government by notification in an Local official Gazette."

14. Every Registrar of Births and Deaths shall be deemed to be a public servant within the meaning of the India Penal Code.

Registrar to be deemed a public servant.

15. (1) The Local Government or the Governor-General in Council as the case may be, may suspend, remove or dismiss any Registrar of Births and Deaths.

Power to remove Registrar.

(2) A Registrar of Births and Deaths may resign by notifying in writing to the Local Government or to the Governor-General in Council, as the case may be, his intention to do so, and, on his resignation being accepted by the Local Government or the Governor-General in Council, he shall be deemed to have vacated his office.

16. (1) Every Registrar of Births and Deaths shall have an office in the local area, or within the part of the territories or dominions, for which he is appointed.

Office and attendance of Registrar.

(2) Every Registrar of Births and Deaths, to whom the Local Government may direct this sub-section to apply, shall attend at his office for the purpose of registering births and deaths on such days and at such hours as the Registrar-General of Births, Deaths and Marriages, may direct, and shall cause to be placed in some conspicuous place on or near the outer door of his office his name, with the addition of Registrar of Births and Deaths for the local area or class for which he is appointed, and the days and hours of his attendance.

17. (1) When any Registrar of Births and Deaths to whom the Local Government may direct this section to apply, not being a Registrar of Births and Deaths for a local area in the

Absence of Registrar or vacancy in his office.

* This proviso was added to section 13 by Act 38 of 1920.

town of Calcutta, Madras or Bombay, is absent, or when his office is temporarily vacant, any person whom the Registrar-General of Births, Deaths, and Marriages appoints in this behalf, or, in default of such appointment, the Judge of the District Court within the local limits of whose jurisdiction the Registrar's office is situate, or such other officer as the Local Government appoints in this behalf, shall be the Registrar of Births and Deaths during such absence or until the Local Government fills the vacancy.

(2) When any such Registrar of Births and Deaths for a local area in the town of Calcutta, Madras, or Bombay, is absent or when his office is temporarily vacant, any person whom the Registrar-General of Births, Deaths, and Marriages appoints in this behalf, shall be the Registrar of Births and Deaths during such absence or until the Local Government fills the vacancy.

(3) The Registrar-General of Births, Deaths, and Marriages, shall report to the Local Government all appointments made by him under this section.

18. The Local Government shall supply every Registrar of Births and Deaths with a sufficient number of register-books of births and of register-books of deaths, and shall make suitable provision for the preservation of the records connected with the registration of Births and deaths.

Register books to be supplied, and preservation of records to be provided for

C.—Mode of Registration

19. Every Registrar of Births and Deaths, on receipt of notice of birth or death within the local area or among the class for which he is appointed, shall, if the notice is given within the prescribed time and in the prescribed mode by a person authorized by this Act to give the notice, forthwith make an entry of the birth or death in the proper register-book :

Duty of Registrar to register births and deaths of which notice is given

Provided that—

- (a) If he has reason to believe the notice to be in any respect false, he may refuse to register the birth or death until he receives an order from the Judge of the District Court directing him to make the entry and prescribing the manner in which the entry is to be made ; and
- (b) he shall not enter in the register the name of any person as father of an illegitimate child, unless at the request of the mother and of the person acknowledging himself to be the father of the child.

Persons authorized to give notice of birth. **20.** Any of the following persons may give notice of birth, namely—

- (a) the father or mother of the child ;
- (b) any person present at the birth ;
- (c) any person occupying, at the time of the birth, any part of the house wherein the child was born, and having knowledge of the child having been born in the house ;
- (d) any medical practitioner in attendance after the birth, and having personal knowledge of the birth having occurred ;
- (e) any person having charge of the child

Persons authorized to give notice of death. **21.** Any of the following persons may give notice of a death, namely :—

- (a) any relative of the deceased having knowledge of any of the particulars required to be registered concerning the death ;
- (b) any person present at the death ,
- (c) any person occupying, at the time of the death, any part of the house wherein the death occurred, and having knowledge of the deceased having died in the house ;
- (d) any person in attendance during the last illness of the deceased ;
- (e) any person who has seen the body of the deceased after death.

22. (1) When an entry of a birth or death has been made by the Registrar of Births and Deaths under section 19, the person giving notice of the birth or death must sign the entry in the register in the presence of the Registrar.

“Provided that it shall not be necessary for the person giving notice to attend before the Registrar or to sign the entry in the register if he has given such notice in writing, and has furnished to the satisfaction of the Registrar such evidence of his identity as may be required by any rules made by the Local Government in this behalf.”*

(2) Until the entry has been so signed, “the conditions specified in the proviso to sub-section (1) have been complied with” the birth or death shall not be deemed to be registered under this Act.

(3) When the birth of an illegitimate child is registered, and the mother and the person acknowledging himself to be the father of the child jointly request that that person may be registered as the father, the mother and that person must both sign the entry in the register in the presence of the Registrar.

23 The Registrar of Births and Deaths shall, on application made at the time of registering any birth or death by the person giving notice of the birth or death, and on payment by him of the prescribed fee, give to the applicant a certificate in the prescribed form, signed by the Registrar, of having registered the birth or death.

24. (1) Every Registrar of Births and Deaths in British India shall send to the Registrar-General of Births, Deaths, and Marriages for the territories within which the local area or class for which he is appointed is situate or resides, at the prescribed intervals, a true copy certified by him, in the prescribed form, of all the entries of births and deaths in the register-book kept by him since the last of those intervals:

Provided that in the case of Registrars of Births and Deaths, who are clergymen of the Churches of England, Rome, and Scotland the Registrar may, if so directed by his ecclesiastical superior, send the certified copies in the first instance to that superior, who shall send them to the proper Registrar-General of Births, Deaths, and Marriages.

In this sub-section "Church of England" and "Church of Scotland" mean the Church of England and the Church of Scotland as by law established respectively; and "Church of Rome" means the Church which regards the Pope of Rome as its spiritual head.

(2) The provisions of sub section (1) shall apply to every Registrar of Births and Deaths in the dominions of any Prince of State in India in alliance with Her Majesty, with this modification, that the certified copies referred to in that sub-section shall be sent to such one of the Registrars-General of Births, Deaths, and Marriages as the Governor-General in Council, by notification in the *Gazette of India*, appoints in this behalf.

* "Provided that such certified copies shall in the case of any such dominions which are within the political charge of a Local Government be sent to the Registrar General of Births, Deaths and Marriages for the territories under the administration of that Local Government."

* This proviso have been added by Act 38 of 1920.

25. (1) Every Registrar of Births and Deaths shall on payment of the prescribed fees, at all reasonable times allow searches to be made in the register books kept by him, and give a copy of any entry in the same.

Searches and copies of entries in register-books.

(2) Every copy of an entry in a register-book given under this section shall be certified by the Registrar of Births and Deaths, and shall be admissible in evidence for the purpose of proving the birth or death to which the entry relates,

26. Notwithstanding anything in section 19, the "Local Government"* may make rules authorizing Registrars of Births and Deaths, on conditions and in circumstances to be specified in the rules, to register births and deaths occurring outside the local areas or classes for which they are appointed.

Exceptional provision for registration of certain births and deaths.

D.—Penalty for False Information.

27. If any person wilfully makes, or causes to be made, for the purpose of being inserted in any register of births or deaths, any false statement in connection with any notice of a birth or death under this Act, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

Penalty for wilfully giving false information

E.—Correction of Errors

28. (1) If it is proved to the satisfaction of a Registrar of Births and Deaths that any entry of a birth or death in any register kept by him under this Act is erroneous in form or substance, he may, subject to such rules as may be made by the Local Government with respect to the conditions and circumstances on and in which errors may be corrected, correct the error by entry in the margin, without any alteration of the original entry, and shall sign the marginal entry, and add thereto the date of the correction.

Correction of entry in register of births or deaths

(3) If a certified copy of the entry has already been sent to the Registrar-General of Births, Deaths and Marriages, the Registrar of Births and Deaths shall make and send a separate certified copy of the original erroneous entry, and of the marginal correction therein made

* The word within quotations have been substituted by Act 9 of 1911.

CHAPTER IV.

AMENDMENT OF MARRIAGE ACTS.

29. After section 13 of Act III. of 1872 (to provide a form of marriage in certain cases) the following section shall be inserted, namely :—

“ 13A. [*Printed in Vol. I., p. 1059.*]

30. In the Indian Christian Marriage Act, 1872, the following amendments shall be made, namely :—

- (a) at the end of section 3, the words “ Registrar-General of Births, Deaths, and Marriages’ means a Registrar-General of Births, Deaths, and Marriages appointed under the Births, Deaths, and Marriages Registration Act, 1886,” shall be added ,
- (b) for the words “ Secretary to the Local Government,” wherever they occur, and for the words “ Secretary to a Local Government ” in section 79, the words “ Registrar-General of Births, Deaths, and Marriages,” shall be substituted ,
- (c) [*Repealed by Act II. of 1891, s. 4 (2).*]
- (d) in section 81, after the words “ Registrar-General of Births, Deaths, and Marriages,” the words “ in England ” shall be added.

31. After section 8 of the Parsi Marriage and Divorce Act, 1865, the following section shall be inserted, namely :—

“ 8A. [*Printed in Vol. I., p. 725.*]

CHAPTER V.

SPECIAL PROVISIONS AS TO CERTAIN EXISTING REGISTERS.

32. If any person in British India, or in the dominions of any Prince or State in India in alliance with Her Majesty, has for the time being the custody of any register or record of birth, baptism, naming, dedication, death, or burial of any persons of the classes referred to in section 11, sub-section (1), or of any register or record of marriage of any persons of the classes to which Act III. of 1872 or the Indian Christian Marriage Act, 1872, or the Parsi Marriage and Divorce Act, 1865, applies, and if such register or record has been made

Permission to persons having custody of certain records to send them within one year to Registrar General.

otherwise than in performance of a duty specially enjoined by the law of the country in which the register or record was kept, he may, "at any time before the first day of April 1891,"* send the register or record to the office of the Registrar-General of Births, Deaths, and Marriages for the territories within which he resides, or, if he resides within the dominions of any such Prince or State as aforesaid, to such one of the Registrars General as aforesaid as the Governor-General in Council, by notification in the *Gazette of India*, directs in this behalf.

† "Provided that such register or record shall, in the case of any such dominions which are within the political charge of a Local Government, be sent to the Registrar General of Births, Deaths and Marriages for the territories under the administration of that Local Government."

33.† " (1) Any Local Government, in the case of registers or records sent under section 32 to the Registrar General for the territories under its administration, and the Governor-General in Council, in the case of registrar or records so sent to any other Registrar-General appointed by him under the said section, may appoint so many persons as it or he, as the case may be, thinks fit to be commissioners for examining such registers or records."

(2) The Commissioners so appointed shall hold office for such period as the "authority appointing them,"§ by the order of appointment or any subsequent order, directs.

34. (1) The Commissioners appointed under the last foregoing section shall enquire into the state, custody, and authenticity of every such register or record as may be sent to the Registrar-General of Births, Deaths, and Marriages under section 32,

and shall deliver to the Registrar-General a descriptive list or descriptive lists of all such registers or records or portions of registers or records as they find to be accurate and faithful,

(2) The list or lists shall contain the prescribed particulars, and refer to the registers or records, or to the portions of the registers or records, in the prescribed manner.

(3) The Commissioners shall also certify in writing, upon some part of every separate book or volume containing any such register or record or portion of a register or record as is referred to in

* In s. 32 the words quoted have been substituted for the words, "within one year from the date on which this Act comes into force," by Act XVI. of 1890, s. 1.

† This proviso has been added to section 32 by Act 38 of 1920.

‡ Sub-section 1 to section 33 has been added by Act 38 of 1920

§ The words within quotations have been substituted by Act 38 of 1920.

any list or lists made by Commissioners, that it is one of the registers or records or portions of registers or records, referred to in the said list or lists.

35.* (1) Subject to the payment of the prescribed fees, the descriptive list or lists of registers or records or portions of registers or records delivered by the Commissioners to the Registrar-General of Births, Deaths, and Marriages shall be, at all reasonable times, open to inspection by any person applying to inspect it or them, and copies of entries in those registers or records shall be given to all persons applying for them.

Searches of lists prepared by Commissioners and grant of certified copies of entries,

(2) A copy of an entry given under this section shall be certified by the Registrar-General of Births, Deaths, and Marriages, or by an officer or person authorized in this behalf by the Local Government, and shall be admissible in evidence for the purpose of proving the birth, baptism, naming, dedication, death, burial, or marriage, to which the entry relates.

35A.† (1) The Governor-General in Council or the Local Government if he or it thinks fit, may, by notification in the *Gazette of India* or the local official Gazette, as the case may be, appoint more commissioners than one for the purposes of section 33, each such commissioner consisting of so many and such members, and having its functions restricted to the disposal, under this Act and the rules thereunder of such registers and records sent under section 32 to the Registrar General as may be specified in the notification.*

Constitution of additional commissioners for purposes of this chapter.

(2) If more commissioner than one are appointed in exercise of the power conferred by sub-section (1), then references in this Act to the Commissioners shall be construed as references to the members constituting a commission so appointed.

CHAPTER VI.

RULES.

36. “(1) The Local Government may make rules to carry out the purposes of this Act.

Rules.

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

* Sub-section (1) to section 35 has been substituted by Act 38 of 1920.

† S 35 A has been added by Act XVI. of 1890, s. 2.

‡ Section 36 has been substituted by Act 9 of 1911.

- (a) fix the fees payable under this Act ;
 - (b) prescribed the forms required for the purpose of this Act ;
 - (c) prescribe the time within which, and the mode in which, person authorized under this Act to give notice of a birth or death to a Registrar of Births and Deaths must give the notice,
 - (d) prescribe the evidence of identity to be furnished to a Registrar of Births and Deaths, by persons giving notice of a birth or death in cases where personal attendance before such Registrar is dispensed with,
 - (e) prescribe the registers to be kept and the form and manner in which Registrars of Births and Deaths are to register births and Deaths under this Act at the intervals at which they are to send to the Registrar General of Births, Deaths, and Marriages true copies of the entries of births and deaths in the registers kept by them ;
 - (f) prescribe the conditions and the circumstances on and in which Registrars of Births and Deaths may correct entries of births and deaths in registers kept by them ;
 - (g) prescribe the particulars which the descriptive list or lists to be prepared by the commissioners appointed under Chapter V. are to contain, and the manner in which they are to refer to the registers or records, or portions of registers or records, to which they relate ; and
 - (h) prescribe the custody in which those registers or records are to be kept. .
- (3) Every power to make rules conferred by this Act is subject to the condition of the rules being made after previous publication.
- (4) All rules made under this Act shall be published in the local official Gazette and on such publication shall have effect as if enacted in this Act."

Notes.

All rules heretofore made under this Act by the G—G in Council shall after the commencement of Act 9 of 1911 be deemed to have been made by the Local Government —Vide s. 6 of Act 9 of 1911,

ACT X. OF 1886.**The Indian Criminal Law Amendment Act, 1886.**

RECEIVED THE G.-G.'S ASSENT ON THE 12TH MARCH 1886.

*An Act to amend the Code of Criminal Procedure, 1882.
and Certain others Acts.*

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1882, and certain other Acts ;

It is hereby enacted as follows : —

[Ss. 1 to 19 repealed by Act V. of 1898.]

*Bombay District Police Act, 1867.***20.** [Repealed by Act XII. of 1891, Sch. I.]*Indian Penal Code.*Amendment of sections 40
and 64 of the Indian Penal
Code.**21.** (1) In second clause of section 40 of the Indian Penal Code, between the figures "66" and "71" the figures "67" shall be inserted.

(2) In the second clause of section 64 of the same Code, after the word "punishable" the words "with imprisonment or fine, or" shall be inserted.

22. In section 75 of the same Code, for the words "or to double the amount of punishment" to the end of the section, the following shall be substituted, namely :—Amendment of section 75
of the Indian Penal Code

"or to imprisonment of either description for a term which may extend to ten years."

23. After the first paragraph of section 216 of the same Code the following shall be inserted, namely :—Addition to section 216 of
the Indian Penal Code

[Printed in Vol I., p. 442.]

Substitution of new sections
for section 225A of the
Indian Penal Code, and
repeal of section 651 of the
Code of Civil Procedure.**24.** (1) For section 225A of the same Code the following section shall be substituted, namely :—

"225A. [Printed in Vol I, p. 447.]

"225B. [Printed in Vol. I., p. 447.]

(2) [Repealed by Act XII. of 1891, Sch. I.]

*Prisoners' Act, 1871.***25.** [Repealed by Act III. of 1900.]

Act XI. OF 1886.

The Indian Tramways Act, 1886.

RECEIVED THE G.-G.'S ASSENT ON THE 12TH MARCH, 1886.

An Act to facilitate the construction and to regulate the working of Tramways

WHEREAS it is expedient to facilitate the construction and to regulate the working of tramways; It is hereby enacted as follows:—

Preliminary.

Short title and commencement.

1. (1) This Act, may be called the Indian Tramways Act, 1886, and

(2) It shall come into force at once.

2. (1) It extends in the first instance to the whole of **British India**, except the territories administered by the Governor of Fort Saint George in Council, the Governor of Bombay in Council, and the Lieutenant-Governor of Bengal.

Local Extent

(9) But the Governor of Fort Saint George in Council, the Governor of Bombay in Council, or the Lieutenant-Governor of Bengal, may, by notification in the official Gazette, extend this Act to the whole or any part of the territories under his administration.

Definitions

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

(1) "local authority" means a municipal committee, district board, body of port commissioners, or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund :

(2) "road" means the way of a road, street thoroughfare, passage, or place along or across which a tramway authorized under this Act is, or is intended to be, laid, and includes the surface-soil and sub-soil of a road, and the footway, berms, drains, and ditches of a road, and any bridge, culvert, or causeway forming part of a road :

(3) "road-authority," in relation to a road, means—

(a) if a local authority maintains and repairs the road, then that authority ;

(b) if a local authority does not maintain and repair the road, and the road is neither vested in Her Majesty nor maintained and repaired by the Government, then the person in whom the road is vested ; and

- (c) if a local authority does not maintain and repair the road, and the road is vested in Her Majesty or maintained and repaired by the Government, then the Local Government :
- (4) "circle," in relation to a local authority or road authority, means the area within the control of that authority :
- (5) 'tramway' means a tramway having one, two, or more rails, and includes—
- (a) any part of a tramway, or any siding, turn out connection, line, or truck belonging to a tramway ;
 - (b) any electrical equipment of a tramway , and
 - (c) any electric supply—line transmitting power from a generating station or sub-station to a tramway, or from a generating station to a sub-station from which power is transmitted to a tramway"*
- (6) "order" means an order authorising the construction of a tramway under this Act, and includes a further order substituted for, or amending, extending, or varying, that order .
- (7) "promoter" means a local authority or person in whose favour an order has been made, and includes a local authority or person on whom the rights and liabilities conferred and imposed on the promoter by this Act, and by the order and any rules made under this Act as to the construction, maintenance, and use of the tramway, have devolved :
- (8) "undertaking" includes all moveable and immoveable property of the promoter suitable to and used by him for the purposes of the tramway ;
- (9) "carriage," in the case of a tramway on which steam-power or any other mechanical power or "electrical power"* is used, includes an engine worked on the tramway for the purpose of producing "or utilising"* that power :
- (10) "toll" includes any charge leviable in respect of the use of a tramway ,
- (11) "lessee" means a person to whom a lease has been granted of the right of user of a tramway and of demanding and taking the authorized tolls :
- (12) "District Magistrate" includes an officer empowered by the Local Government by name or by virtue of his office to discharge within any local area all or any of the functions of a District Magistrate under this Act :
- (13) "District Court" means a principal Civil Court of original jurisdiction, and includes a High Court having ordinary original civil jurisdiction :

* The words within quotations have been inserted by Act V of 1911.

(14) "Collector" means the Chief officer in charge of the revenue administration of a district, and includes an officer empowered by the Local Government by name or by virtue of his office to discharge within any local area the functions of a Collector under this Act : and

(15) "prescribed" means prescribed by rules made by the Local Government under this Act.

Orders authorizing the construction of Tramways.

Application for and consent necessary to making of order.

made—

4. (1) The Local Government may make an order authorizing the construction of a tramway in a circle on application

- (a) by the local authority of the circle with the consent of the road-authority of any road or part of a road which is to be traversed by the tramway, and of which the local authority is not itself the road-authority ; or
- (b) by any person with the consent of the local authority of the circle, and of the road-authority of any road or part of a road which is to be traversed by the tramway, and of which the local authority is not the road-authority :

Provided that, if any part of the proposed tramway is to traverse land which is not included within the limits of a municipality or of a cantonment, the Local Government shall not make the order without the previous sanction of the Governor-General in Council.

(2) A local authority shall not make an application for an order, or be deemed to consent to an application being made by any person for an order, unless the making of the application or the giving of the consent has been approved by the local authority in manner prescribed.

5. When it is proposed to lay a tramway in two or more circles, and a local authority or road-authority having control in either or any of the circles does not consent thereto, or attaches conditions to its consent, the Local Government may, nevertheless, make an order authorizing the construction of the tramway in the circle, or by the order impose on the promoter any conditions which it deems fit, if, after considering the reasons of the authority for withholding its consent or attaching the conditions thereto, it is satisfied that the construction of the tramway in the circle is expedient, or, as the case may be that the conditions attached by the authority to its consent ought not to be imposed.

6. The Local Government on receiving an application shall consider it, and, if satisfied as to the propriety of proceeding thereon, publish in the official Gazette, and in such other manner as it deems sufficient for giving information to persons interested, a draft of a proposed order authorizing the construction of the tramway.

(2) A notice shall be published with the draft stating that any objection or suggestion which any person may desire to make with respect to the proposed order will, if submitted to the Local Government on or before a date to be specified in the notice, be received and considered.

(3) If, after considering any objections or suggestions which may have been made with respect to the draft on or before the date so specified, the Local Government is of opinion that the application should be granted, with or without addition or modification, or subject or not to any restriction or condition, it may make an order accordingly.

(4) Every order authorizing the construction of a tramway shall be published in the official Gazette in English, and in the other prescribed language or languages, if any, and that publication shall be conclusive proof that the orders has been made as required by this section.

7. (1) An order made under section 6 shall empower the promoter therein specified to construct and maintain the tramway therein described in the manner therein provided, and shall specify the time within which the tramway shall be commenced, and the time within which it shall be completed and opened for public traffic.

(2) The order may also provide, in manner consistent with this Act, for all or any of the following, among other matters, that is to say :—

(a) a period before the expiration of which the tramway shall not be commenced, and the conditions subject to which the local authority, when it is not itself the promoter, may, within that period, elect to be substituted, in the place of the promoter in respect of the undertaking or of so much thereof as is within its circle ; and the limits of time within which, and the terms upon which the local authority may, after the tramway has been constructed, require the promoter to sell to it the undertaking of so much thereof as is within its circle ;

(b) the acquisition by the promoter of land for the purposes of the tramway, and the disposal by him of land which has been acquired but is no longer required for those purpose ;

- (c) the conditions subject to which roads may be opened and broken up for the purposes of the construction or maintenance of the tramway or any part thereof, and the method of, and materials to be used in, the reinstating of the roads, and the approval of the method and materials by the Local Government or the road-authority before the commencement of the work ;
- (d) the conditions on which the tramway may be constructed over a bridge or across a railway or tramway when the carriage-way over the bridge is to form part of the tramway, or when the tramway is to cross a railway or another tramway on the level ;
- (e) the space which shall ordinarily intervene between the out side of the carriage-way on either side of a road whereon the tramway is to be constructed, and,—
 - (i) in the case of a tramway having one rail, the rail of the tramway, or
 - (ii) in the case of a tramway having two or more rails, the nearest rail of the tramway, and the conditions on which a smaller space may be permitted.*
- (f) the gauge of tramway, the rails to be used, and the mode in which, and the level at which, they shall be laid and maintained ; and the adoption and application by the promoter of such improvements in the rails, and in their situation, and in the substructure upon which they rest, as the Local Government may, from time to time, require ;
- (g) the portion of the road or roads traversed by the tramway to be kept in repairs by the promoter ; the maintenance by the promoter to the satisfaction of the Local Government or the road-authority, or both, of that portion of the road or roads ; and the liability of the promoter, on the requisition of the Local Government, from time to time to adopt and apply such improvements in the tramway as the Local Government may consider necessary or desirable for the safety or convenience of the public, and to alter the position or level of the tramway to suit future alterations in the road or roads ;
- (h) the application of material excavated by the promoter in the construction or maintenance of the tramway ;
- (i) the provisions of such crossings, passing-places, sidings, junctions, and other works, in addition to those specified in or authorized by the order, as may, from time

The words within questions have been inserted by Act V of 1911.

time, be necessary or convenient to the efficient working of the tramway ;

- (j) the powers which may, from time to time, be exercised by the Local Government, the local authority, the road authority, or any person in respect of sewers, drains, telegraph-lines, gas-pipes, water-pipes, or other things in or on land occupied by the tramway ; the notice (if any) to be given of the intended exercise of those powers ; the manner in which the powers shall be exercised ; and the extent to which the tramway and the traffic thereon may be interfered with in the exercise thereof ;
- (k) the conditions subject to which the promoter may, from time to time, interfere with, or alter or require the alteration of the position of, drains (not being sewers or main drains), telegraph-lines, gas-pipes, water-pipes, or other things as aforesaid ;
- (l) the provision of a temporary tramway in place of a part of a tramway which has been removed, or of which the use has been discontinued, by reason of the execution of any work affecting a road along which the part of the tramway was laid, or by reason of the use of the road being interrupted by floods or other cause ;
- (m) the motive-power to be used on the tramway, and the conditions on which steam-power or any other mechanical power or "electrical power" may be used ;
- (n) the nature, dimensions, fittings, appliances, and apparatus of the carriages to be used on the tramway, and the inspection and examination thereof by officers of the Local Government or the local authority, and the liability of the promoter or lessee, on the requisition of the Local Government, from time to time, to adopt and apply such improvements in the carriages, and in the fittings, appliances, and apparatus, as the Local Government may consider necessary or desirable for the safety or convenience of the public ;
- (o) the traffic which may be carried on the tramway, the traffic which the promoter or lessee shall be bound to carry, and the traffic which he may refuse to carry, the tolls to be leviable by the promoter or lessee, and the periodical revision thereof by the Local Government ; and the regulation of the traffic and of the levy of the tolls ;

* The words within quotations have been inserted by Act V of 1911.

- (p) the use of the tramway free of toll by the local authority, with its own carriages, for specified purposes, during specified hours, with power to the local authority to make such sidings and other works as may be necessary for communication between its premises and the tramway ;
- (q) the conditions subject to which the promoter may transfer the undertaking, or any part thereof, by sale, mortgage, lease, exchange, or otherwise ; and the conditions subject to which the local authority may be the transferee ;
- (r) the performance by the Local Government or by the local authority or road-authority of any work required by the Act or the order to be done by the promoter ; and
- (s) the penalty to be incurred by the promoter or lessee for failure to observe any condition or direction contained in the order, and the application of the penalty when recovered.

(3) The Local Government may, in providing in the order for the acquisition of land for the purposes of a tramway of which the promoter is not a company, direct that land may be acquired for the promoter under the provisions of the Land Acquisition Act, 1870, in the same manner and on the same conditions as it might be acquired for the purposes of the tramway if a company were the promoter.

(4) The order shall imply the condition—

- (a) in the case of a tramway of which a local authority is the promoter, that a lease thereof shall be granted only in manner by this Act provided, and
- (b) in the case of a tramway of which a local authority is not the promoter, that a lease thereof shall be only of the right of user and of demanding and taking the authorized tolls, and shall not confer or impose on the lessee any of the powers or duties of the promoter in respect of the construction or maintenance of the tramway.

Further order.

8. (1) The Local Government may, on the application of the promoter, revoke, amend, extend, or vary the order by a further order.

(2) An application for a further order shall be made in the same manner and subject to the same conditions as an application for an order.

(3) The Local Government may, in its discretion, either grant or reject the application.

(4) If it grants the application, it shall make the further order in the same manner as an order, except that no addition to, or modification of, the rights, powers, and authorities asked for in the application, or restriction or condition with respect thereto, shall be made or imposed by the further order without the consent in writing of the promoter.

9. (1) Subject to, and in accordance with, the provisions of this Act, the Local Government may, on a joint application, or on two or more separate applications, make an order empowering two or more local authorities, respectively, jointly to construct the whole, or separately to construct parts, of a tramway, and jointly or separately to own the whole or parts thereof.

(2) All the provisions of this Act which relate to the construction of tramways shall extend and apply to the construction of the whole and the separate parts of the tramway, and the form of the order may be adapted to the circumstances of the case.

10. (1) If a promoter authorized by an order to construct a tramway—

- (a) does not, within the time specified in the order, substantially commence the construction of the tramway, or
 - (b) having commenced the construction, suspends it without a reason sufficient in the opinion of the Local Government to warrant the suspension, or
 - (c) does not, within the time specified in the order, complete the tramway, and open it for public traffic,
- the following consequences shall ensue:—

- (i) the powers given by the order to the promoter for constructing the tramway and otherwise in relation thereto shall, unless the Local Government, by special direction in writing, prolongs the time or condones the suspension, cease to be exercised, except as to so much of the tramway as is then completed,
- (ii) as to so much of the tramway as is then completed, the Local Government may either permit, or refuse to permit, the powers given by the order to continue;
- (iii) if the Local Government refuses to permit the powers to continue, then so much of the tramway as is then completed may be dealt with, under the provisions of this Act relating to the discontinuance of tramways, as a tramway of the working whereof the discontinuance has been proved to the satisfaction of the Local Government.

(2) A notification published by the Local Government in the official Gazette to the effect that on a date specified in the notification the construction of a tramway had not been substantially commenced or a tramway had not been completed and opened for public traffic, or that the construction of a tramway had been suspended without sufficient reason, shall, for the purposes of this section, be conclusive proof of the matter stated therein.

Construction and Maintenance of Tramways.

11 A tramway shall be constructed and maintained in the manner provided by the order.

Mode of formation of tramway,

12. A tramway, or portion or extension of, or addition to, a tramway, shall not be opened for public traffic until an engineer appointed in this behalf by the Local Government has inspected it, and certified it to be fit for such traffic

Inspection of tramway before opening

13. Subject to the provisions of any order for the time being in force with respect to the matters mentioned in section 7, sub-section (2), clause (g), the road authority and the promoter may from time to time, enter into agreements as to the keeping in repair of the whole or a part of a road traversed by a tramway, and as to the proportion to be paid by either of them of the expense of keeping the road or part in repair.

Agreement between road-authority and promoter as to repair of roadway

Traffic on Tramways.

14. (1) The promoter of tramway shall, subject to the provisions of sub-section (2) and to the other provisions of this Act and of the order, have the exclusive use of the tramway for carriages with flange wheels, or other wheels suitable to run on the rail described in the order as the rail to be used on the tramway :

Rights of promoters and the public over tramways

Provided that nothing in this Act or in the order, or any rule made under this Act, shall affect the right of any person authorized to use a tramway or railway to pass across a tramway constructed under this Act with carriages having wheels suitable to run on the rail thereof.

(2) The public shall have a right to pass along or across any part of a road along or across which a tramway is constructed, whether on or off the tramway, with carriages not having flange-wheels or other wheels suitable to run on the rail of the tramway : Provided—

(a) that this sub section shall not apply where the tramway is constructed on land the right to the exclusive possession of which has been acquired by the promoter; and

- (b) that the Local Government may by an order authorize the construction of a tramway on any part of a road with rails raised above the surface of the road, if it is satisfied that the convenience of the public will not be injuriously affected thereby.

15. (1) The promoter or lessee may demand and take, in respect of the tramway, tolls not exceeding the limits specified in or determinable under the order, or, if the order contains no provision in this behalf, then such sums as may, from time to time, be fixed by the promoter or lessee with the previous sanction of the Local Government.

Tolls leviable by promoter or lessee

(2) A list of all the tolls authorized to be levied shall be exhibited, in such languages as the District Magistrate may direct, in a conspicuous place inside and outside each of the carriages used upon the tramway.

16. (1) A person shall not be entitled to carry or to require to be carried, on a tramway constructed under this Act, any goods of a dangerous or offensive nature.

Carriage of dangerous or offensive goods.

(2) A person taking such goods with him on the tramway shall, before entering the carriage, give notice of their nature to the servant of the promoter or lessee in charge of the carriage.

(3) A person sending such goods by the tramway shall distinctly mark their nature on the outside of the package containing them, or otherwise give notice thereof in writing to the servant of the promoter or lessee with whom he leaves them for the purpose of their being sent by the tramway.

(4) Any servant of the promoter or lessee may refuse to carry upon the tramway a parcel which he suspects to contain goods of a dangerous or offensive nature, and, if any such parcel has been received for the purpose of being carried upon the tramway, may stop the transit thereof until he is satisfied as to the nature of its contents.

(5) Where a servant of the promoter or lessee refuses under sub-section (4) to carry a parcel which has been received for the purpose of being carried upon the tramway, he shall, as soon as may be, give notice of his refusal to the consignor or consignee if he refuses at a time when neither of them is present.

Licenses to use Tramways.

17. If, at any time after a tramway or part of a tramway has been for three years opened for public traffic in a circle, the local authority of the circle represents in writing to the Local

Grant to third parties of licences to use tramway in certain events,

Government that the public is deprived of the full benefit of the tramway or of the part thereof, the Local Government may, if after considering any statement which the promoter or lessee or both may desire to make, and after such further enquiry as it deems necessary, it is satisfied as to the truth of the representation, grant a license to any person to use the tramway conformably to this Act and to the order and the rules made under this Act, subject to the following provisions, namely ;

- (a) the license shall be for a period not less than one year or more than three years from the date of the license, but the Local Government may in its discretion renew it ;
- (b) the license shall be to use the whole of the tramway for the time being opened for public traffic, or such part or parts of the tramway as the Local Government, having regard to the cause for granting the license thinks fit ;
- (c) the license shall specify the number of carriages which the licensee shall run upon the tramway, the mode in which, and times at which, the carriages shall be run the tolls to be paid to the promoter or lessee by the licensee for the use of the tramway, and the tolls, being those for the time being leviable by the promoter or lessee, which the licensee may demand and take for the use of his carriages ;
- (d) the licensee and his officers and servants shall permit one person, duly authorized for that purpose by the promoter or lessee, to travel free of toll in or upon each carriage of the licensee run upon the tramway for the whole or any part of a journey ;
- (e) any provision of this Act, or of the order or rules made under this Act relating to the functions of a servant of a promoter or lessee, shall be construed, so far as may be, as referring to a servant of the licensee ; and
- (f) the Local Government may revoke, alter, or modify the license for any cause sufficient in its opinion to warrant the revocation, alteration, or modification thereof.

18. A license shall, on demand, give to an officer or servant

License to give to pro- authorized in that behalf by the promoter
motor or lessee an or lessee an exact account in writing,
account of traffic. signed, by the licensee, of the number of
passengers, or number or quantity of goods, conveyed by any
and every carriage used by him on the tramway.

Discontinuance of Tramways.

19. If it is proved to the satisfaction of the Local Government, at any time after the opening of a tramway for public traffic, that the working of the tramway, or any part thereof, has been practically discontinued, for the space of three months, without a reason sufficient, in the opinion of the Local Government, to warrant the discontinuance, the Local Government, if it thinks fit, may, by notification in the official Gazette, declare that the powers of the promoter and of the lessee, if any, in respect of the tramway, or the part thereof of which the working has been so discontinued, shall, from the date of the notification, be at an end, and thereupon the said powers shall cease and determine, except in so far as they may be purchased by a local authority in manner by this Act provided.

20 (1) Where a notification has been published under section 19, the road authority may, at any time after the expiration of two months from the date of the notification, remove the tramway or part of the tramway of which the working has been so discontinued, and use the materials thereof in reinstating the road.

(2) The promoter shall pay to the road-authority the cost incurred by that authority in removing the tramway or the part thereof and in reinstating the road.

(3) The cost shall be certified by an officer of the road-authority, and his certificate, countersigned by the District Magistrate, shall be conclusive proof as to the cost incurred.

(4) If the promoter does not pay the amount so certified within one month after the delivery to him of the certificate or of a copy thereof, the road-authority may, without any previous notice to the promoter, and without prejudice to any other remedy which it may have for the recovery of the amount, sell and dispose of such materials of the tramway or part thereof removed as it has not used in reinstating the road, either by public auction or by private sale, and for such sum or sums, and to such person or persons, as it thinks fit, and may, out of the proceeds of the sale, pay and reimburse itself the amount of the cost aforesaid and of the expenses of the sale, and shall pay over the residue (if any) of the proceeds of the sale to the promoter.

Insolvency of Promoter

21. (1) If, at any time after the opening of a tramway in a circle for public traffic, it appears to the road-authority or local authority of the circle that the promoter of the tramway is insolvent, so that he is unable to maintain the tramway, or to

work it with advantage to the public, and either of those authorities makes a representation to that effect to the Local Government, the Local Government may, if after considering any statement which the promoter may desire to make, and after such further enquiry as it deems necessary, it is satisfied as to the truth of the representation, declare, by notification in the official Gazette, that the powers of the promoter shall, at the expiration of six months from the publication of the notification, be at an end; and the powers of the promoter shall cease and determine at the expiration of that period, except in so far as they may be purchased by a local authority in manner by this Act provided.

(2) Where a notification has been published under sub-section (1), the road authority, may at any time after the expiration of six months from the date thereof, remove the tramway in the same manner, and subject to the same provisions as to the payment of the cost of the removal and to the same remedy for recovery of the cost, in every respect as in cases of removal under section 20.

Purchase of Tramway.

22. (1) Where the promoter of a tramway in a circle is not the local authority, the local authority, with the previous sanction of the Local Government, may—

Future purchase of undertaking by local authority.

- (a) within such limits of time as may be specified in this behalf in the order, or
- (b) if a time was not specified in the order, then within six months after the expiration of a period of twenty-one years from the date of the order, and within six months after the expiration of every subsequent period of seven years, or
- (c) within two months after the publication of a notification under section 19, or within six months after the publication of a notification under section 21,

by notice in writing, require the promoter to sell to the local authority his undertaking or the part thereof which is within the circle of the local authority and thereupon the promoter shall sell the same upon the terms specified in the order, or, if the terms were not specified in the order, then upon the terms of paying the then value of the undertaking or of the part thereof, exclusive of any allowance for past or future profits of the under-taking or any compensation for compulsory sale or other consideration whatsoever.

(2) A requisition shall not be made under sub-section (1) unless the making thereof has been approved by the local authority in manner prescribed,

(3) When a sale has been made under this section, all the rights, powers, and authorities of the promoter in respect of the undertaking or part thereof sold, or, where a notification has been published under section 19 or section 21, all the rights, powers, and authorities of the promoter previous to the publication of the notification in respect of the undertaking or part thereof sold, shall be transferred to the authority to whom the undertaking or part has been sold, and shall vest in, and may be exercised by, that authority in the same manner as if the tramway had been constructed by it under an order made under this Act.

(4) Subject to, and in accordance with, the preceding provisions of this section, two or more local authorities may jointly purchase an undertaking or so much thereof as is within their circles.

Working of Tramway owned by Local Authorities.

23. (1) When a local authority has, under the authority of an order, completed a tramway, or has, under the provisions of this Act or of an order, acquired possession of a tramway, it may, by a lease to be approved by the Local Government, let to any person the right of user of the tramway, and of demanding and taking the authorized tolls.

Lease of, or working of, tramway by local authority.

(2) On the determination of a lease the local authority may, from time to time, let the right for such further term and on such conditions as the Local Government may approve.

(3) Every lease made under this section shall imply a condition of re-entry if at any time after the making thereof it is proved to the satisfaction of the Local Government that the lessee has practically discontinued the working of the tramway leased, or of any part thereof, for the space of one month without reason sufficient, in the opinion of the Local Government, to warrant the discontinuance.

(4) Notice of the intention of the local authority to make a lease shall be given in manner prescribed.

(5) If the local authority cannot, by means of a lease, obtain what it deems to be a fair rent for the tramway, it may itself, with the previous sanction of the Local Government, and for such term as the Local Government directs, place and run carriages upon the tramway, and demand and take the authorized tolls in respect of the use of the carriage.

Rules.

24. (1) In addition to any other power to make rules Power to make rules. expressly or by implication conferred by this Act, the Local Government may make rules consistent with this Act—

- (a) as to the form in which an application for an order shall be made ;
- (b) as to the cost to be paid by an applicant in respect of an order, and the time when and the place where, those costs shall be paid ;
- (c) as to the payment of money or lodgment of securities, by way of deposit, by the applicant for an order before the order is published under section 6, sub-section (4), or a further order is made under section 8, the investment of money so paid ; this disposal of interest or dividends from time to time accruing due or money or securities so paid, lodged, or invested the application of the money or securities, or the produce thereof, to the discharge of any liability incurred by the promoter ; and the forfeiture, repayment, or return of the money or securities ;
- (d) as to the plans and sections of any works to be deposited by applicants for orders or by promoters ;
- (e) for regulating the use of steam-power or any other mechanical power or "electrical power"* on a tramway ;
- (f) as to any matter specified in section 7, sub-section (2), clauses (c), (d), (e), (f), and (h), as a matter which may be provided for in an order, when that matter has not been so provided for, or has not, in the opinion of the Local Government, been effectually so provided for ;
- (g) as to the periodical submission, by promoters, lessees and licensees, of accounts of traffic and receipts to the Local Government or as that Government directs, and as to the forms in which those accounts are to be submitted ;
- (h) as to the accidents of which report is to be made to the Local Government or as that Government directs ;
- (i) as to any matter respecting which rules may be made under this section by local authority or a promoter or lessee ; and
- (j) generally, as to any other matter or thing in respect of which it may seem to the Local Government to be expedient to make rules for carrying out the purposes of this Act,

The words within quotations have been inserted by Act V of 1911.

(2) A local authority may, from time to time, with the previous sanction of the Local Government, make rules consistent with this Act, and with the order and any rule made by Local Government under this Act, for regulating—

- (a) the rate of speed to be observed in travelling upon a tramway within the circle of the local authority ;
- (b) the use of animal power on the tramway ;
- (c) the distances at which carriages using the tramway are to be allowed to follow one after the other ;
- (d) the stopping of carriages using the tramway, and the notice to be given to the public of their approach ;
- (e) the manner in which carriages using the tramway after sunset and before sunrise are to be lighted ;
- (f) the traffic on roads along or across which the tramway is laid ;
- (g) the number of passengers which may be carried in any carriage ;
- (h) the licensing and control of drivers, conductors, and other persons having charge of the carriages of the promoter or lessee or a licensee ; and,
- (i) generally, the mode of use of the tramway.

(3) The promoter or lessee of a tramway may, from time to time, with the previous sanction of the Local Government, make rules consistent with this Act and with the order and any rules made under this Act—

- (a) for preventing the commission of any nuisance in or upon any carriage, or in or against any premises, belonging to him ; and
- (b) for regulating the travelling in any carriage belonging to him.

(4) The Local Government may cancel any rule made by a local authority or by a promoter or lessee under this section.

25, The authority making any rule under section 24 may direct that a breach of it shall be punishable with the fine which may extend

Power to impose penalty by rule.

- (a) if the authority making the rule is the Local Government, to two hundred rupees, and
- (b) if that authority is a local authority or a promoter or lessee, to twenty rupees ;

and when the breach is a continuing breach, with a further fine which may extend—

- (c) if the authority making the rule is the Local Government, to fifty rupees and
 - (d) if that authority is a local authority or a promoter or lessee, to five rupees,
- for every day after the first during which the breach continues.

26. (1) Every authority having power to make rules under any section of this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

Procedure for making, and publication of, rules.

(2) The publication shall be made, in the case of rules made by the Local Government, in such manner as may, in its opinion be sufficient for giving information to persons interested, and, in the case of rules made by a local authority or by a promoter or lessee, in manner prescribed.

(3) There shall be published with the draft a notice specifying a date, not earlier than the expiration of one month after the date of publication, at or after which the draft will be taken into consideration.

(4) The authority shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(5) The publication in the official Gazette of a rule purporting to be made under this Act shall be conclusive proof that it has been duly made.

Offences

Penalty for failure of promoter, lessee, or licensee to comply with Act or order.

27. If a promoter—

- (a) constructs or maintains a tramway otherwise than in accordance with the order, or
- (b) opens the tramway for traffic, or permits it to be so opened, before it has been inspected and certified in manner required by section 12, or
- (c) fails to observe any requirement or condition of the order for neglect or breach whereof no penalty has been expressly provided in the order,

or if a promoter, lessee, or licensee runs a carriage on a tramway otherwise than in accordance with the order,

he shall (without prejudice to the enforcement of specific performance of the requirements of this Act or of the order, or to any other remedy which may be obtained against him in a Court of Civil Judicature), on complaint made by the Local Government,

or by the local authority or road-authority, or by the District Magistrate, or, with the previous sanction of the District Magistrate, by any person injuriously affected by the act or omission, be punished with fine which may extend to two hundred rupees, and in the case of a continuing offence to a further fine which may extend to fifty rupees for every day after the first during which the offence continues to be committed.

28. If any person without lawful excuse, the burden of proving which shall lie upon him, wilfully obstructs any person acting under the authority of the promoter in the lawful exercise of his powers in constructing or maintaining a tramway, or injures or destroys any mark made for the purpose of setting out the line of the tramway, he shall be punished with fine which may extend to fifty rupees.

29. If any person without lawful excuse, the burden of proving which shall lie upon him, wilfully does any of the following things, namely :—

- (a) interferes with, removes, or alters any part of a tramway constructed under this Act, or of the works connected therewith, or
- (b) places or throws upon or across any such tramway any wood, stone, refuse, or other thing, or
- (c) does anything in such a manner as to obstruct any carriage using any such tramway, or
- (d) abets within the meaning of the Indian Penal Code the doing of, or attempts to do, anything mentioned in clause (a), clause (b), or clause (c),

he shall (without prejudice to any other remedy which may be obtained against him in a Court of Civil judicature) be punished with fine which may extend to one hundred rupees.

30. If any person, except under a lease from, or by agreement with, the promoter, or under license from the Local Government granted under this Act, uses on a tramway, otherwise than as permitted by section 14, a carriage having flange-wheels or other wheels suitable to run on the rail of the tramway, he shall be punished with fine which may extend to two hundred rupees,

31. (1) If any person travelling or having travelled in a carriage of the promoter or lessee, or of a licensee, evades or attempts to evade payment of toll, or if any person, having paid toll for a certain distance, wilfully proceeds in any such carriage beyond that distance, and does not pay the additional toll for the additional

distance, or attempts to evade payment thereof, or if any person wilfully refuses or neglects, on arriving at the point to which he has paid toll, to quit the carriage, he shall be punished with fine which may extend to ten rupees.

(2) When a person commits an offence under this section, and refuses, on demand of a servant of the promoter, lessee, or licensee, to give his name and residence, or gives a name or residence which the servant has reason to believe to be false, he may be arrested and taken to the nearest police-station by the servant or any person whom the servant may call to his aid.

(3) When the person is taken to the police station, he shall with the least possible delay, be forwarded to the nearest Magistrate, unless his true name and residence are ascertained in which case he shall be released on his executing a bond for his appearance before a Magistrate if so required.

32. If any person takes or sends by a tramway any goods of a dangerous or offensive nature without giving the notice required by section 16, he shall be punished with fine which may extend to fifty rupees.

Penalty for taking or sending dangerous or offensive goods without giving notice

33. (1) If a licensee fails on demand to give the account mentioned in section 18, or, with intent to evade the payment of tolls, gives a false account when he is called upon to give an account under that section, he shall be punished with fine which may extend to fifty rupees

Penalty for licensee not giving to promoter or lessee an account of traffic, or giving false account

(2) The fine shall be in addition to any tolls payable by the licensee to the promoter or lessee in respect of the passengers or goods conveyed by the carriage or carriages used by the licensee on the tramway.

34. Nothing in this Act shall prevent a person from being prosecuted under any other law for an act or omission which constitutes an offence against this Act or the rules made under it, or from being liable under that other law to any other or higher punishment or penalty than that provided by this Act or the rules made under it : Provided that a person shall not be punished twice for the same offence.

Saving of prosecutions under other laws.

Settlement of Differences.

35. (1) If any difference arises between the promoter or lessee on the one hand and the Local Government, or the local authority, or the road-authority, or a person having the charge of any sewers, drains, telegraph-lines, gas-pipes, water pipes, or other things in or on land occupied by the tramway, on the other hand, with respect

Differences between promoters or lessees and authorities.

to any interference or control exercised or claimed to be exercised by or on behalf of either party by virtue of this or any other Act, or of the order or the rules made under this Act, or with respect to the propriety of, or the mode of, the execution of any work, or with respect to any compensation to be made by or to the promoter or lessee, or on the question whether any work is such as ought reasonably to satisfy the Local Government or the road-authority or both, or with respect to any other subject or thing regulated by, or comprised in, this Act or the order or the rules made under this Act, and not otherwise expressly provided for therein, the matter in difference shall, except where the parties elect to proceed under section 523 of the Code of Civil Procedure, be settled on the application of either party, by a referee.

(2) Where the difference is—

- (a) between the promoter or lessee on the one hand and the Local Government, either as such or as the road-authority, on the other, or
- (b) between the promoter on the one hand and the local authority on the other with respect to the sums to be paid by the local authority for an undertaking or part of an undertaking which that authority has required the promoter to sell under section 22,

the referee shall be the District Court within the jurisdiction of which the tramway is situate, or, where the tramway is within the jurisdiction of more than one District Court, the District Court within the jurisdiction of which the greater part of the tramway is situate.

(3) In other cases the referee shall be appointed by the Local Government.

(4) Except where referee is the District Court, the powers and procedure of the referee may be prescribed.

(5) In the case of a difference between a promoter on the one hand and a local authority on the other, with respect to the sum to be paid by the local authority for an undertaking or part of an undertaking which that authority has required the promoter to sell under section 22, an appeal shall lie to the High Court from the award of the referee as from an original decree of the District Court.

(6) In the case of every other difference the award of the referee shall be final.

Recovery of Tolls.

36. Any of the following moneys, namely, any rent due to a

Recovery of moneys due from promoters and, in certain cases, from lessees.

local authority from a lessee, any penalty recoverable from a promoter or lessee under an order, any sum payable by a promoter

or lessee under an award of a referee, the cost of the performance under this Act by the Local Government or by a local authority or road-authority of any work required by this Act or by an order to be done by a promoter, and the cost incurred by a road authority in removing a tramway and reinstating a road under this Act, may, without prejudice to any other remedy that the authority to which the money is due may have by suit or otherwise, be recovered by that authority, on application made in this behalf to the Collector, as if the sum due were an arrear of land-revenue due by the promoter or lessee or his surety (if any):

*Provided that nothing in this section shall authorize the arrest of the promoter or lessee or his surety in execution of any process issued by the Collector.

37. (1) If a licensee fails to pay on demand the tolls due for the use of a tramway, the promoter or lessee to whom the tolls are due may, without prejudice to the remedy which he may have by suit, apply to a Magistrate to recover the amount of the tolls, and the Magistrate may, after giving notice to the licensee if possible, and allowing him an opportunity of being heard, proceed to recover the amount by distress and sale of any carriages or other moveable property of the licensee which may be found on the tramway or on premises connected therewith.

(2) When a licensee has failed to pay on demand the tolls due from him, the promoter or lessee to whom the tolls are due may seize any carriage or other moveable property of the licensee on the tramway or on premises connected therewith, and detain the same for forty-eight hours, unless the tolls are sooner paid.

(3) When application is made to a Magistrate under sub-section (1), he may make an interim order of distraint pending his final decision.

38. Any toll due to a promoter, lessee, or licensee from a passenger, may be recovered either by suit or, on application to a Magistrate having jurisdiction within any local area in which any part of the tramway is laid, by distress and sale of any moveable property belonging to the passenger within the local limits of the jurisdiction of the Magistrate.

Savings.

39. (1) Notwithstanding anything contained in this Act, or in an order or any rule made under this Act, a promoter shall not acquire any right other than that of user only over a road along or across which he lays a tramway, nor shall anything contained in this Act, or in an order or any rule made under this

Recovery of tolls from licensees.

Recovery of tolls from passengers.

Promoter to have right of user only.

Act, exempt the promoter of a tramway, or any other person using the tramway, from the payment of such charges as may lawfully be levied in respect of the use of a road or bridge along or across which the tramway is laid.

(2) The Local Government may, if it thinks fit fix rates at which a promoter, lessee, or licensee may compound for the charges payable in respect of the use of a road or bridge.

40. (1) Nothing in this Act, or in an order or any rule made under this Act, shall take away or abridge any power which a road-authority, local authority or other person, has by law to break up, widen, alter, divert, or improve a road, railroad, or tramway along or across which a tramway is laid.

Saving of power over roads traversed by tramways.

(2) The road-authority, local authority, or other person executing any work referred to in sub-section (1), shall not be liable to pay to a promoter, lessee, or licensee any compensation for injury done to a tramway by the execution of the work, or for loss of traffic occasioned by the reasonable use of any power lawfully exercised for the execution thereof.

41. Nothing in this Act, or in an order or any rule made under this Act, shall affect the powers of a local authority or of a Magistrate or police-officer to regulate the passage of traffic along or across a road along or across which a tramway is laid ; and the authority, Magistrate, or officer aforesaid, may exercise its or his powers as well on as off the tramway, and with respect as well to the traffic of a promoter, lessee, or licensee as to the traffic of other persons

Saving of power of local authority and police to regulate traffic on roads

Supplemental Provisions

42. A promoter, lessee, or licensee, shall be answerable for all injuries happening through his act or default, or through the act or default of any person in his employment, by reason or in consequence of any of his carriages or works and shall save harmless all authorities and persons collectively and individually, and their officers and servants, from all damages and costs in respect of injuries so happening.

Promoters, lessees and licensees to be responsible for all injuries.

43. For the purposes of this Act want of funds shall not be deemed to be a sufficient reason for the suspension of the construction, or the discontinuance of the working, of a tramway by a promoter or lessee.

Want of funds not a sufficient reason for default.

44. When a tramway is constructed under this Act within the limits of a municipality, the Local Government may exempt the animals, plant, rolling-stock, yards, workshops, enginesheds, "electrical generating stations or sub stations"* and depots of the promoter, lessee, or licensee, for such period as it thinks fit, from all or any municipal taxes leviable within those limits

45. (1) The fund to or with the control or management of which the local authority of a municipality, cantonment, or district is entitled or entrusted, shall, notwithstanding anything in any enactment respecting the purposes to which that fund may be applied, be applicable subject to the control of the Local Government, to the payment of expenses incidental to the exercise of the powers and functions which may be vested in or exercised by a local authority under this Act,

(2) The fund shall also be applicable with the previous sanction of the Local Government, to a guarantee of the payment of interest on money to be applied, with the concurrence in writing of the local authority, within the limits of the local area under its control, to any of the purposes to which the fund might be applied by the local authority under sub-section (1).

46. The Local Government may with the consent of the local authority and road-authority and of the promoter and his lessee (if any), extend any part of this Act, or any rules made under this Act, either with or without modification, to the whole or any part of a tramway constructed, or authorized by the Local Government to be constructed, before the passing of this Act, and may withdraw any part of the Act or any rules so extended.

47. (1) A tramway of which the construction has not been authorized by the Local Government before the passing of this Act shall not, after the passing of this Act, be constructed for public traffic in any place to which this Act extends, except in pursuance of an order made under this Act.

(2) A person constructing a tramway in contravention of sub-section (1) of this section.

or after the passing of this Act maintaining or using for public traffic, otherwise than in pursuance of an order made under this Act, a tramway which was not constructed, or authorized by the Local Government to be constructed, before the passing of this Act.

*.The words within quotations have been added by Act V of 1911.

shall be liable, on the complaint of the Local Government or local authority, to double the penalty to which a promoter acting otherwise than in accordance with an order is liable under section 27.

48. If at any time a local area comprising a tramway to which this Act or any part thereof or any rule thereunder applies ceases to be included in the circle of a local authority, the functions of that authority under this Act or the part thereof or the rule thereunder, and under the order (if any), shall, in respect of that local area, devolve on the Local Government or, if that Government so directs, on the local authority of the circle in which the tramway has been included.

Transfer of control on exclusion of local area from circle of local authority.

49 (*Repealed by Act IX. of 1890, s. 2 and sch.*)

Powers of Local Government exercisable from time to time

50. All powers conferred by this Act on Local Government may be exercised from time to time as occasion requires.

ACT XVII. OF 1886.

The Jhansi and Morar Act, 1886.

RECEIVED THE G.-G.'S ASSENT ON THE 17TH. SEPTEMBER 1886.

An Act to annex the Town and Fort of Jhansi and certain adjacent Territory to the Jhansi District, and for certain other purposes.

Short title and Commence-
ment.

1. (1) This Act may be called the Jhansi and Morar Act, 1886, and

(2) It shall come into force on a date* to be appointed in this behalf by the Lieutenant-Governor of the North-Western Provinces, which date is in this Act referred to as the Commencement of this Act.

PART I.

WHEREAS, since the beginning of march, 1886, the town and fort of Jhansi have been ceded to the British Government in full sovereignty by his Highness the Maharaja Scindia in exchange for the cantonment of Morar, which has been ceded to His Highness in full sovereignty by the British Government ;

and whereas the town and fort of Jhansi have been declared by the Governor-General in Council to be subject to the Lieutenant-Governorship of the North Western Provinces ;

And whereas it is proposed that certain lands adjacent to the Jhansi district should be ceded to the British Government in full sovereignty by His Highness in exchange for certain other lands to be ceded to his Highness in full sovereignty by the British Government ;

And whereas it is expedient that the town and fort of Jhansi, and the lands to be ceded to the British Government, should be annexed to the Jhansi district, and that the law in force therein should be the same as the law in force in that district,†

It is hereby enacted as follows :—

2. The town and fort of Jhansi, and the lands which may be ceded to the British Government in accordance with the proposal referred to in the preamble to this Part, shall, in the case of the town and fort, from the commencement of this Act, and, in the case of any of the lands, from the date of the cession thereof, be deemed to be part of the Jhansi district.

Annexation of ceded lands
to Jhansi district.

* The Act came into force on Dec. 15, 1886.—See *N. W. P. and Oudh Gazette (Extraordinary)* dated Dec. 14, 1886

† The portion which has been repealed by Act XX. of 1890, s. 8 (2), has been omitted.

3. All enactments which, at the commencement of this Act, or at the date of the cession of any of the land referred to in the last-foregoing section, are or shall be in force in the Jhansi district, and not in the town and fort of Jhansi, or in those lands, shall then come into force in the town and fort, or in those lands, as the case may be.

4. [Repealed by Act XXX. of 1890, s. 8 (2).]

5 All acts of executive authority, proceedings, decrees and sentences which have been done, taken, or passed in or with respect to the town and fort of Jhansi since the beginning of March, 1886, and before the commencement of this Act, by any officer of the Government, or by any person acting under his authority or otherwise in pursuance of an order of the Government, or which have been or shall be ratified by the Lieutenant-Governor of the North-Western Provinces, shall be as valid and operative as if they had been done, taken, or passed in accordance with law; and no suit or other proceeding shall be maintained or continued against any person whatever on the ground that any such acts, proceedings, decrees or sentences, were not done, taken, or passed in accordance with law.

PART II.

AND whereas it is expedient that decrees and orders passed by the Civil and Revenue Courts of his Highness in cases which would have been cognizable by the Civil and Revenue Courts of the Jhansi district under the Code of Civil Procedure or the Jhansi Courts Act, 1867,* or the North-Western Provinces Rent Act, 1881, if the territory ceded by His Highness had been part of the Jhansi district at the time of the institution of the cases, should be capable of being executed as if they had been made by the Courts of the Jhansi district;

And whereas the period of limitation prescribed for suits in the territories of His Highness is twelve years, and it is expedient that persons having just claims which, but for the cession of territory, they might have enforced in the Courts of His Highness, should not be debarred from enforcing those claims by reason of a shorter period of limitation being prescribed for any class of suits by the law in force in the Jhansi district;

And whereas it is expedient that suits pending in the Courts of his Highness, and left undetermined by those Courts by reason of cession of territory, should be continued in the Courts of the Jhansi district;

* Act XVIII of 1867 has been repealed by Act XX. of 1890, s. 5. (2), *Infra*.

And whereas it is expedient to remove doubts as to the effect of the law in force in the Jhansi district, with respect to registration and stamps, on documents and instruments to which, at the time of their execution, the law of His Highness applied, and the law of British India did not apply ;

It is hereby further enacted as follows :—

6. (1) An application for the execution of a decree or order passed by a Civil or Revenue Court of His Highness in any such case as is referred to in the first clause of the preamble to this Part may, with the previous sanction of the Deputy Commissioner,* be made to any Court in the Jhansi district subordinate to the Court of the Commissioner† which may be specified by the Deputy Commissioner‡ in that behalf in his order giving the sanction.

(2) If in any case the Deputy Commissioner* is of opinion that for special reasons the sanction ought to be withheld or ought to be granted subject to conditions, he may either withhold his sanction, or permit, the application to be made on any conditions which, in the circumstances, he deems it proper to impose ; but in either of those cases he shall record the reasons in writing.

(3) The fact that an application is barred by the Indian Limitation Act, 1877, may be sufficient cause for withholding sanction to the making of the application, but in any case in which the holder of the decree or order has been debarred from enforcing it by reason of the cession of the town and fort of Jhansi to the British Government, and to which the Deputy Commissioner* sees fit to apply the provisions of that Act, the Deputy Commissioner* shall, in computing the period of limitation, exclude therefrom the time which has elapsed between the cession of the town and fort and the commencement of this Act

(4) Subject to revision by the Commissioner of the Jhansi Division,‡ an order of the Deputy Commissioner* sanctioning or refusing to sanction the making of an application under this section, or imposing conditions with respect thereto, shall be final.

7. (1) Notwithstanding anything in the Indian Limitation Act, 1877, or in any other enactment, the Deputy Commissioner* may, within such term, not exceeding two years from the Commencement of this Act, as the Local Government may prescribe in this behalf, admit any suit of a nature cognizable by the Courts of British India, which, if there had not been a cession

* Read District Judge.—See Act XX. of 1890, s. 7, *infra*.

† The reference now applies to the Civil Courts established in the Jhansi District under Act XII. of 1887.—Act XX. of 1890, s. 7, *infra*

‡ Read High Court.—See Act XX. of 1890, s. 7, *infra*.

of territory, and the suit had been instituted in a Court of His Highness having jurisdiction with respect thereto, would not be liable to be dismissed by that Court by reason of its being barred by any law of limitation.

(2) In the computation of the period of limitation for a suit referred to in sub-section (1), which the plaintiff has been debarred from instituting by reason of the cession of the town and fort of Jhansi to the British Government, there shall be excluded from the period the time which has elapsed between the cession of the town and fort and the commencement of this Act.

(3) Subject to revision by the Commissioner of the Jhansi Division,* and order of the Deputy Commissioner † admitting or refusing to admit a suit under sub section (1) shall be final.

8. An original suit pending in a Court of His Highness, and left undetermined by that Court by reason of cession of territory, may be continued, under the law of limitation applicable to that Court, but otherwise in accordance with the law and procedure of British Indian Courts, in any Court in the Jhansi district subordinate to the Court of the Commissioner‡ which the Deputy Commissioner† may appoint in that behalf.

9. The provisions of the law of British India with respect to the consequences of documents being unregistered or instruments being unstamped shall not apply to any document or instrument which may have been executed before a date to be prescribed in this behalf by the Local Government, and to which the law of His Highness applied, and the law of British India did not apply at the time of its execution.

PART III.

AND WHEREAS it is expedient that traders and others who were entitled, immediately before the cession of the cantonment of Morar, to institute certain suits in, or make applications for or with respect to the execution of certain decrees to, a Civil Court at Morar, should be enabled to institute those suits in, and make those applications to, the Civil Courts at Jhansi and Agra, and at any other place from time to time appointed in this behalf by the Governor-General in Council, and the period of limitation in these case should be extended ;

It is hereby further enacted as follows :—

* Read High Court—See Act XX of 1890, s. 7, *infra*

† Read District Judge—See Act XX of 1890, s. 7, *infra*.

‡ The reference now applies to the Civil Courts established in the Jhansi District under Act XII. of 1887—See Act XX. of 1890, s. 7, *infra*.

10. (1) Any person who, at the date of cession of the cantonment of Morar, was entitled to institute in a Civil Court at Morar a suit of any of the descriptions referred to in articles 50 to 54 (both inclusive) or articles 56 to 64 (both inclusive) or articles 65 to 75 (both inclusive) of the second schedule to the Indian Limitation Act, 1877,* or to make to any such Court an application for or with respect to the execution of a decree in any such suit, may institute the suit or make the application, in any Civil Court at Jhansi or Agra, or other place appointed in that behalf by the Governor-General in Council, which would have jurisdiction in the suit to be instituted, or, as the case may be, would have had jurisdiction in the suit in which the decree to be executed was passed, if the cause of action had arisen within the local limits of its jurisdiction.

(2) Notwithstanding anything in any enactment or notification to the contrary, any Civil Court at Jhansi or Agra, or other place aforesaid, in which any such suit or application as is referred to in sub-section (1) is instituted or made, shall, subject to the provisions of that sub-section, have jurisdiction to dispose of it.

(3) In computing the period of limitation for any suit or application referred to in this section, the time which has elapsed between the date of the cession of the cantonment of Morar and the commencement of this Act shall be excluded.

* See now Act IX of 1908.